

RIGHTS OF PERSONS WITH DISABILITIES IN INDIA

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Abstract

There is now a paradigm change in the fundamental understanding of disability and individuals with disabilities today, moving away from an approach based on charity and an approach based on rights all over the globe. This new strategy incorporates human rights values like equality, participation, non-discrimination and responsibility. The Indian Government has signed the UN Convention on the Rights of Persons with Disabilities (UNCRPD), and enacted laws and policies regarding disability that align with international conventions. It was done to guarantee that people with disabilities have equal prospects and may fully participate completely in the process of development possible. However, in spite of many laws and rules, the overarching goal of increased social involvement for individuals with disabilities is still a far-reaching ideal. The study attempts to provide an overview of the recently enacted legislation recognized as “the Rights of Persons with Disabilities Act 2016 (RPWD Act, 2016)” and it also talks about the rights and privileges that are enshrined in the Act. This research is based on the goal of providing an overview of the newly enacted legislation known as “the Rights of Persons with Disabilities Act 2016 (RPWD Act, 2016)”. The purpose of this research is to attempt to offer a summary of the legislation, and it bases itself on their efforts. The report sheds light on the rules and regulations that have only been partially implemented on the ground. The difficulties associated with effective implementation include less involvement in making decisions and insufficient information dissemination among individuals with disabilities.

Keywords

Equality, Disability, human rights, non-discrimination, responsibility, development, prospects, inclusion, law, and participation.

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Introduction

According to the statistics and the community consensus, the majority, if not the vast majority, of disabled people, live in secrecy, are subjected to social discrimination, and are almost non-existent in any official capacity. Disability does not “go away” as countries get affluent; The number of people living in India who have some form of disability is substantial and is projected to continue growing. People with disabilities make up most of a group that is not only marginalized in society but also marginalized inside families and is often seen as a subject of pity. Very few initiatives can be considered meaningful to integrate them into the nation’s everyday life. Because there is such prevalent indifference toward their predicament, even the number of disabled people residing in the country is not accurately recognized. Those with disabilities in India face multiple forms of discrimination and hardship throughout their life. The stigma associated with disabled individuals and the views of society play a significant influence in reducing the chances available to disabled persons to fully participate in socio-economic life, sometimes even among their own immediate families. The policy structure governing people with disabilities in India is among the most advanced in developing countries. However, there are still many obstacles to overcome when it comes to making the policy framework practical. The current picture of indifference is increasing both the number of such people and the severity of their challenges.

As per the Report on Disability, there are around one billion disabled individuals living globally, equal to fifteen percent of the entire population of the country. Most people with disabilities reside in developing nations (WHO, 2011). The data stated by the UN Commission for Social Development (UNCSD) have immensely indicated only the magnitude of the issue, which does not provide a solid enough basis for determining the actual severity of the problem. The UN Convention on the Rights of Persons with Disabilities stressed that the data simply demonstrates the scope of the problem (Leandro Despouy, 1993). The reason is that millions of disabled people were always compelled to reside in horrible conditions due to several physical and social barriers that further restrict their capacity to engage fully in society. Not only has the United Nations acknowledged that people with disabilities make up the most vulnerable segment of the global population, but it has also been a significant contributor to the advancement and growth of this population group.

According to an assessment by the World Health Organization (WHO), 10 percent of the nation’s population is affected by a disability of some kind. About twenty percent of the world’s disabled people call India their home. The 58th wave

of the National Sample Survey (NSS) in 2002 found there were already 208 lakh people living with disabilities in 2002. This number represented 2.13 percent of the overall population. According to the NSSO Survey, just 34% of people who have disabilities are working, 49% of people who have disabilities are literate, and 75% of people with disabilities reside in rural regions.

Legal Framework for People with Disabilities in India

Throughout the previous decade and a half, there was an increase in awareness along with a prominent landmark in the field of disability, and this can be said on a global as well as a national scale. In the light of the UN General Assembly's proclamation of the years 1993 to 2002 as the "Decade of the United Nations for Persons with Disabilities," a global movement has emerged a movement has evolved that acknowledges the significance of including those who have impairments in mainstream society. The emerging global trends, as well as national issues relating to the disabled population, have directly impacted the thinking of policymakers, professionals, individuals with disabilities, and nongovernmental organizations functioning in the country. This is the case in both the US and several other nations. As a direct result of a shift in policy that occurred in the middle of the 1990s, the issues that pertain to people with disabilities are not merely welfare measures anymore; instead, they progressed into essential human rights issues, a call for equal opportunity, full participation, and safety of rights. Because of this shift in emphasis, it became clear that laws must be passed to guarantee individuals' rights to self-determination.

The Indian constitution has mandated that a society be developed that includes all persons, including those with physical or mental impairments. This includes freedom, equality, dignity, and justice for all persons. According to Article 41 of the Constitution, the Government shall, well within the boundaries of its economic capacity and advancement, make adequate ways of ensuring education, the right to work, and government benefits in underemployment, old age, illness and disablement, and other cases of unemployment, old age, sickness, and disablement, and in other cases of undeserved want. This is how the Constitution views the duty and responsibility of the states. These are enshrined as Directive Principles of state policy in the Constitution. This duty and responsibility of the states are envisioned in the Constitution. Under item 9 of the state list, the state is obliged to aid those who cannot work and do not qualify for any other type of assistance under the Constitution (Seventh Schedule). In addition, the authorities, powers, and responsibilities described in articles 243G and 243W have been devolved to urban and rural local bodies, and these bodies have been given the responsibility

of developing and implementing schemes in their respective jurisdictions for matters that have been assigned to them under the eleventh and twelfth schedules. The social welfare of those who are disabled and mentally retarded is entrusted to the rural local bodies in the eleventh schedule under entry 26, and the twelfth schedule under entry 9 mandates that the urban local bodies protect the interests of those who are disabled and mentally retarded. Both schedules can be found here.

In 2007, India signed and later ratified the UN Convention on the Rights of People with Disabilities (UNCRPD). According to UNCRPD, disability is caused by the physical and social barriers created by society, which causes barriers to the complete involvement and full involvement of individuals with disabilities in society on an equal basis with others (DRIF, 2018). The UNCRPD requires that all signatories bring the laws of their respective nations into line with its principles (Elston, Philips, 1999). According to the principles laid down by UNCRPD, India started to amend The PwD Act 1995 to formulate it according to the guidelines of UNCRPD. Following several rounds of deliberation, the Parliament 2016 approved the Rights of Persons with Disabilities Act of 2016. After obtaining the President's signature, the Act was published in the official gazette on 28th December 2016 and was enforced on April 19, 2017 (Hashim, Muhammed, 2019). This Act indicates a paradigm shift away from seeing disability from the charity standpoint and toward a human rights perspective. This Act's major goal is to give people with disabilities the freedom and dignity they deserve. It strongly emphasizes respecting individual liberty and inherent dignity as its focal points (PWD). It highlights full and equal participation, non-discrimination, social inclusion, regard for acceptance and distinction of disabilities as part of human diversification, accessibility, fairness and equality, social justice between women and men, regard for the freedom of disabled children, as well as to protect their personalities and progressing capabilities of disabled children. In addition, it calls for the preservation of the identities and capacities of children with disabilities as they develop over time (Hosamane, Sakshi Broota. 2007). According to the Act, the term of "disability" is based on an evolving and ever-changing concept. There are currently 21 distinct impairments, which is an increase from the previous count of seven. It now includes conditions that were largely ignored in the earlier act, such as autism, mental illness, cerebral palsy, spectrum disorder, chronic neurological conditions, muscular dystrophy, thalassemia, speech and language disability, sickle cell disease, hemophilia, Parkinson's disease. The Act is meant to be a turning point; nevertheless, many years after it was passed, it still mostly stays on the paper, and its implementation varies significantly from state to state.

A, legislation to establish a national trust for the welfare of people with autism, cerebral palsy, mental retardation, and multiple disabilities, 1999 was approved by Parliament. The trust was intended to help those with these conditions. The Act details who should serve on the Boards of the National Trust, but also how those positions should be filled, who is responsible for the Trust's accountability and control, and what other aspects of its operations should be monitored includes a clause for the legal custody of the four categories of individuals with disabilities and for the construction of an enabling environment for the four categories of individuals with disabilities to live as independently as is realistically feasible. Specifically, the clause for the legal custody of the four categories of individuals with disabilities can be found in this act. In addition to this, it contains provisions for the legal guardianship of the four different groups of people who are disabled.

The next key piece of legislation is the Rehabilitation Council of India Act, passed in 1992. The Act mandates the standardization of training programs across various levels, the recognition of institutions working in rehabilitation, and the maintenance of a central registry for professionals who possess qualifications that have been formally acknowledged in the field of physical and mental remediation.

In February 2006, it was announced that there would be a National Policy for Persons with Disabilities. It recognizes the contributions that individuals with disabilities contribute to the pool of human resources available to the nation, and works toward establishing conditions that will allow disabled people to fully participate in all aspects of society, access equal opportunities, and have their rights protected. The policy primarily emphasizes (a) Preventing Disabilities and (b) Rehabilitation and Treatment Methods. It places a particular emphasis on concerns relating to mothers and children who have some form of disability. Implementing the policy is an ongoing process overseen by various Ministries and Departments within the Central Government and the respective State Governments and UT Administrations.

Conclusion

The problem at hand, which is of the utmost importance in social policy, is its successful implementation. Insofar as the goals of the government, as stated in the numerous Acts, which are to ensure the health, safety, and well-being of people who have disabilities are concerned, all implementing agencies in the government as well as society in general, must work together to ensure that these intentions are carried out. Together, to turn the advantages into a concrete reality in order to destroy the obstacles that are not only physical but also social and mental and which obstruct the growth of our compatriots who have impairments. The legislation should

acknowledge that different people with disabilities have different requirements, and those needs vary based on factors such as the degree of the disablement, the age of the person, and the socioeconomic conditions in which they live. One should not either give birth to a disabled child or allow a child, for lack of early detection or lack of knowledge, to become disabled in perpetuity and not provide the treatment which can curb it. Awareness generation and other methods should be adopted in such a way as to prevent either of these things from happening.

At this point, the most crucial task facing the government in the field of disability and rehabilitation is to reach out to the most significant number of individuals with disabilities feasible across the country in order to supply them with essential services. We need to cultivate an environment conducive to efficiently ensuring the rights of individuals with disabilities. If necessary, we may punish those who do not take the requirements of people with disabilities seriously in every field, if that is even conceivable. Because the proof of the pudding is in the eating, it will take some time before anybody can determine how the newly established Department of Disability Affairs has altered the lives of the almost 21 million individuals in the country with a disability.

To be fair to the administration, it did not take long to fulfill the promise of forming the new department during the president's speech to Parliament in March of the previous year. It is possible that now that it has been elevated to the status of a full-fledged department with its budget, it will be able to create programs to improve these individuals' situations. In addition, it will be in a better position to collaborate with organizations of civil society that are working for their welfare.

The government is responsible for ensuring that the newly created department is not just a show of lip service. On the contrary, it ought to become an instrument of change for the millions of people who have always been on the government's and society's receiving end. This transformation ought to benefit society. It is a common belief that civilization may be evaluated based on the accommodations of its disabled members. If what you say is true, then Indian society presents a bleak picture since having sympathy and empathy for these people has never been one of its strong suits. What gets forgotten is that everyone possesses unique skills, and it is society's responsibility to use these skills for the common benefit.

We must all move forward together if we succeed in our mission to secure equal rights for people with disabilities. The legal system's role and entities, such as the NHRC, are highly significant in this attempt. What we may settle on in the legal sphere is a system of incentives and disincentives that could be formed, pushing

society to create opportunities for individuals who suffer from impairments. These openings would be accessible to those with disabilities.

The actual problem that lies behind these hurdles is the callous attitude of society toward people with disabilities. Even the strictest rule will have minimal effect unless there is a shift in the mentality of people and a readiness to embrace and appreciate those with disabilities. There is a mentality that associates a disabled persons with their impairment and not with themselves as individuals'talents on his or her part. Society needs to be adaptable enough to accommodate everyone's individuality, seeing as the world can only exist due to the inherent diversity of its components and the delicate equilibrium that results from their interplay. Additionally, it is now the responsibility of every member of society to respect the individuality and mutual rights of every disabled person who is a part of society.

For individuals with disabilities to contribute meaningfully and exercise their rights equally, society ought to cultivate a natural propensity toward providing equal opportunities for impaired people. Everyone in society needs to have the mentality that they should value the contribution made by disabled persons just as much as they value their own. In order for such a change in attitude to take place, the general public should believe in disabled individuals and acknowledge that they are on equal footing with everyone else. Supporting campaigns for laws and legislation, education, and employment opportunities for 'differently abled' members of society can undoubtedly play a pivotal role in changing people's perceptions and attitudes and changing society. This is one way in which the media can help bring about change. The media can potentially be a force for positive change in a nation where ninety percent of disabled people do not even have access to educational opportunities.

The rule of law has never been and will never be the solution to society's ills. The law can only start things off and make some attempts to grant rights; what matters is how those laws are put into practice and the context or surroundings they consider. Therefore, it is vital to call upon the community, society, other institutions, and people to offer the appropriate services to begin the transformation process.

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