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DISABILITY RIGHTS AND CONSTITUTIONAL EQUALITY: A COMPARATIVE ANALYSIS OF DISABILITY RIGHTS ENFORCEMENT IN INDIA AND THE UNITED STATES

Dr Sachin Sharma
Associate Professor of Law, Himachal Pradesh National Law University, Shimla

ABSTRACT
Constitutions promise equality, and disability tests that promise hard. This article compares how India and the United States enforce equality for persons with disabilities. Its central question is whether a stronger statute or a stronger enforcement design improves lived outcomes. The method is doctrinal and comparative. The article reads constitutional text, statutes, treaty obligations and leading judgments. It then places them beside official data from India's National Sample Survey and the United States Bureau of Labor Statistics. It argues that both systems have moved from charity to rights, yet each leaks at a different point. India has a broad statute and generous reservations, but its enforcement is fragmented and its data are thin. The United States has a mature, litigation-driven regime, but narrow judicial readings, state immunity and uneven remedies weaken it. Employment ratios for disabled people are almost identical in the two countries. Rights on paper, therefore, do not guarantee work. The article closes with five reforms. It speaks to SDG 4, SDG 8 and SDG 10.

Keywords: *Disability Rights; Constitutional Equality; Reasonable Accommodation; Rights of Persons with Disabilities Act, 2016; Americans with Disabilities Act, 1990*

I. INTRODUCTION
A flight of stairs can discriminate. It shuts people out without saying a word. That is why disability is a hard test for constitutional equality. Most equality clauses forbid unfair treatment. Disability often needs more. It needs ramps, scribes, interpreters and flexible rules. Treating unequal conditions alike can itself be unequal. The scale is large, and the numbers vary. India's National Sample Survey put disability prevalence at 2.2 per cent in 2018.[1] The United States Bureau of Labor Statistics reports that about 13 per cent of its population had a disability in 2025.[2] The Centers for Disease Control and Prevention, using a broader functional test, found that one in four American adults lives with a disability.[3] These gaps do not show that Indians are healthier. They show that the count depends on the question asked.

India and the United States make a useful pair. Both are federations with written constitutions. Both rely heavily on courts. Their disability laws came at different moments and from different traditions. The United States enacted the Americans with Disabilities Act in 1990, a civil rights statute built on anti-discrimination.[4] India enacted the Rights of Persons with Disabilities Act in 2016, after ratifying the Convention on the Rights of Persons with Disabilities in 2007.[5] The United States has not ratified that treaty.[6] The question also matters beyond law. Sustainable Development Goal 10 commits states to promote the inclusion of all people regardless of disability. Goals 4 and 8 add duties on education and decent work.[7] This article asks which enforcement design comes closer to delivering those promises. Part II explains the method. Part III compares constitutional foundations. Part IV sets out the statutes. Part V analyses data. Part VI studies leading cases. Part VII compares enforcement. Parts VIII and IX state the findings and reforms.

II. RESEARCH DESIGN
The objective is to test how constitutional equality for disabled persons is enforced in two systems, and where enforcement fails. The method is doctrinal and comparative. The doctrinal part reads constitutional provisions,

[1]National Statistical Office, "Persons with Disabilities in India: NSS 76th Round (July–December 2018)", NSS Report No. 583 (76/26/1), p. i (Ministry of Statistics and Programme Implementation, 2019).

[2]Bureau of Labor Statistics, U.S. Department of Labor, "People with a Disability: Labor Force Characteristics-2025", p. 1 (Mar. 3, 2026).

[3]Catherine A. Okoro, NaTasha D. Hollis, et al., "Prevalence of Disabilities and Health Care Access by Disability Status and Type Among Adults: United States, 2016" 67 *Morbidity and Mortality Weekly Report* 882 (2018).

[4]The Americans with Disabilities Act, 1990, Pub. L. No. 101-336, 104 Stat. 327 (42 U.S.C. ss. 12101–12213).

[5]The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), preamble.

[6]The Convention on the Rights of Persons with Disabilities, 2006; S. Treaty Doc. No. 112-7 (2012).

[7]UN General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, GA Res 70/1, UN Doc A/Res/70/1 (Oct. 21, 2015), goal 10, target 10.2; goal 4, target 4.5; goal 8, target 8.5.

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statutes, rules, treaty text and Supreme Court decisions. The comparative part is functional. It puts the same questions to both systems. Who is protected? What duties arise? Who enforces them? What remedy follows? The empirical part uses official statistics only. For India, it uses the 76th round of the National Sample Survey. For the United States, it uses Bureau of Labor Statistics releases and one study by the Centers for Disease Control. Cases were chosen on three tests. They were decided by the apex court. They matter for equality or enforcement. They are either good law or instructive in their reversal. The cut-off date is October 2026. Two limits deserve honest mention. The national datasets use different definitions, age bands and survey methods. Cross-country ratios therefore show patterns, not exact gaps. Also, the article does not study state legislation or lower-court practice in depth.

III. CONSTITUTIONAL FOUNDATIONS

A. India: Silence in the Text, Expansion in the Courts

The Indian Constitution does not mention disability in its equality clauses. Article 15 bars discrimination on grounds of religion, race, caste, sex and place of birth.[1] Article 16 does the same for public employment.[2] Disability appears in neither list. Its only direct mention is in the Directive Principles. They ask the State to secure public assistance in cases of disablement, within the limits of its economic capacity.[3] Relief of the disabled is also a State subject.[4] Courts filled the gap. They read disability into the equality guarantee of Article 14 and into the dignified life promised by Article 21.[5] Parliament then supplied detail through legislation. Its power to implement treaties comes from Article 253.[6] Recent decisions go further. They treat accessibility and digital access as parts of Article 21, as Part VI shows.

B. The United States: Modest Doctrine, Strong Statutes

The American Constitution is also silent, but the judicial posture differs. In *City of Cleburne v. Cleburne Living Center*, the Supreme Court refused to treat disability as a suspect or quasi-suspect class.[7] Laws that disadvantage disabled people receive only rational-basis review. Even so, the Court struck down the zoning decision before it, because it rested on irrational prejudice.[8] The Equal Protection Clause offers a floor, not a framework.

Congress built the framework. Section 504 of the Rehabilitation Act, 1973, barred disability discrimination in federally funded programmes.[9] The ADA carried that logic into employment, public services and private business. Its findings call disabled people a discrete and insular minority, a phrase borrowed from equal protection doctrine.[10] Congress relied on both the Commerce Clause and Section 5 of the Fourteenth Amendment. That choice would later prove costly.

C. Two Routes to the Same Goal

The two systems reach rights by opposite routes. In India, judges expand a thin constitutional text from the top. In the United States, the legislature builds a detailed regime from the middle while constitutional doctrine stays modest. Neither route is complete. Judicial expansion needs statutory machinery to bite. Statutory regimes depend on how courts read them.

[1]The Constitution of India, art. 15(1).

[2]Id., art. 16(1)–(2).

[3]Id., art. 41.

[4]Id., sch. VII, List II, entry 9.

[5]Id., arts. 14, 21.

[6]Id., art. 253.

[7]*City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 442–46 (1985).

[8]Id. at 450.

[9]The Rehabilitation Act, 1973, 29 U.S.C. s. 794(a).

[10]Supra note 4, 42 U.S.C. s. 12101(a)(7).

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IV. STATUTORY FRAMEWORKS

A. India

India's first comprehensive law was the Persons with Disabilities Act, 1995. It recognised seven disabilities and reserved three per cent of identified government posts.[1] It spoke the language of prevention and rehabilitation. It was a welfare statute more than a rights statute.

The Rights of Persons with Disabilities Act, 2016, changed the tone. It recognises twenty-one specified disabilities.[2] It follows the Convention in defining disability as the interaction of impairment and barriers.[3] It guarantees equality and dignity, and it requires reasonable accommodation.[4] A "benchmark disability", meaning at least forty per cent of a specified disability, unlocks most entitlements.[5]

Two quotas do the heavy lifting. Government establishments must reserve at least four per cent of vacancies for persons with benchmark disabilities. One per cent each goes to blindness and low vision, deafness and hearing loss, and locomotor disability. One per cent goes to the remaining groups.[6] Higher educational institutions must reserve at least five per cent of seats.[7] Accessibility depends on rules that the Central Government must frame, with time limits for buildings and services.[8] Enforcement runs through a Chief Commissioner and State Commissioners, who inquire into complaints.[9] Every district has a Special Court.[10] Penalties are modest. A first contravention attracts a fine of up to ten thousand rupees. Specified atrocities can bring imprisonment of six months to five years.[11]

B. The United States

The American regime has layers. Section 504 binds recipients of federal funds.[12] The Individuals with Disabilities Education Act guarantees a free appropriate public education.[13] The ADA covers the rest of public and private life.

Title I bars employment discrimination by employers with fifteen or more employees. It requires reasonable accommodation unless that causes undue hardship.[14] Title II covers state and local governments.[15] Title III covers places of public accommodation and requires barrier removal where it is readily achievable.[16] The statute sets no quotas. Every duty is individual and fact-specific. The definition has its own history. A disability is an impairment that substantially limits a major life activity.[17] The Supreme Court read "substantially limits" narrowly. Congress then corrected the Court through the ADA Amendments Act, 2008.[18]

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[1]The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Act 1 of 1996), ss. 2(i), 33.

[2]Supra note 5, s. 2(zc) and sch.

[3]Id., s. 2(s); The Convention on the Rights of Persons with Disabilities, 2006, preamble, para. (e).

[4]Supra note 5, ss. 2(y), 3.

[5]Id., s. 2(r).

[6]Id., s. 34(1).

[7]Id., s. 32(1).

[8]Id., ss. 40, 44–46.

[9]Id., ss. 74–75, 79–80.

[10]Id., s. 84.

[11]Id., ss. 89, 92.

[12]Supra note 16, s. 794(a).

[13]The Individuals with Disabilities Education Act, 1990, 20 U.S.C. s. 1412(a)(1)(A).

[14]Supra note 4, 42 U.S.C. ss. 12111(5)(A), 12111(9)–(10), 12112(b)(5)(A).

[15]Id., s. 12132.

[16]Id., s. 12182(b)(2)(A)(iv).

[17]Id., s. 12102(1).

[18]The ADA Amendments Act, 2008, Pub. L. No. 110-325, 122 Stat. 3553, s. 2(b).

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Feature	India	United States
Core instrument	Rights of Persons with Disabilities Act, 2016	ADA, 1990 (as amended 2008); Rehabilitation Act, 1973, s. 504; IDEA
Model	Rights and welfare mix: quotas plus accommodation	Anti-discrimination: individual accommodation
Who is covered	21 specified disabilities; 40% benchmark unlocks key benefits	Impairment that substantially limits a major life activity
Employment	4% reservation in government posts; accommodation duty	No quota; accommodation unless undue hardship; employers with 15+ staff
Education	5% seats in higher education; inclusive education duty	Free appropriate public education under IDEA
Accessibility	Rules under s. 40; deadlines for buildings and services	Barrier removal where readily achievable; web rule for governments
Enforcement	Commissioners, Special Courts, writ jurisdiction	EEOC, Department of Justice, private suits
Remedies	Fines; imprisonment for atrocities; constitutional remedies	Damages (Titles I and II, subject to immunity); injunction and fees (Title III)

Table 1: Statutory frameworks compared (author's analysis of the statutes cited in this Part).

V. WHAT THE DATA SHOW

A. Counting Disability

Start with counting. The Indian survey classified disabilities using the 2016 Act's categories.[1] Its estimate sits far below the American ones, which may signal under-identification. The survey's own notes explain part of the problem. Its definition, reference period and identification method differ from the 2002 round, so even India's own series cannot be compared across time.[2] Prevalence was 2.3 per cent in rural areas and 2.0 per cent in urban areas. It was 2.4 per cent among men and 1.9 per cent among women.[3] The lower figure for women may reflect real differences. It may equally reflect under-reporting.

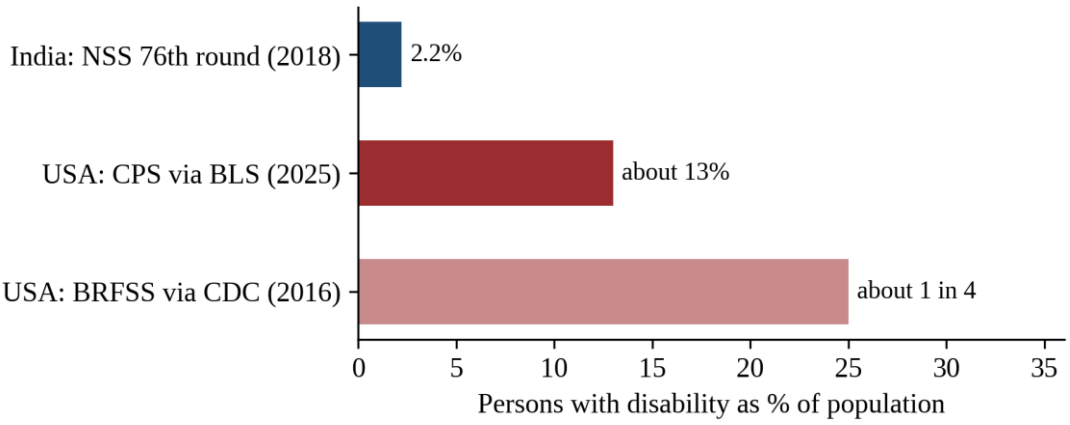


Figure 1: Three estimates of disability prevalence.[4]

[1]Supra note 1 at 10–11.

[2]Id. at 3.

[3]Supra note 1 at i.

[4]Supra note 1 at i; supra note 2 at 1; supra note 3 at 882.

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B. Work

The employment numbers are striking. In India, the labour force participation rate of disabled persons aged fifteen and above was 23.8 per cent. Their worker-population ratio was 22.8 per cent.[1] In the United States, the employment-population ratio of disabled persons aged sixteen and above was 22.7 per cent in 2024. For people without disabilities it was 65.5 per cent.[2] About three-quarters of disabled Americans were outside the labour force.[3] The Indian equivalent, derived by subtracting participation from 100, is 76.2 per cent. Working-age disabled Americans did gain slightly, from 37.4 to 38.1 per cent between 2024 and 2025.[4]

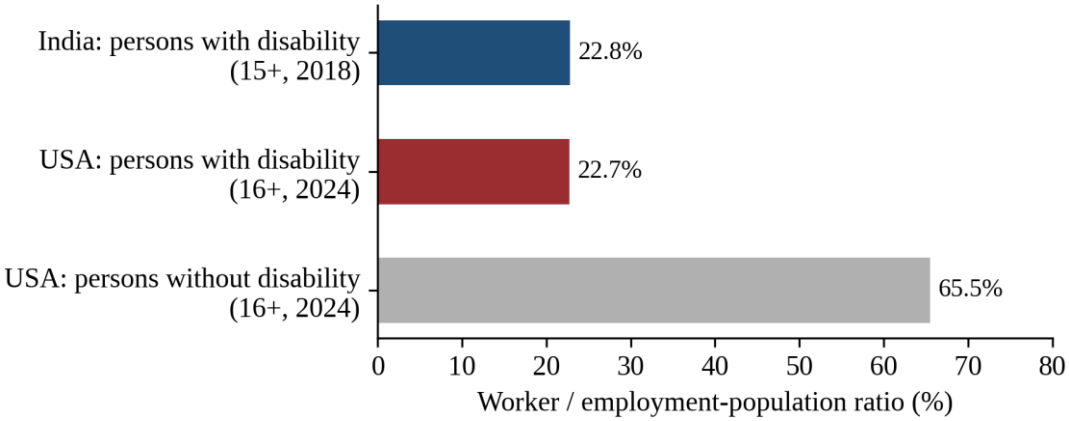


Figure 2: Employment of persons with disability in India and the United States.[5]

The two ratios are almost identical. The legal regimes are not. India reserves four per cent of government vacancies. America reserves nothing. Several explanations are plausible. Indian reservation reaches only government jobs, which are a small slice of employment, and only certificate holders. American accommodation duties help a person who can already reach the workplace, apply and interview. Both designs may miss people before the legal duty begins. The data cannot prove this. They do show that neither regime has solved employment. Differences in age bands and in how severe a disability must be to be counted add further caution.

C. Education, Certification and Support in India

Among Indian disabled persons aged seven and above, 52.2 per cent were literate. Among those aged fifteen and above, only 19.3 per cent had reached secondary education or beyond.[6] Of those aged three to thirty-five, 62.9 per cent had ever enrolled in an ordinary school.[7] A five per cent seat quota in higher education means little if few reach the stage where a seat is on offer. Certification is a second gate. Only 28.8 per cent of disabled persons held a disability certificate. And 76.4 per cent received no aid or help of any kind.[8] Entitlements that depend on a certificate reach fewer than three in ten.

[1]Supra note 1 at ii.

[2]Bureau of Labor Statistics, U.S. Department of Labor, "Persons with a Disability: Labor Force Characteristics, 2024", p. 1 (Feb. 25, 2025).

[3]Id. at 1.

[4]Supra note 2 at 1; supra note 41 at 1.

[5]Supra note 40; supra note 41.

[6]Supra note 1 at i.

[7]Id. at ii.

[8]Id. at ii.

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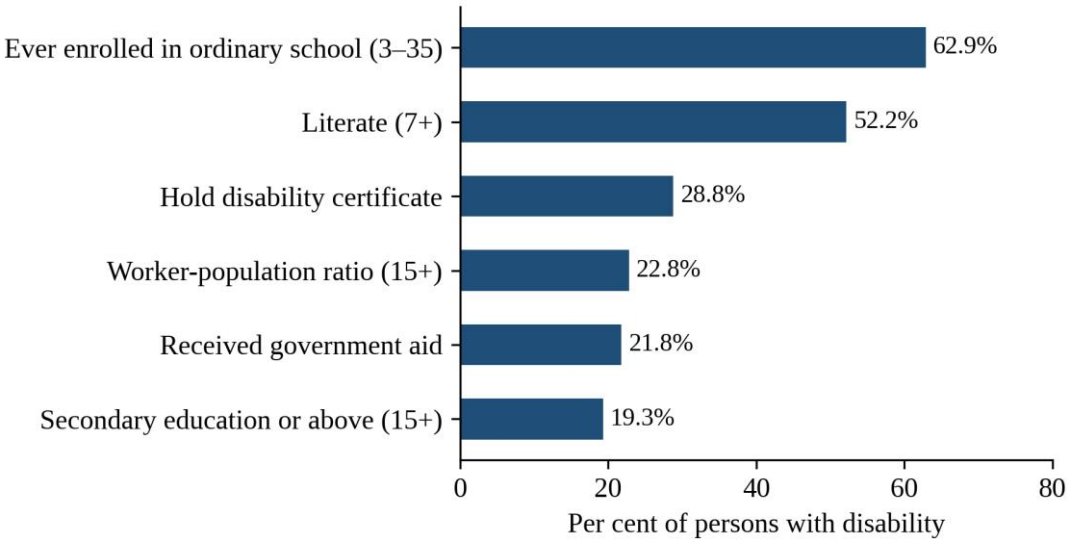


Figure 3: Selected indicators for persons with disability in India, 2018.[1]

VI. JUDICIAL PERSPECTIVE

A. India

In the case of *Union of India* v. *National Federation of the Blind*, tackled a quiet form of evasion.[2] The 1995 Act reserved three per cent of "identified" posts. Departments identified few posts, so they reserved few seats. The Supreme Court held that the reservation must be computed on total vacancies in the cadre, not on identified posts alone. Jeeja Ghosh has cerebral palsy. In 2012, she was asked to leave a flight at Kolkata airport because the crew thought her unfit to travel. The Court held that her dignity had been violated in *Jeeja Ghosh* v. *Union of India*.[3] It drew on the Convention to stress reasonable accommodation, awarded compensation, and called for sensitisation of aviation staff.

In the case of *Vikash Kumar* v. *UPSC* involved a candidate with writer's cramp, who was refused a scribe in the civil services examination because he fell short of the benchmark threshold.[4] The Court held that reasonable accommodation is a substantive right flowing from equality. It is not confined to benchmark disabilities. A favour became an entitlement. The petition in *Rajive Raturi* v. *Union of India* was filed in 2005. The Court decided it in November 2024.[5] Rule 15 of the 2017 rules was meant to fix accessibility standards. The Court found it offered only persuasive guidelines and declared it ultra vires the Act. It directed the Union to frame mandatory, "non-negotiable" rules. It also directed authorities to apply the consequences in sections 44, 45, 46 and 89.

In *Om Rathod v. Director General of Health Services*, a candidate with a locomotor disability, assessed at 88 per cent by one board, sought an MBBS seat.[6] The Court rejected a mechanical reading of percentages. It asked what the candidate could actually do, and it allowed him to pursue the course. The same thinking appears in *Prabhu Kumar v. State of Himachal Pradesh*. There the Court held that a State cannot impose an upper ceiling on disability percentage for public employment when the Act fixes only a lower threshold.[7] In *Pragya Prasun v. Union of India*, petitioners with disabilities, including an acid-attack survivor, challenged digital identity-

[1]Supra note 1 at i–ii.

[2]*Union of India* v. *National Federation of the Blind* (2013) 10 SCC 772.

[3]*Jeeja Ghosh* v. *Union of India* (2016) 7 SCC 761.

[4]*Vikash Kumar* v. *UPSC* (2021) 5 SCC 370.

[5]*Rajive Raturi* v. *Union of India*, 2024 INSC 858 (decided on Nov. 8, 2024).

[6]*Om Rathod* v. *Director General of Health Services*, 2024 INSC 836 (decided on Oct. 25, 2024).

[7]*Prabhu Kumar* v. *State of Himachal Pradesh*, 2026 INSC 253.

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verification steps that they could not complete. The Court affirmed that the right to digital access is part of Article 21.[1]

B. United States

In *Olmstead v. L.C.*, two women with mental disabilities stayed in a Georgia state hospital after their doctors said they could live in the community.[2] The Supreme Court held that unjustified institutional isolation is discrimination under Title II. It still let states resist where community placement would fundamentally alter their programmes. It also accepted a waiting list that moves at a reasonable pace.[3] Courts then narrowed the statute. *Sutton v. United Airlines* held that disability is judged with corrective measures taken into account.[4] Pilots with severe myopia, who saw well with glasses, were therefore not disabled. *Toyota v. Williams* demanded that an impairment severely restrict activities central to daily life.[5] Many plaintiffs lost before anyone asked whether they had been discriminated against. In 2008, Congress rejected both decisions.[6]

Immunity created a second fault line. *Board of Trustees v. Garrett* held that states cannot be sued for money damages under Title I.[7] Three years later, *Tennessee v. Lane* upheld Title II as applied to access to courts, where fundamental rights were at stake.[8] The outcome is a patchwork. A state employee may be unable to claim damages for discrimination at work. A wheelchair user denied entry to a courthouse may claim them.

Other cases mark the limits of accommodation. *US Airways v. Barnett* held that an employer ordinarily need not override a seniority system to accommodate a worker.[9] *Endrew F. v. Douglas County School District* went the other way for schoolchildren. It rejected the view that schools satisfy the law by offering merely more than minimal benefit. Programmes must be reasonably calculated to enable progress in light of the child's circumstances.[10] Finally, *Acheson Hotels v. Laufer* was meant to decide whether "testers" with no plan to visit a hotel can sue over website violations. The Court dismissed it as moot in 2023 and left the question open.[11]

VII. ENFORCEMENT COMPARED

A. Binding Rules or Soft Guidelines

India shows how a mandatory statute can sit beside a toothless rule. The Act said "shall". The rule offered guidelines. The United States has the opposite problem. Its standards are detailed, but timelines slip. In 2024, the Department of Justice required state and local government websites to meet an international web accessibility standard.[12] In April 2026, it extended the compliance dates to April 2027 for larger entities and April 2028 for smaller ones.[13] Both countries show executive hesitation, in different forms.

B. Who Drives Enforcement

India has Commissioners and Special Courts on paper. Yet every major enforcement event discussed in this article came from a constitutional court. Petitioners use public interest litigation, and monitoring then runs for years. *Raturi* took nineteen years from petition to final directions, with an earlier judgment and many compliance hearings in between.[14] The United States spreads enforcement across agencies and private lawyers.

[1] *Pragya Prasun* v. *Union of India*, 2025 SCC OnLine SC 993.

[2] *Olmstead* v. *L.C.*, 527 U.S. 581, 597 (1999).

[3] Id. at 605–07.

[4] *Sutton* v. *United Airlines, Inc.*, 527 U.S. 471 (1999).

[5] *Toyota Motor Manufacturing, Kentucky, Inc.* v. *Williams*, 534 U.S. 184 (2002).

[6] Supra note 35.

[7] *Board of Trustees of the University of Alabama* v. *Garrett*, 531 U.S. 356 (2001).

[8] *Tennessee v. Lane*, 541 U.S. 509 (2004).

[9] *US Airways, Inc.* v. *Barnett*, 535 U.S. 391 (2002).

[10] *Endrew F.* v. *Douglas County School District RE-1*, 580 U.S. 386 (2017).

[11] *Acheson Hotels, LLC* v. *Laufer*, 601 U.S. 1 (2023).

[12] Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities, 89 *Fed. Reg.* 31320 (Apr. 24, 2024).

[13] Extension of Compliance Dates for Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities, 91 Fed. Reg. 20902 (Apr. 20, 2026).

[14] Supra note 52.

The Equal Employment Opportunity Commission handles employment charges. The Department of Justice enforces Titles II and III. Private plaintiffs can sue, and winning plaintiffs can recover fees.[1] Title III offers only injunctions, not damages.[2] This design produces steady litigation. It also produces narrow settlements and, as *Laufer* shows, fights over standing.

C. Quotas Against Accommodation

Indian quotas are group-based, visible and easy to administer. They depend on certificates and thresholds. A forty per cent benchmark can shut out a person whose impairment is real but below the line. The cases above show the opposite risk too: percentages used to exclude people who can do the work. The American model avoids thresholds of that kind but puts the burden on the individual. An employee must disclose, request and often litigate. Scholars read the Convention as an attempt to join the two approaches, treating equality, accessibility and accommodation as linked duties.[3]

D. Data and Monitoring

Enforcement needs evidence. The Convention requires states to collect statistics and to set up national monitoring.[4] The United States publishes labour data on disability every year, which lets policymakers see stagnation. India's picture rests on a periodic survey, and the 2018 round is the latest used here. A law that cannot see its own results cannot correct them.

VIII. KEY FINDINGS

The following are the key findings:

1. Neither constitution lists disability as a protected ground. In both countries, real protection comes from statutes and judicial interpretation.
2. Enforcement design explains outcomes better than statutory breadth. India has the broader promise. The United States has the denser machinery. Neither shows better employment results.
3. India leaks at binding standards and administrative capacity. The United States leaks at judicial narrowing, state immunity and remedy gaps.
4. Gatekeepers differ. In India, certificates and percentage thresholds decide access. In the United States, disclosure, requests and litigation do.
5. Indian courts are moving towards functional, substantive equality. American law has swung between judicial narrowing and legislative correction.

IX. CONCLUSION AND REFORMS

Equality for disabled persons is a duty to build, not only a duty to refrain. Both systems have understood this in principle. Both stumble in execution. The comparison suggests five reforms.

1. *India: Binding Accessibility Standards:* The Union should notify mandatory rules with firm deadlines, tie them to building completion certificates, and publish compliance audits, as *Raturi* contemplates.
2. *India: Functional Assessment:* Percentage cut-offs, whether lower or upper, should give way to assessments of what a person can do with accommodation, in line with *Om Rathod* and *Prabhu Kumar*.
3. *India: Remove the Certificate Bottleneck:* Certification should be quick, local and portable, so that rights do not depend on a document most disabled people lack.
4. *United States: Close Remedy Gaps:* Congress could clarify remedies against states, and policymakers could revisit ratification of the Convention. Both are open to democratic debate.
5. *Both: Measure and Support:* Each country should publish annual, definition-aligned disability data. Each should pair legal duties with transport, skills training and assistive technology, because a right to accommodation means little to a person who cannot reach the workplace.

A law is only as strong as the last person it fails to reach. The next decade of reform should be measured by that person.

[1]Supra note 4, 42 U.S.C. ss. 12117(a), 12133, 12188(a), 12205.

[2]Id., s. 12188(a)(1).

[3]Michael Ashley Stein, "Disability Human Rights" 95 *California Law Review* 75 (2007).

[4]The Convention on the Rights of Persons with Disabilities, 2006, arts. 31, 33.