



## **Rights of the Disabled**

Anuradha Mohit, Meera Pillai & Pratiti Rungta

**NATIONAL HUMAN RIGHTS COMMISSION**

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# P r e f a c e

## **Dr. Justice Shivaraj V. Patil**

Acting Chairperson, NHRC

For full development as human beings, exercise and enjoyment of Human Rights by all the people is necessary. Human Rights and fundamental freedoms help us to develop our intrinsic qualities, intelligence, talents and conscience to meet our material and spiritual needs. It is needless to state that without the recognition of the right to education, realization of the right to development of every human being and nation is not possible. Article 26 of the Universal Declaration of the Human Rights (1948) inter alia states that ‘education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedom. It shall promote understanding, tolerance and friendship among all nations, social or religious groups and shall further the activities of the United Nations for the maintenance of peace’. Historically, education is an instrument of development and an important factor for social change. In this view, Human Rights education is / has to be an integral part of the right to education. Of late, it is recognized as a Human Right in itself.

The knowledge of the rights and freedoms, of oneself as much as of the others, is considered as a fundamental tool to guarantee the respect of all human rights for each and every person.

On 10<sup>th</sup> December 2004, the General Assembly of the United Nations proclaimed the World Programme for Human Rights Education (2005-ongoing) to advance the implementation of human rights education programmes in all sectors. Building on the foundation laid during the United Nations Decade for Human Rights Education (1995-2004), the new initiative reflects the international community’s increasing recognition that human rights education produces far-reaching results, by promoting respect for human dignity and equality and participation in democratic decision-making.

Human Rights Education cannot merely be an intellectual exercise. It acts as a linkage between education in the classroom and developments in a society.

Study of Human Rights should be included in the curriculum or syllabus in schools and colleges making it an essential part of the learning process. India has accepted elementary education as one of the basic needs of everyone. The Constitution mandates to provide free education to all children in the age group of 6-14 years. The World Conference on 'Education for All' held in Jomtien, Thailand in 1991 pleaded universal primary education in particular on education for girls and women.

The Karnataka Women's Information and Resource Centre (KWIRC), Bangalore involved various activists, advocates and key persons associated with the movement for the rights of certain vulnerable sections of the society, for developing reference material for human rights education in universities. The dossiers prepared by the experts with commitment along with the National Human Rights Commission are presented here as reference material for university students.

The main objective of these dossiers is to inspire, motivate, cultivate curiosity, shape the opinion and enlighten the university students on issues concerning human rights.

The focus of these dossiers has been on various movements that have taken place at the grass root level rather than on individual entities. These have been written in an interactive style, rather than being narrative.

The overall content of the dossiers consists of milestones at the national and international levels, critical analysis of the situation, role of various stake holders and players, action agenda etc.

Dissemination of knowledge of human rights must aim at bringing about attitudinal change in human behaviour so that human rights for all become the spirit of the very living. The Commission hopes that the educational institutions and students pursuing human rights education and others interested in human rights will be benefited immensely by this series of books.



(Dr. Justice Shivaraj V. Patil)

24 November, 2006

## A c k n o w l e d g e m e n t s

Promoting Human Rights literacy and awareness is one of the main functions of the NHRC, as per section 12(h) of the Protection of Human Rights Act, 1993. The Commission has been serving this encompassing purpose within its best means.

Since its inception, the Commission has been endeavouring to spread human right education at both school and university levels. Pursuant to Commission's efforts, the UGC introduced human rights education at the university level, which is now being imparted in over 35 Universities/Colleges across the country, besides in the National Law Schools.

It is said that the awareness of human rights is largely limited to the educated sections of society, while ideally it is necessary to create awareness about human rights at all levels. There has been a growing realization that human rights cannot be taught only from formal documents.

For the purpose of developing reference material on human rights education in Indian universities, the Commission endeavoured to request the authors along with the Karnataka Women's Information and Resource Centre, Bangalore.

Each of these dossiers that are listed below have been authored by activists and experts who are deeply involved in, or closely associated with, the relevant movement:

1. Rights of Disabled by Anuradha Mohit, Meera Pillai & Pratiti Rungta
2. The Human Rights to Housing and Land by Miloon Kothari, Sabrina Karmali and Shivani Choudhary
3. Dalit Rights by Martin Macwan
4. Rights of Home Based Workers by Shalini Sinha
5. Women's Right to Health by N. B. Sarojini and others
6. Environment and Human Rights by Ashish Kothari and Anuprita Patel
7. The New Environmentalism – The Struggle in Narmada Valley by Sanjay Sangvai.
8. Coasts, Fish Resources and Human Rights of Fish Workers by Nalini Nayak.
9. Children in India and their Rights by Dr. Savita Bhakhry



A set of nine books is now being published in the series. Two more books on 'Right to Information' and 'Gandhian struggle for Rights such as Bhoodan and Gramdhan' are intended to be published shortly.

The Commission is grateful to the authors of these dossiers.

A handwritten signature in black ink, appearing to read 'Aruna Sharma', with a stylized flourish at the end.

**(Aruna Sharma)**  
Joint Secretary

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## Meaning and Definition of Disability

You've often heard people with disabilities being referred to as "the handicapped". Did you know that such references can be inaccurate? A person can be handicapped in a certain environment without being disabled, or have a disability but not be handicapped in many places. A disability is often defined as the malfunctioning, disturbance or loss in the normal functioning of physical, mental or psychological processes, or a difficulty in the ability to learn, or adjust socially, which interferes with a person's normal growth and development. A handicap is a difficulty experienced by a person because of the nature of the environment in which she finds herself. For instance, even if an individual has a locomotor disability she will still be mobile as long she can get around in a wheelchair. However, if the building in which she has to work has no ramps or lifts which accommodate wheelchairs, she is handicapped by the environment of the building. On the other hand an able-bodied person who does not know how to swim or row a boat is handicapped when he has to cross a river unless he can find someone to ferry him across. Hence, handicap is neither unique nor a synonym to persons with disabilities, it only refers to an environmental factor that an individual finds difficult to overcome.

### *The origin of the word handicap...*

Is popularly believed to have derived from the phrase "cap in hand" referring to the medieval custom where the beggars would extend their cap to receive the handouts. It in fact is a derogatory term.

at <http://www.snopes.com/language/offense/handicap.htm>

Another complex matter related to definitions has to do with who makes a definition. For example, an adult who has very traditional and strict ideas of discipline may describe a child as being 'badly behaved', the child may see himself as 'playful', while a third person who is less rigid about what children may and may not do may describe the same child as 'high-spirited'. While definitions about disability made by organizations like the World Health Organization, looking at disability as a deviation from the 'normal' in the physical, mental, psychological or sensory areas of functioning became immensely popular with doctors, clinical psychologists, and rehabilitation professionals like physiotherapists, speech therapists and occupational therapists. But these definitions have been challenged by people with disabilities.

## Medical Definition of Disability

The World Health Organization (WHO) in 1976, provided a three-fold definition of impairment, disability and handicap explaining that “an impairment is any loss or abnormality of psychological, physiological or anatomical structure or function; a disability is any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being; a handicap is a disadvantage for a given individual, resulting from an impairment or a disability, that prevents the fulfilment of a role that is considered normal (depending on age, sex, social and cultural factors) for that individual”. Such a description frames disability within a medical model, identifying people with disabilities as ill, different from their non-disabled peers and unable to take charge of their own lives. Moreover, the diagnostic parameters of a medical definition do not take note of the imperfections and deficiencies in the basic social structures and processes that fail to accommodate the difference on account of disabilities.

The disability sector around the world found the WHO’s 1976 description of impairment, disability and handicap confusing, particularly for policy-making and political action, and problematic from a rights perspective. Responding to the growing concern, the WHO redefined the relationship between impairment, disability and handicap establishing that ‘impairment’ refers to organ level functions or structures, ‘disability’ refers to person-level limitations in physical and psycho-cognitive activities, and ‘handicap’ to social abilities or relation between the individual and society. The WHO International Classification of Impairments, Disabilities and Handicaps, 1996 is relatively realistic as it makes a clear distinction between impairment, disability and handicap, though concerns have been expressed that in its definition of the term handicap, the classification is still too medical and centred on individual, and does not adequately clarify the interaction between societal conditions or expectations and unique circumstances of a disabled individual.

Its ironical that The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 incorporates a medical definition. According to section 2(t) ‘person with disability’ means a person suffering from not less than forty per cent of any disability as certified by a medical authority. Further, the meaning of disability is described in section 2(i) stating that disability means:

- i. blindness;
- ii. low vision;
- iii. leprosy-cured;
- iv. hearing impairment;

- v. locomotor disability;
- vi. mental retardation;
- vii. mental illness.

## **Social Definition of Disability**

The change in understanding of disability from an individual pathology to a social construct is best reflected in the way UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities, 1993 define disability. According to these rules “people may be disabled by physical, intellectual or sensory impairment, medical conditions or mental illness”. Such impairments, conditions or illnesses may be permanent or transitory in nature. A distinction has been made between disability and handicap. A handicap is considered a loss or limitation of opportunities to take part in community life on an equal level with others. The purpose of this distinction is to emphasise the focus on the shortcomings in the environment and in many organised activities in society that handicap a disabled person.

Thus, it can be concluded that Standard Rules have defined disability from a perspective that emphasises social conditions which disable a group of individuals by ignoring their needs of accessing opportunities in a manner conducive to their circumstances.

## **Human Rights Definition of Disability**

The definition of disability adopted by the British Council also takes into account the social conditions which disable a group of individuals by ignoring their needs of accessing opportunities in a manner different from others. However, it also views these social conditions as infringing upon human rights of disabled and as instances of discrimination against them. According to this definition, “disability is the disadvantage or restriction of activity caused by a society which takes little or no account of people who have impairments and thus excludes them from mainstream activities”. Therefore, like racism or sexism, disability is described as a consequence of discrimination and disregard to the unique circumstances of people with disabilities.

## **Disability Estimates**

It is estimated that there are about 600 million people in the world who have disability of one form or another. Over two thirds of them live in developing

countries with high density of their population in Sub-Saharan Africa and in South and South-East Asia.

There is wide variation in the estimated disability rates reported by developed and developing countries. The variation depends, to a large extent, on the definitions of disability used, which either expand or limit the disability groups covered in a survey. For instance, using an overly restrictive definition of disability, the Census of India (2001) yielded an average of 2.13% of people with disabilities as compared to 19.1% in New Zealand and 18% in Australia.

To conclude, the recognition of a physical and mental condition as disabling by a society is also a tacit acceptance by it of its responsibility towards people considered 'disabled'. A society with a deep ethos of social responsibility is likely to be more open in its definition of disability. A very recent and a radical new development is the intervention of disabled people themselves in the social construction of disability. This perhaps is occurring for the first time in human history. It has contributed to a process away from negative definitions of disability, as indicating abnormality and impairment to a positive definition that first and foremost asserts essential humanness, understood around notions of human rights and community life, of the disabled that they share with all others, and then within this shared framework identifies special features that make disabled people different from others.

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## Why do we need to Speak of Disability Rights?

Today a new model of thinking is breaking grounds where disability is seen as an integral part of society. There is also recognition that persons with disabilities encounter several obstacles due to sensitivity and attitudinal barriers. Policies that are based ideologically on the human rights model start by identifying barriers in society that restrict disabled persons' participation. This has altogether changed the perception of disability and the approach to it.

Earlier the emphasis was on correcting the impairment and rehabilitating the individual so they may 'fit in' to society. Now there is recognition that disability is not a deviation therefore, all systems and structures of the society must be improved upon so as to allow equal access and full participation. Consequently States are bound by a multi layer of obligations to guarantee both de jure and de facto equality. At the Primary level it entails respecting right-holders' freedom to act according to their unique status and circumstances. At the Secondary level the State has a duty to protect all the right holders against political, economic and social interference. This implies introduction of legislation and provision for effective preventive and penal remedies. At the Tertiary level the States are obliged to ensure that the conditions for equal enjoyment of rights are created with the introduction of positive and special measures and by enhancing the capacity of the basic systems of society and its functionaries.

For example Persons with Disabilities Act, 1995 provide a wide range of educational options to persons with disabilities so as to enable them to choose the best possible model of education that would suit their needs. Both the Constitution of India and Disabilities Act, 1995 prohibits discrimination in the matter of work and with regard to accessing public facilities, services and utilities. For the equal participation the 'Scheme Sarv Shiksha Abhiyan' not only makes provision for the inclusion of children in the mainstream schools but it has also made a budget provision for it. Another example of disability inclusive development is Delhi Metro. This is perhaps the first public transport system in the country which has been constructed in a manner that allows equal access by persons with disabilities.

The Human Rights Model believes that every person has the right to participate fully in social institutions and avail fully of the services offered to a country's public, regardless of ability. In other words, governments have a duty to make mainstream institutions sensitive and flexible so that all persons, including those with disabilities, can make use of them. In the introduction to the Standard Rules

on the Equalization of Opportunities for Persons with Disabilities, 1993, the principle of 'equal rights' is described as implying "that the needs of each and every individual are of equal importance, that those needs must be made the basis for the planning of societies and that all resources must be employed in such a way as to ensure that every individual has equal opportunities for participation".

Recognition of rights is a myth without recognition of difference. For instance women's right to work includes right to maternity benefits and the linguistic rights of deaf persons are respected when there is a news bulletin on television in sign language.

In human rights law, equality is founded upon two complementary principles: non-discrimination and reasonable differentiation. The doctrine of differentiation is of particular importance to persons with disabilities, some of whom may require specialised services or support in order to be materially equal to others. Differences of treatment between individuals are not discriminatory if their aim is to protect the rights of the disadvantaged groups. Justice Krishna Iyer held in *Dr. Jagdish Saran & Ors. Vs. Union of India*,<sup>1</sup> that "equality is not degraded or neglected where special provisions are geared to the larger goal of the disabled getting over their disablement consistently with the general good and individual merit."

The idea of non-discrimination is central to the rights discourse because discrimination occurs when there is a disregard of abilities and needs of others. For instance, when an office is set up without screen reading software for blind and speech recognition system for those who access computer by speech and not through keyboard, discrimination is bound to persist. To prevent discrimination, Constitution of India in Article 15 and 16 states that, "No one shall be discriminated on the basis of sex, colour, caste, creed and religion". Extending this line of thinking, the Disabilities Act, 1995 envisage the concept of non-discrimination and it provides an excellent elaboration of the constitutional guarantee by taking into account circumstances of persons with disabilities. Section 44, 45 and 46 of the Disabilities Act, 1995 guarantee access without discrimination and Section 47 prohibits discrimination when an employee acquires disability during service. It also prevents denial of promotion to next higher post on the basis of disability.

Embedded in human rights is the notion that each individual has the capacity for self directed action and behaviour. Kant describes autonomous individuals as persons who can rationally determine the moral principles for securing the conditions of equality. For persons with disabilities this understanding of autonomy is crucial as it promises to restore in them the control over their lives without interference of

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1 1980, 2 SCC 768

professionals and others. Policies that are rights oriented seek active participation of persons with disabilities, especially in all decisions affecting their lives. For instance Disabilities Act, 1995 mandates involvement of five representatives of disability organizations including a women with disability in the Central and State coordination committees. During the drafting of the Disabilities Act, 1995, government held wide consultations with persons with disabilities and their organizations. Presently the United Nation has involved a large number of disability organizations in the process of drafting an International Convention on the Rights and Dignity of Persons with Disabilities. Towards this end, a voluntary fund has been established to facilitate their participation. These examples may be few but certainly they signify a shift in thinking about persons with disability from being passive recipients of care to active agents of change. The doctrine of human rights not only recognizes that each individual is of equal worth but it also creates an obligation for every individual to respect the rights, autonomy and dignity of others. The inherent dignity of all humans requires that we should each be free to determine the conduct of our lives within the confines of our society.

A rights based society gives individuals or groups their due within society as a whole. This also refers to the system of Social justice. Within this doctrine there are two distinct models of justice namely Distributive justice and Procedural justice. Distributive justice concerns what is just or right with respect to the allocation of goods (or services) in a society. Procedural justice concerns the fairness of the processes by which decisions are made, and may be contrasted with the Distributive Justice (fairness in the distribution of rights or resources). Distributive justice concentrates on just outcomes, while Procedural justice concentrates on just processes. Allocation of houses, shops and land on preferential basis for persons with disabilities is an example of Distributive Justice.

Enjoyment of substantive right cannot be ensured without a fair and due procedure for exercising such a right. For example, persons with disabilities have been granted 3% reservation in all government and public sector jobs which again is distributed to the extent of 1% each among persons suffering from blindness and low vision, persons suffering from hearing impairment and persons suffering from locomotor disability or cerebral palsy. This substantive right cannot be enjoyed in reality by the respective categories unless there is a fair procedure established by executive instructions providing for method of calculation of reserved vacancies in every recruitment, mode of allocation as well as distribution of reserved vacancies among three aforesaid categories of disabilities, selection procedures etc.

“People with disabilities provide us with a means to understand the way in which social life can be organized to be fair, to be just, to be humanitarian, to be equal. They provide us an opportunity to go beyond finding the roots of charity and to



look instead for the roots of justice. Equality and non-discrimination, which are the very basics of human rights law, can be brought into clear focus by reflecting on the place of people with disabilities in our societies. A human rights and social justice approach enables the use of various categories of rights and recognizes how rights have to be a concern in thinking about approaches to disability and social policy that enhance, rather than diminish, the status of those with disabilities.”(Marcia H. Rioux)

## What do the Laws Say?

In this chapter we would present a brief overview of International Human Rights Law and Domestic Laws. Under the Domestic Laws four important legislations on disability have been discussed at some length, in addition some provisions of Juvenile Justice Act and Income Tax Act will also feature.

### International Human Rights Law

There are three legal instruments which make up the International Bill of Human Rights. These are the Universal Declaration of Human Rights, passed by the General Assembly of the United Nations in 1948, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both adopted in 1966. International human rights law has not always adequately acknowledged people with a disability as part of what the 'human', in human rights, means. In the last two decades, however, there has been increasing international attention to issues concerning the human rights of people with disabilities. But to date this has not resulted in a specific binding international treaty, as there is on racial discrimination, or discrimination against women, or the rights of children.

As already pointed out, when these international legal instruments were elaborated, they did not explicitly mention disability as a category of discrimination. However, in 1994, the Committee on Economic, Social and Cultural Rights in General Comment No. 5 clarified that "any distinction, exclusion, restriction or preference, or denial of reasonable accommodation based on disability which has the effect of nullifying or impairing the recognition, enjoyment or exercise of economic, social or cultural rights" will constitute discrimination. (The international monitoring committees established under various conventions and covenants from time to time issue general comments. They offer general description or explanation of specific aspect of the convention especially where states are confronted with the obstacles making the implementation difficult. These general comments serve as guidelines as they provide a more clear interpretation of the treaty rights or obligations under it. In recent years both governments and courts have taken them into consideration. The case of Vishakha is one example of this nature.)

To avoid any confusion it must be pointed out that although a legally binding international instrument on the human rights of persons with disabilities does not exist but there are a number of soft law instruments with a clear focus on disability, e.g.

**Declaration on the Rights of Mentally Retarded Persons. (1971)**

**Declaration on the Rights of Disabled Persons. (1945)**

**World Programme of Action. (1982)**

**UN Standard Rules on the Equalization of Opportunities for People with Disabilities. (1993)**

**Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region. (1992)**

**Biwako Millennium Framework towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities. (2002)**

As such these soft law instruments are non-binding in nature which means governments are not bound to consider them while formulating policy or law. However, some of these non-binding instruments such as UDHR and Standard Rules have been accepted so widely that they form a part of customary law, meaning thereby that the practice of using these instruments is very common.

Many experts believe that a new human rights convention on the theme of disability is necessary to give status, authority and visibility to disability rights that cannot be achieved through the process of interpretations and refinement of the existing treaties and Standard Rules. Moreover, adding a new treaty will complement existing international standards for disability rights. In response to a continued advocacy for a specific disability convention, in December 2001 the UN General Assembly passed a resolution establishing an Ad Hoc Committee “to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the field of social development, human rights and non-discrimination”. To date, the committee has held seven sessions. Negotiations on the convention are advancing at a rapid pace. A large measure of agreement has already been reached on a number of articles. There are a few issues that require further negotiations which, in all likelihood, would be completed over a short period of time. It is hoped that by the year 2007, the convention would be adopted by the UN General Assembly. This convention could considerably move forward the process of mainstreaming disability. A new treaty would create a strong monitoring mechanism and give impetus to the implementation process. In some, the international human rights convention on disability would have enormous potential in bridging the gaps under domestic law and practice. It would initiate the process reform and the call for systemic and structural changes which may not be possible through the means of soft instruments

such as Standard Rules, Declarations and other policy instruments. The following table presents names of the core human rights treaties and the monitoring committees established under these.

S. No.	Name of Treaty	Name of Treaty Body
1	ICCPR (1966)	Human Rights Committee
2	ICESCR (1966)	Committee on Economic, Social and Cultural Rights
3	CERD (1965)	Committee on the Elimination of Racial Discrimination
4	CEDAW (1979)	Committee on the Elimination of Discrimination against Women
5	CAT (1984)	Committee against Torture
6	CRC (1989)	Committee on the Rights of the Child
7	CMW (1990)	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

## The Indian Law and Disability

The Constitution of India premised on the principle of social justice and human rights. The Preamble, the Directive Principles of State Policy and the Fundamental Rights enshrined in the Constitution stand testimony to the commitment of the State to its people. These provisions envisage a very positive role for the State in the upliftment of the status of disadvantaged groups. For example, Article 41 enjoins that, “The State shall, within the limits of its economic capacity and development make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement.” More specifically, Article 46 stipulates that, “The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.”

Here it is important to clarify that under Part IV of the Constitution of India, ‘Directive Principles of State Policy’ rights that have been catalogued need to be realized over a period of time. On the other hand under Part III, such rights have been arranged which are fundamental in nature and crucial to democracy and are

to be enforced immediately. For example, rights covered under Article 14 to Article 32 form part of fundamental/enforceable rights and Article 36 to Article 51 comprise directive principles and are theoretically non-justiciable.

However, in Article 37, the constitution clarifies:

- (a) That the directive principles are fundamental in the governance of the country, and
- (b) It shall be the duty of the State to apply these principles in making laws.

In view of these obligations, disability has been an integral component of policy planning. The ten five year plans that the country has embarked upon, do make a reference to disability though in the margins. Introduction of the policy of reservation in jobs for persons with disabilities in 1977 and the formulation of scheme of integrated education for disabled children in 1976 are also a few examples that mark this trend.

There appears to be a complete unanimity of judicial opinion that the Directive Principles and the Fundamental Rights are inter-related and interdependent. The Supreme Court of India declared, "The directive principles contained in Part IV constitute the stairs to climb the high edifice of a socialistic State and the fundamental rights are the means through which one can reach the top of the edifice."

Highlighting the significance of the Directive Principles, the Supreme Court stated, in *Kesavananda Bharati*, that it is relevant in this context to remember that in building up a just social order it is sometimes imperative that the Fundamental Rights should be subordinated to the Directive Principles.

Article 249 of the Constitution empowers the Parliament to legislate on any subject falling in any list in order to fulfil its international obligations.

The United Nations declared 1983-1992 the Decade of Disabled Persons. This was followed up by the Asian and Pacific Decade of Disabled Persons between 1993-2002. During this period, a great deal of awareness of the issues of people with disabilities was created. At a meeting of the Economic and Social Commission for Asia and the Pacific convened in Beijing in December 1992, a Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region was adopted. India was one of the countries that signed the proclamation. When countries sign international legal instruments, they are then obliged to create legislations, policies and practices, which are in keeping with these instruments. This led to the enactment of the most comprehensive law to date

relating to people with disabilities in India. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

### **The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**

The Act, which catalogues the rights of people with disabilities in India, was passed by the Parliament of India on December 12, 1995, and notified on February 7, 1996. The Act was a landmark in that, for the first time, it stated that people with disabilities had the right to equal opportunities and full participation and that these rights would be protected by the law. The Act elaborates, at some length, duties of the government at various levels and the other establishments under their control. It also provides useful guidance regarding the type and nature of measure that would equalize opportunities for the enjoyment of basic rights and freedoms.

The Act is arranged in three distinct parts:

**Part I** comprises Chapter 1-4 dealing with the administrative arrangement for implementation.

**Part II** comprises Chapter 5-11 dealing with the substantive rights and co-related obligations.

**Part III** provides a mechanism for the monitoring of the Act in the Centre and States. Chapter 12 establishes the office of the Chief Commissioner and State Commissioners for person with disabilities.

#### **Part I**

In the first chapter, the Act lists and defines the disabilities covered under it. These disabilities are blindness, low-vision, disabilities as a result of leprosy, hearing impairment, locomotor disabilities, mental retardation, and mental illness. The Act specifies the minimum degree of disability to be 40% to entitle a person with disability to the benefits under the Act. Authority to certify disability has also been specified. A medical board comprising three specialists from a government hospital can issue a disability certificate.

The Act establishes the Central and State Co-ordination Committees. These committees have been conceived in a multi-sectoral mode. Many important ministries and departments of the governments including five representatives of NGOs are members. The committee is mandated to perform the following functions:

- (a) Review and coordinate the activities of all the Departments of Government and other Governmental and Non-Governmental Organizations which are dealing with matters relating to persons with disabilities;

- (b) Develop a national policy to address issues faced by persons with disabilities;
- (c) Advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to disability;
- (d) Take up the cause of persons with disabilities with the concerned authorities and the international organizations with a view, to provide for schemes and projects for the disabled in the national plans and other programmes and policies evolved by the international agencies;
- (e) Review, in consultation with the donor agencies, their funding policies from the perspective of their impact on persons with disabilities;
- (f) Take such other steps to ensure barrier free environment in public places, work places, public utilities, schools and other institutions;
- (g) Monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;
- (h) To perform such other functions as may be prescribed by the Central Government.

In Chapter Four the Act places the responsibility of identifying the causes of disability, preventing such disabilities as can be prevented, and detecting the occurrence of disability early and asks the government to screen all the children at least once in a year for the purpose of identifying 'at-risk' cases. It requires to create awareness among masses about causes of disabilities, undertake research for the prevention and early detection of disability. (It is evident from the provisions of this chapter that little regard has been paid to the wider right to health for persons with disabilities and the focus is on the prevention and early detection of disability.)

## **Part II**

In order to make up for past discrimination, and deter it from happening in the future, the Act enlists various duties of the government in relation to the rights of persons with disabilities under Chapter Five 'Education', Chapter Six 'Employment', Chapter Seven 'Affirmative Action', Chapter Eight 'Non-discrimination', Chapter Nine 'Research and Manpower Development', Chapter Ten 'Recognition of Institutions for Persons with Disabilities' and Chapter Eleven 'Institutions for Persons with Severe Disabilities' makes provision for what is called 'affirmative action' – preferential actions designed to improve the status of people with disabilities. It is, therefore, the government's responsibility to provide people with disabilities

with aids and appliances which reduce or eliminate the limitations on function imposed by the disabilities. The government is also required to show preferences to people with disabilities when it allots land for building houses and setting up businesses, and also for the creation of special schools and recreational centres for people with disabilities.

### **Part III**

The Act provides for a monitoring mechanism in the Centre as well as in States. For this purpose it has established the office of the Chief Commissioner and State Commissioners for person with disabilities. The functions of the Chief Commissioner are:

- a. coordinate the work of the Commissioners;
- b. monitor the utilization of funds disbursed by the Central Government;
- c. take steps to safeguard the rights and facilities made available to persons with disabilities;
- d. submit reports to the Central Government on the implementation of the Act at such intervals as that Government may prescribe.

Similar duties have been envisaged for the State Commissioners. For the purpose of discharging their functions under this Act, the Chief Commissioner and the Commissioners have been vested with the powers of civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters , namely:

- a. summoning and enforcing the attendance of witnesses;
- b. requiring the discovery and production of any document;
- c. requisitioning any public record or copy thereof from any court or office;
- d. receiving evidence on affidavits; and
- e. issuing commissions for the examination of witnesses or documents.

Under Rule 40 of the Implementing Rules of the Disability Act, 1995 procedure for filling the complaint has been provided. Any aggrieved, disabled person can lodge a complaint on a simple piece of paper, a post card, etc. The complainant must provide personal details as well as the description of the accused. A systematic account of events leading to violation of the rights must be mentioned and finally,



the relief being sought should be specified in clear terms. Under the Act the Chief Commissioner and the Commissioners are obliged to dispose of the complaints within a period of 90 days.

The contact details of Chief Commissioner are as follows: Sarojini House, 6 Bhagwan Dass Road, New Delhi 110 001 Phone No : 91 – 2338 6154, 2338 6054 Email id: ccpd@hub.nic.in

In addition to the People with Disabilities Act 1995, there are three other legislations which are relevant to the rights of people with disabilities. These include the National Trust Act 2000, the Rehabilitation Council of India Act 1992, and the Mental Health Act 1987. In addition, the Government of India has adopted a National Policy on Disability in February 2006.

### **The Rehabilitation Council of India Act 1992:**

The Rehabilitation Council of India was set up by the Government of India in 1986, initially as a society to regulate and standardise training policies and programmes in the field of rehabilitation of persons with disabilities. The urgent need for minimum standards was felt as the majority of persons engaged in education, vocational training and counselling of persons with disabilities were not professionally qualified. Poor academic and training standards adversely affect the chances of disabled succeeding in the world of work. Therefore, an Act of Parliament in 1992 enhanced the status of the Council to a statutory body with following aims:

1. To standardise training courses for professionals dealing with people with disabilities;
2. To prescribe minimum standards of education and training of various categories of professionals dealing with people with disabilities;
3. To regulate these standards in all training institutions uniformly throughout the country;
4. To promote research in rehabilitation and special education; and
5. To maintain Central Rehabilitation Register for registration of professionals.

The Rehabilitation Council of India (RCI) regulates training standards for sixteen categories of rehabilitation workers. The Council is proactively promoting training and research initiatives utilising experience of specialised as well as mainstream academic institutions.

## **The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999:**

As certain groups among the disabled are more vulnerable than others, a special enactment for the protection of such persons, their property and well-being was felt necessary. The enactment of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (referred to as the National Trust Act) aims to fulfil a common demand of families seeking reliable arrangement for their severely disabled wards. The specific objectives of the Act are:

- To enable and empower persons with disabilities to live as independently and as fully as possible within and as close to the community to which they belong;
- To promote measures for the care and protection of persons with disabilities in the event of death of their parent or guardian; and
- To extend support to registered organisations to provide need based services during the period of crisis in the family of disabled covered under this Act.

The National Trust Act mandates the creation of a Local Level Committee (LLC) comprising District Magistrate along with one representative from a registered organisation and one person with a disability. The LLC is vested with the authority to decide upon applications for legal guardianship. The Act provides for the manner in which legal guardians are to be appointed. The conditions of eligibility, the order of eligible applicants, and the disqualification of applicants are contained in Regulations 11 to 14.

The Act also lays down duties of the legal guardian who has to furnish periodic returns to the LLC about the assets of the ward and their disposal in his hands. Similarly, the Committee too is required to maintain inventory and annual accounts of the property and assets, claims and liabilities submitted by the legal guardians to it.

The overall supervision of this Act is vested with a National Trust Board appointed through a democratic process by the registered organisations of the parents and others providing services to this segment of the disabled population. The government has contributed Rupees one billion to the trust fund. The interest earned is used in supporting mandated activities.

## **The Mental Health Act, 1987**

The Mental Health Act predates the human rights emphasis in the nineties. It can be described as a civil rights legislation as it aims to regulate standards in mental

health institutions and to make provisions with respect to their property and affairs. From a human rights perspective, the provision under Section 81 is of particular importance. It says,

1. No mentally ill person shall be subjected during treatment to any indignity (whether physical or mental) or cruelty.
2. No mentally ill person under treatment shall be used for purposes of research, unless –
  - Such research is of direct benefit to him for purpose of diagnosis or treatment, or
  - Such persons, being a voluntary patient has given his consent in writing or where such person (whether or not a voluntary patient) is incompetent by reason minority or otherwise, to give valid consent, the guardian or other person competent to give consent on his behalf, has given his consent in writing for such research.

Section 94 deals with respecting privacy of communication of persons with mental illness, “for the purpose of preventing vexatious or defamatory circumstances, or communications prejudicial to the treatment of mentally ill persons.” According to it, no letter or other communications sent by or to a mentally ill person under treatment shall be intercepted, detained or destroyed.

The emphasis of this legislation is on the appointments or qualifications of authorities, admission and discharge of mentally ill persons from specialised institutions, removal and role of medical officers, magistrates or police officers, liability to meet the cost of maintenance of mentally ill persons, and penalties and punishments, etc. However, there are serious question marks on the effectiveness of this legislation for ensuring the protection of the person, property and privacy of communication of mentally ill.

In fact, the Act leaves sufficient space for the misuse of power by the police, medical officer or magistrate. The project report Quality Assurance in Mental Health Institutions of the NHRC confirms, “Percentage of involuntary admissions is found to be very high and the provisions of Section 19 permitting admission under certain special circumstances by a relative or a friend are being widely abused.”

The NHRC is mandated under Section 12 of the Protection of Human Rights Act, 1993 to visit government run mental health institutions to “study the living conditions of inmates and make recommendations thereon”. Besides discharging this specific responsibility, the Commission has been, right from its inception, giving special attention to the human rights of mentally ill persons because of

their vulnerability and need for special protection. Through regular visits the Commission was astonished to find that old and even primitive ways of diagnosis and treatment were being practised at most places. Because of the absence of psychological and psycho-social facilities, control of aggressive patients is achieved by combination of drug therapy, physical restraint and seclusion.

The fundamental weakness of the Act is that it perceives institutional care as the only arrangement for the care and protection of persons with mental illness. Particularly, in the absence of a formal review, mechanism of involuntary admissions, the possibility of human rights violations increases manifold. As of now all decisions concerning admission, type of treatment, and release are either decided by professionals or family members.

It is heartening to know that now there exists a World Network of Users and Survivors of Psychiatry (WNUSP), that extends to more than fifty countries, including India. The network represents the voice of the people themselves and is gaining recognition within the disability movement, government sector and UN bodies. The network has helped develop a new understanding of the full implications of legal mechanisms in place, and put on defence the whole legal construction around insanity that extends to substantive and procedural laws in India and most legal systems of the world.

Many other laws have also taken into consideration the rights of people with disabilities.

For instance Section 2 (d) iii of the **Juvenile Justice Care and Protection of Children Act** 2000 defines children who are mentally or physically challenged with no one to support them as being “children in need of care and protection”. It is mandatory for the state to provide adequate services for such children with disabilities.

Under the **Income Tax Act**, 1961 people with disabilities may obtain deductions on their taxable incomes to the extent of Rs. 75,000. People who have dependents with disabilities may also claim deductions for maintenance and medical treatment.



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## Disability A Double Disadvantage

Intersection of disability with gender, poverty, age and other factors compound the problem. In this chapter, we will throw light on the circumstances of women and children with disabilities including the problems arising out of poverty and denial of reproductive rights.

### Women with Disability

Despite their significant numbers, women and girls with disabilities remain hidden and silent, their concerns unknown and their rights unrecognized. In the urban and rural communities alike, they face triple discrimination because of their disabilities, gender and poverty. Studies on women with disabilities in rural areas of many countries in the Asian region have found that more than 80 per cent of women with disabilities have no independent means of livelihood, and are thus totally dependant on others for their very existence. UNICEF has reported that women and children receive less than 20 per cent of rehabilitation services. Disabled women are less likely than men to make use of many other existing social services, including residential services, due to social, cultural and religious factors. The problems that confront women with disabilities are even more severe in the rural areas due to lack of information, awareness, education, income, and contact resulting in extreme isolation and invisibility.

Women and girl children with disabilities are two to three times more susceptible to physical and sexual abuse. This is especially true when they live in institutions. Adequate and accessible information needs to be provided and procedures devised relating to safety for women with disabilities. Institutions and families also need to address this issue on priority. Cultural constructions of female attractiveness go against women with disabilities when they seek partners. Women with disabilities are less likely to get married. If they do get married, generally it is a compromised arrangement. In countries where families arrange marriages for women, marriages may be contracted with women with disabilities for the sake of economic advantages and other factors such as producing heirs. A higher percentage of these women may later be deserted by their husbands. Also, a married woman who becomes disabled is more likely to be abandoned by her husband. Married men in such circumstances fare much better. Considering that marriage is seen as a traditional and valued role for women, women with disabilities are likely to suffer the negative emotional consequences that result from difficulties in accessing long-term, fulfilling, intimate relationships.

Most cultures and societies have felt that people with disabilities are incapable of bearing and rearing children. There is hardly any support for disabled parents. For the care and upbringing of infants of working women a provision of a crèche in the work place is necessary, but the needs arising out of the disability of the mother have neither been recognized nor provided for. A vast number of women with disabilities remain single without education and without any independent source of income. During their middle and old age they have a risk of losing family support and the social security programmes are geared at people in the organized work force. Support mechanisms to protect women against violence, abandonment, effects of poor health and poverty are virtually absent increasing their vulnerability manifold. Stress related symptoms are common amongst women with disabilities, specially those who neither have a normal family life nor an occupation to provide them financial security.

The disability rights movement has been criticized for all too often, treating disability as if it were a gender-neutral issue. Likewise, the women's movements in most countries have been accused of paying insufficient attention to the issues of women with disabilities. However, in recent years, more attention is being paid to the intersections of multiple forms of discrimination.

## **Disability and Reproductive Right**

According to the draft definition published by the World Health Organization, "sexuality is a central aspect of being human." As such, sexual rights are a part of human rights. All human beings have the right to seek and receive information regarding sexuality, seek and receive services which provide high quality sexual and reproductive health services, decide whether to be sexually active or not, and engage in consensual sex and marriage, as long as they do not impinge upon or harm the rights of other persons. Further, according to the World Health Organization, reproductive rights imply that all persons have the capability to reproduce and to decide if, how and when to do so.

However, there has been a widespread assumption through the centuries and across cultures that people with disabilities are either non-sexual or have an exceptionally high and unhealthy libido. Either way, mainstream society rarely takes into account the sexual and reproductive rights of people with disabilities. Frequently, these rights have been seriously violated. At various times in history, people with disabilities have been subjected to castration, forced hysterectomies and sterilization procedures and even killed so that their sexuality and reproductive abilities could be controlled by society. Their rights to bodily integrity have also been frequently ignored, as the likelihood of sexual abuse in people with disabilities is much higher than that of the general population. Elna McIntosh, a sexologist, notes that sexuality tends to be associated with youth and cultural stereotypes of 'beauty' and as such, sexuality of people with disabilities often tend to get perceived as 'unseemly'. Even when they are

acknowledged, the focus often tends to be on 'capacity, technique and fertility' in sexual performance without focusing on the multiplicity of other aspects related to sexuality, including intimacy, relationship, and feelings. Generally, limited perceptions of sexuality, relating it solely to sexual intercourse, negatively affect the sexual and reproductive rights of people with disabilities. These difficulties are accentuated in cultures in which there is less openness about sexuality-related issues.

People with disabilities are therefore much less likely to have their sexual and reproductive rights acknowledged by society, receive information or have access to opportunities for appropriate and socially acceptable intimate relationships. A patronizing belief that their 'innocence' precludes them from the need for information may keep important information about sexual health and safety from them. Such information is critical and needs to be presented in ways that are accessible to the person with disabilities. In addition to generalized information, people may also need information related to sexual functioning as it relates to particular disabilities, and which might help them to engage in intimate relationships with pleasure and confidence. The constant barrage of media stereotypes related to attractiveness and what constitutes sexuality, as also issues of access to partners complicate the issue of the sexual and reproductive rights of people with disabilities. When lack of employment opportunities may prevent a person with a disability from earning enough of an income to support a family with children, we notice that the issue is one related not only to disability and sexual and reproductive rights, but also to the rights to work and to a livelihood.

## **Poverty and Disability**

There is an intimate connection between poverty and disability, which operates in a vicious cycle. When people are poor, they are likely to suffer from malnutrition, which contributes to disability, especially when pregnant and nursing mothers and young children are involved. Further, they are more likely to live in squalid and unhealthy environments and be employed in hazardous jobs which expose them to greater possibilities of disability. Children are likely to be raised in less stimulating environments at home. Poverty can also increase stress levels of parents, which in turn may lead to harsh, abusive or violent behaviour which may directly affect children physically, or contribute to dysfunctional social and emotional development.

In turn, disability accentuates poverty. In the absence of adequate societal support and government services, the family's resources are stretched to provide additional supports to a member with a disability. People with disabilities are discriminated against in matters of education and employment, and are therefore, at a disadvantage when it comes to earning incomes and contributing to the family economy. Consequently, more than two-thirds of the people with moderate and severe disabilities live in poverty. In addition, they are often denied access to



services, resources and information, and are extremely rarely in decision-making positions in administration and important institutions.

The significance of poverty in relation to disability is emphasized when we realize that many disabilities are preventable. According to the UN, 20 per cent of all disabilities are caused by malnutrition, and another 10 per cent by infectious diseases. Effective and universal immunization programmes would eradicate polio, the major cause of orthopaedic disabilities in India. Lathyrism, which results in problems with motor coordination, is caused when people eat kesari dal, a kind of pea, but often those who cannot afford other, more expensive sources of protein have no choice. Lack of iodine in the diet results in cognitive disabilities. When adequate birth-care facilities are unavailable, children are likely to develop disabilities as a result of birth-trauma.

People with disabilities are also very vulnerable to poverty, if they are not already poor, since disability often results in loss of income and demands additional expenditure. The extra costs directly related to disability include expenses on medical treatment, purchase and maintenance of special devices, and travelling to access rehabilitation and medical facilities. A survey of people with disabilities in India found that the direct cost of treatment and equipment varied from three days to two years income, with a mean of two months.

## **Disability and the Juvenile Justice System**

One of the major rights areas related to disability, which has received negligible attention in India, relates to children with disabilities and the juvenile justice system. According to the Juvenile Justice Act, children may enter the juvenile justice system when they are in conflict with the law, or when they are in need of care and protection. Thousands of children belonging to both these categories live in hundreds of governmental institutions and institutions run by non-governmental organizations in this country. Research studies show that children with disabilities are disproportionately represented in both these categories in the juvenile justice system. Unfortunately, little data is available on the numbers. The Country Report for 2003 of the Ministry of Social Justice and Empowerment lists the numbers of facilities for children with disabilities and for 'juvenile offenders' but does not take into consideration the overlapping category, children in conflict with the law who may have disabilities.

A number of children in conflict with the law may have disabilities, especially Emotional and Behavioural Disorders, cognitive disabilities and learning disabilities. Without assessment, identification, therapeutic and educational support, these children come into conflict with authority. With neither the awareness that this should be an area of priority, nor appropriate systems and facilities for assessment

and identification, accurate information on children with disabilities in the juvenile justice system in India is unavailable. However, data from the United States shows that one-fifth of the children with Emotional and Behavioural Disorders (EBD) are arrested while they are in school, 58 per cent are arrested within five years of their leaving school, 73% of young people with EBD who have dropped out of school are arrested within five years of dropping out. Even if we assume that differing socio-cultural conditions may mean that numbers in India may be lower, the figures are sufficiently high that they warrant attention. It is imperative that studies be carried out to determine the nature and extent of the issue.

Even after children identified as having disabilities enter the juvenile justice system, attention typically is limited to the provision of food, clothing and shelter, and there are few targeted programmes to ensure that these children receive specialized professional services directed at rehabilitation and the prevention of recidivism.

Vulnerable groups like children with disabilities need special care so that the rights discourse can meaningfully apply to them. Children who might potentially come in conflict with the law must be protected through proactive societal efforts to provide services aimed to prevent such conflict. A recognition of the risks as well as some interventions which might reduce these risks might be helpful in designing this.

Children with disabilities who run the risk of coming in conflict with the law may be diagnosed as having emotional and behavioural disorder, or may have cognitive deficits, difficulties with vocabulary and following directions, or poor social skills. They may be further compromised if the family is in poverty, and parents show poor parenting skills, including inconsistent discipline, neglect, harsh or abusive behaviour. School failure and escape behaviours are also predictors of potential conflict with the law, as is the case if the child is rejected by peers or influenced by deviant peers or gangs. Vulnerable children may require a range of services including home visits and parental training on how to handle the child, early intervention services to build cognitive skills and literacy and to teach the child health, safety, and self-care skills and emotional coping strategies. The family may need support with respect to health, education and employment services. Teachers will need to match instruction to the ability and interest of the child, using meaningful content. Alternative education programmes may also be necessary. Planned behaviour management programmes designed to teach social skills and attach the child to prosocial groups of peers will also be necessary.

If the child with disabilities is already in conflict with the law, specialized programmes may be necessary to ensure that s/he receives her right to an appropriate education. Programmes that are likely to work include individualized academic restructuring, social skills training, and behavioural interventions which use reinforces to facilitate success.



## Some Important Rights

Rights are interconnected and are interdependent. In the absence of one it becomes difficult to enjoy other rights. In this chapter we will talk about some of the rights seen crucial in the enjoyment of all other rights. Education, Employment and right to access form the core of these rights, nonetheless rights that are not mentioned in this chapter are equally significant for persons with disabilities. In the Disability Manual, 2005 the NHRC has compiled a very comprehensive analysis of the complete range of rights with examples from International and National Law including legal cases.

### Education

Over the last fifty years, right to education has evolved in India, inspired by a host of factors including judicial interpretations, enactment of special laws and amendment to the Constitution. For example, with the Eighty-Sixth Amendment, the right to free and compulsory education has become a fundamental right. Originally, this right was a part of the Directive Principles under Article 45. Other noteworthy aspect of this amendment is that the fundamental right to education has been arranged as an extension of the right to life, as Article 21A, which stipulates “The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine”.

The Eighty-Sixth Amendment has brought another important facet of education, i.e. early or pre-school education under the constitutional framework. The amended text of Article 45 reads, “The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.” This provision is of particular relevance for children with disabilities. These amendments are not only important from the perspective of an individual right but they have enlarged the scope of duties both for the State and citizens. Amended Article 51A of the Constitution enjoins, “that it shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.”

From the standpoint of persons with disabilities, the provisions outlined in Chapter Five of the Persons with Disabilities Act, 1995 entitled ‘Education’ are of great significance. The Act not only guarantees free education up to the age of eighteen

years in an appropriate environment but also casts a positive duty on the appropriate governments to promote integrated education as well as special schools. Section 26 of the Persons with Disabilities Act, 1995 stipulates that the appropriate governments and the local authorities shall:

1. ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years;
2. endeavour to promote the integration of students with disabilities in the normal schools;
3. promote setting up of special schools in government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools; and
4. endeavour to equip the special schools for children with disabilities with vocational training facilities.

Recognizing that persons with disabilities must have equal access to all forms of education through a variety of models, Section 27 of the Act lays down, The appropriate governments and the local authorities shall by notification make schemes for:

1. conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis;
2. conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above;
3. imparting non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation;
4. imparting education through open schools or open universities;
5. conducting classes and discussions through interactive electronic or other media; and
6. providing every child with disability free of cost special books and equipments needed for his education.

In this respect, the Act is modeled on human rights approach and entitles persons with disabilities to all such measures that are necessary for the effective enjoyment of their right to education. First of all, the Act recognizes that trained manpower be made available for special schools and integrated schools for children with disabilities. In this respect Section 29 casts a duty on the appropriate governments

to set up adequate number of teachers training institutions and assist the national institutes and other voluntary organisations to develop teachers' training programmes specialising in disabilities so that requisite trained manpower is available for special schools and integrated schools for children with disabilities.

A simple reading of Sections 30 and 31 of the Persons with Disability Act affirms the faith of Indian legislature in the introduction of positive special measures to overcome inequalities and discrimination which persons with disability encounter when the education system and related mechanisms fail to recognize and provide for special needs of children with disabilities.

Sections 30 and 31 outline the special measures to create the concept of appropriate educational environment guaranteed in Section 26.

**Section 30 requires** that the appropriate governments shall by notification prepare a comprehensive education scheme which shall make provision for:

1. transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools;
2. the removal of architectural barriers from schools, colleges or other institutions imparting vocational and professional training;
3. the supply of books, uniforms and other materials to children with disabilities attending school;
4. the grant of scholarship to students with disabilities;
5. suitable modification in the examination system to climate purely mathematical questions for the benefit of blind students and students with low vision;
6. restructuring of curriculum for the benefit of children with disabilities; and
7. restructuring the curriculum for the benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

**Section 31 mandates that** all educational institutions shall provide or cause to be provided amanuensis to blind students and students with low vision.

Although the Act catalogues a comprehensive range of measures necessary to allow equal participation in all aspects of an educational pursuit, the disabled continue to face numerous obstacles on account of a negative mindset and poor information about the Act itself.

Section 39 of the Persons with Disabilities Act imposes yet another positive obligation on the State by mandating “all government educational institutions and other educational institutions receiving aid from the government” to “reserve not less than three per cent seats for persons with disabilities”. This section of Persons with Disabilities Act remained under controversy for sometime by its placement under the Chapter on Employment, instead of Education. Finally, the Supreme Court in **All Kerala Parents Association vs State of Kerala** while settling this issue said that the inclusion of the Section 39 under the chapter on employment is due to an error in drafting and affirmed that reservation of three per cent of available seats in government educational institutions for students with disabilities should be applied.

There has been some confusion about who would constitute an ‘educational institution receiving aid’ from the government within the context of reserving three per cent seats for persons with disabilities. In *Social Jurist v. Government of National Capital Territory of Delhi & Others*, the High Court of Delhi has taken a broad view while defining ‘aid’ and has held that the land received on concessional rate to establish a social institution would constitute aid by the government. The court directed the Delhi Development Authority (DDA) to take ‘appropriate action’ against 265 ‘recognized, private unaided’ schools in the Delhi region, which had been allotted land by the DDA at concessional rates on condition they reserve a 25% freeships quota for disadvantaged children, for breach of that condition.

The right to education for persons with disabilities has evolved incorporating new approaches to disability. The instruments adopted by the UN and its bodies, and the Government of India have elaborated the content of this right from the perspective of human rights and the lived experience of disability. For better appreciation of the right to education and its ramifications, a reading of WPA, Standard Rules, Salamanca Statement, Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region including its targets and recommendations may prove fruitful. These instruments can be relied upon in ensuring full and effective realization of the right to education by persons with disabilities. They offer useful guidance both for the holders of rights and those who have co-related duties.

## **Employment**

In spite of recognition by international community of the dignity of human life, persons with disabilities have remained marginalized and excluded from participating in different aspects of community life. They have always been perceived as lacking abilities and potential to engage in any meaningful activity or work. This perception resulted into denial of the ‘right to work’ to them which

has been recognized in UDHR and more specifically in IESCR. The dismal employment situation of persons with disabilities engaged the attention of international community which culminated into the first international document relating to disability and work titled Recommendation 99 of the International Labour Organization on Vocational Rehabilitation (Disabled) in 1955. Committee on Economic, Social and Cultural Rights through its General Comments elaborated positively on the 'right to work' on persons with disabilities. All disability related international instruments also provided a broad guideline and a foundation for legislative and policy framework at domestic level to ensure that persons with disabilities are able to enjoy their right to work and access job opportunities. These international developments influenced the legislative and policy environment in many countries. Since 1980s there has been growth of various legislation and policies in most of the countries aimed at ensuring greater participation and equality of persons with disabilities in all matters including employment. There are two visible major legislative strategies one prohibits discrimination while assuring equality of opportunity of persons with disabilities in employment through reasonable accommodation while the other strategy provides for quota system to achieve real equality at least in organized public employment sector.

In India, The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 adopts a multi pronged approach to the issue of employment of persons with disabilities. In order to promote employment of persons with disabilities in organized formal sector, it provides for a scheme of quota to the extent of 3% in all government departments (Central and State government), public sector undertakings and local authorities to be distributed equally to the extent of 1% each among persons suffering from blindness and low vision, persons suffering from hearing impairment and persons suffering from locomotor disability or cerebral palsy (Section 33). Further, in order to promote employment in private sector the Act mandates the government to formulate and implement a scheme for providing incentives to such establishments whose work force is composed of 5% of persons with disabilities (Section 39). To promote self-employment among persons with disabilities, the Act further calls upon the government to formulate and implement scheme for preferential allotment of land at concessional rates for industrial and business purposes to persons with disabilities (Section 43). Besides these provisions, the Act also prohibits denial of promotion on the ground of disability by any establishment of the government and/or prohibits dispensation of service or reduction in rank of any employee who acquires disability (Section 47).

To bolster employment of persons with disabilities in rural area the Act mandates that 3% budget in the poverty reduction schemes be earmarked (Section 40). Marginal benefit has reached the rural disabled. There are a few examples of good practice. States of Gujarat, Karnataka, Tamil Nadu and Andhra Pradesh have been



successful in utilizing the budget allocated for the disabled under Swaran Jayanti Punarvas Yojna. However, the overall failure of the scheme can be attributed to lack of knowledge about disability among the field functionaries and the cumbersome procedures. There are a number of other schemes such as Handicap Finance Development Corporation which promote self employment amongst the disabled. The states who have established reliable channelizing agencies are able to benefit many persons with disability.

No doubt, the aforesaid provisions of the Act have changed the employment situation to some extent but the attitudinal and physical barriers are yet to be demolished to enable persons with disabilities to access the job market on equal basis. Lack of training programmes compatible with emerging trends in the job market is an important area of concern where policy and legislation has yet to make any dent.

## **Accessibility**

Given their history of segregation and isolation, the right to full participation in the community is one that people with disabilities value very highly. However, in order to participate in the life of the community, a person needs to get around. Whether s/he is going to school, or to work, or to use recreational facilities, the ability of the person with disability to move around in the immediate vicinity of the living space or travel farther a field is critical to make him or her feel like a valued and effective member of the community. However, most community facilities in the world have been designed for and cater to able-bodied individuals.

Using the facilities of a community service, keeping in mind the perspective of people with disabilities, is likely to quickly to show how 'ableist' the community is in the provision of services. For example, a visit to your local bus station might be useful to understand this aspect of discrimination against people with disabilities. As you examine the facilities, ask yourself questions like these: "Do buses for different routes stop at different fixed spots, or are commuters expected to run up to the bus and rely on sight to find out where it is going? Even if there are platforms and bays for buses on the various routes, are there cut-outs in the platforms and pavements to allow wheelchair users on them? In addition to stairs wherever necessary (e.g. to buildings, information booths, raised walkways, etc.), are there ramps and lifts in addition to stairs? Are stairs marked by broad yellow lines to help people with visual impairments recognize the difference in gradient? Are signs marked in Braille as well as in the local languages? Are announcements made over public address system? Do the buses have low entryways, ramps and lifts, wide doorways and bays for locking wheelchairs to assist wheelchair users? Are toilets available and are these disabled-friendly? Have the employees of

transport service companies been provided with sensitivity training to assist passengers with disabilities and to be sensitive and helpful in serving the needs of people with disabilities?" It is likely that, when you make such a survey, you will discover how much further we have to go to ensure that public services are accessible and friendly to people with disabilities.

According to the Persons with Disabilities Act, many measures have been encouraged to improve accessibility for people with disabilities.

- Establishments associated with providing transport have been encouraged to adapt buses, trains, boats and aircraft and waiting areas to allow for easy access to people with disabilities and to adapt toilets to allow people with disabilities to use them conveniently.
- Modify traffic signals so that they serve the needs of people with visual impairments.
- Make slopes and curb-cuts in pavements at regular intervals so that wheelchair users can use them.
- Engraving surfaces of zebra crossings or platforms with a gradient difference to assist people with low vision.
- Using appropriate signs to indicate disabled-friendly services and installing warning signals of various kinds where necessary.
- Build ramps in public buildings, hospitals, primary health centres, etc. and adapt toilets in these building to make them disabled-friendly.
- Have auditory signals and Braille symbols in elevators and lifts.

One of the major drawbacks of the Persons with Disabilities Act 1995 is that it allows for loopholes that allow authorities to get away without providing many of the recommended facilities. When important social justice legislation is introduced, aimed at bringing about major changes in society, it is necessary that these be accompanied by financial backing for local governments. This is an area in which the Persons with Disabilities Act is weak. Many of the recommendations made by the Act in the area of measures to support people with disabilities come with the rider "within the limits of their [the states'] economic capacity". Hence, it is possible for authorities to argue that they do not have the funds to provide admissible facilities for people with disabilities.

It is, therefore, necessary to strengthen the law to put pressure on authorities to comply with it. In addition, while public facilities are modified to meet the needs of people with disabilities, it is simultaneously necessary to educate able-bodied

members of the general public on the importance of these measures so that there is support and sensitivity on their part as well. Many states in India have reserved seats on buses for people with disabilities. It is not unusual to find able-bodied people using them and refusing to give them up even when a person with a disability enters the bus. Likewise, even in the rare city in India which reserves parking spots for people with disabilities, it is not unusual to find non-disabled persons usurping the privilege. Hence, awareness raising and advocacy among the general public is absolutely necessary to improve access to public services and facilities for people with disabilities.

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## Environmental Hazards and Disability

Often disability is associated with disease and disorder, as a consequence the policy focus has been on the prevention of medical conditions that may lead to disability. The fact remains that a large proportion of disability is on account of natural and man-made disasters. In this chapter we have made an attempt to showcase how ecological, occupational and traffic hazards contribute disability.

### Disability and Ecological Hazards

As we live carelessly in the world and damage the environment and the quality of the air and water we use, the effects of this abuse reflects in many ways including in the form of disability caused by disease, pollution or genetic mutations. Hundreds, perhaps thousands of people suffered disabilities as a consequence of the Bhopal Gas Tragedy. There is a continuing struggle in Kerala today between the Plantation Corporation which sprays the chemical pesticide, Endosulfan, in the cashew plantations, and local people who are suffering as a result with loss of vision, mental retardation, and the Staghorn Syndrome – a condition in which the hands are deformed. Malathion and Endrin sprayed in the fields entered the bodies of fish and crabs in local water bodies. When people ate these polluted foods, they began to suffer from a bone disease called the Handigodu Syndrome, after the place in Chikmagalur district in Karnataka where this was first noted. People living near nuclear plants have shown higher rates of birth defects and cognitive disabilities.

In the early 90s, a billion pounds of pesticides were being added to the environment every year, and since then the figure has been increasing. Agriculture is the biggest culprit when it comes to the pollution of surface water bodies like lakes, wells and rivers, so countries like India whose economies are strongly agro-based are particularly vulnerable. Triazole fungicides, widely used to control pests in agriculture, have been linked to incidences of miscarriages, infants with low birth weight, and higher incidences of cleft palates and hydrocephaly. DDT, PCBs and dioxins have been linked to reproductive system damage. The numbers of children identified as having Attention Deficit Disorder (ADD) or Attention Deficit Hyper Disorder (ADHD) has been increasing around the world. Exposure to quite a few herbicides and pesticides have resulted in damage to the central nervous system as well as behavioural changes including hyperactivity. Studies show that when people were exposed to Chlordane, commonly used to fight termites and released into the air as a consequence, anger, depression, tension and fatigue increased,

on an average, by over 70%, and attention deficit levels increased too. (At a conservative estimate, at least 90% of the population is exposed to Chlordane in the US, a country which has stricter pollution control laws than most developing countries.) DEET, a chemical commonly used in mosquito repellants, results in increased hyperexcitability. Repeated exposure was also related to seizures and impaired cognitive functioning.

The issue is complicated by many factors. Many such pollutants have long latency times, i.e., it may take several years before the toxic effects of the pollutant entering the human system becomes obvious. Toxic effects are also magnified by cumulative exposure over long periods of time, and exposure to multiple pollutants. Much research into this area is required, and this will call for resources. Such resources are imperative, however, to determine the links between environmental toxicology and disability. Resources will also be required to mount advocacy campaigns against harmful chemicals, many of whom are produced and marketed by enormously wealthy and powerful industrial corporations.

Cleaning up our water bodies and the air, banning harmful chemicals, and finding safe ways of disposing of industrial wastes are imperative if the causes of disability are to be reduced rather than increased.

## **Disability and Occupational Hazards**

Around 90% of the workforce in India is in the unorganised sector, which is characterised by low levels of technology, low standards of safety and hazardous working conditions. In order to maximise profits, production is often located wherever costs are lowest, regulations loose and workers least likely to organise for better working conditions and fair wages. This often results in high rates of accidents, poisoning from toxins, loss of hearing and vision, and health deterioration, all of which contribute to short term and long term disability.

Occupation-related health problems of workers employed in stone quarrying, leather industry, glasswork, weaving, diamond cutting, hand embroidery, and children employed in carpet, cracker and match industry have been recognised but have not received appropriate and sustained attention by those responsible for regulating work standards. Even in developed countries, permanent disablements as a result of industrial and highway accidents outnumber war casualties. For example, 44,000 people lost their limbs in industrial accidents during the period of Vietnam War in which 17,000 American soldiers became disabled.

Like industrial workers in the unorganised sector, poor farmers and peasants too are very vulnerable to disability as they work for long hours exposed to sunlight,

dust and smoke. Wheat harvesting and amputations, paddy sowing and muscular diseases, coconut picking and spinal cord injuries are some common hazards associated with typical agricultural activities. Efforts to improve design of agricultural implements have been quite successful in preventing disabilities. However, parallel improvements in the primary health system have not been achieved as it lacks the capacity to deal with agricultural accidents, which occur at the village level.

Occupational casualties and disabilities can be brought down to a great extent if the industrial and occupational standards are in conformity with Article 7 of the International Covenant on Economic, Social and Cultural Rights which calls for the creation of just and fair conditions of work.

### **Disability and Road Accidents**

Unplanned cities with narrow roads, rapid growth in number of vehicles and disregard of traffic regulations have been responsible for increasing the number of road accidents in India. If current trends continue, road accidents may become the leading cause of death and disability in the country. As per the Central Bureau of Health Intelligence Report of 1997-98, 69,800 people died in road accidents that year. The number of dead in rail accidents was approximately fifteen thousand. An expert in the field, Dr Leslie G Norman, estimates that for every road accident death there are 30-40 light injuries and 10-15 serious injuries, which may lead to disability.

Improvements in vehicle design and medical facilities, as well as stronger enforcement of traffic regulations concerning compulsory use of seat belts (car use) and helmets (motorcycle use), and restrictions on alcohol consumption and other intoxicants need to be treated more seriously than it has been. It is estimated that by 2020, road traffic accidents will be ranked as the third leading cause of disability in the Asian and Pacific region. Quadriplegia, paraplegia, brain damage and behavioural disorders are some common disabilities among survivors of traffic accidents.



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## The Importance of Legal Cases in Furthering Rights

The rights activists and the field functionaries are generally inclined to find answers in the legal and policy instruments. In doing so they deprived themselves of a more modern interpretation of rights that feature in the law books. The aim of this chapter is to encourage use of case law that offers useful interpretations significant in furthering the rights of disabled people. We have given few examples just to show the trend. A comprehensive compilation of positive cases has been published by the Chief Commissioner for Persons with Disabilities and the Human Rights Law Network.

While laws are an important means of providing rights for groups who have been oppressed, actions must follow to ensure continuous evolution of law. Judiciary plays a significant role in the interpretation of general guarantees of rights into specific circumstances. This process is popularly known as judicial law making, court law or judgment law. These interpretations establish legal precedents and principles that can be widely applied in dealing with similar issues. In a landmark case, in **Kesavananda Bharati vs State of Kerala**, the Supreme Court of India observed that primarily the mandate in Article 37 is addressed to the legislature, but, in so far as the Courts of Justice can indulge in some judicial law making within the interstices of the Constitution on any statute before them, the Courts too are bound by this mandate. Both international and domestic courts have significantly contributed to disability jurisprudence. It is in this context that litigation can play an important role. Usually, legal actions related to disability rights violations around the world have tended to be directed at schools and school administrations that violate the rights of children with disabilities to receive an appropriate education; against employers who deny people with disability fair treatment at the workplace; to firms, housing societies and businesses; which do not provide appropriate access to people with disabilities and against the government for failing to protect the rights of people with disabilities. In India, many of the cases have been directed at the Central and State governments. A few important cases, dealing with welfare schemes (housing), education, employment and access, which pushed the boundaries of the rights of people with disabilities in India are described below:

### **National Federation of Blinds, UP Branch vs. State of UP, 2000**

In this case, the Uttar Pradesh Branch of the organization, National Federation of Blinds, approached the courts to direct the state to arrange for preferential allotment of sites at concessional rates to people with visual impairments. The State of



Uttar Pradesh contended that no schemes existed for such allotment. The court held that the petition was in consonance with the People with Disabilities Act 1995, and not against any other existing laws and therefore must be granted. The State's argument that no schemes had been formulated yet, was not a just cause for non-compliance with the law.

### **Dr. Vijay K. Agarwal vs. State of Rajasthan, 2001**

In this case, Dr. Agarwal approached the court seeking admission to post-graduate course in medicine, based on educational concessions allotted by law to people with disabilities under the PDA. The State of Rajasthan argued that the Central and State Coordinating Committees responsible for making policy decisions related to the implementation of the People with Disabilities Act had not yet been set up. The court adjudged the petitioner's request valid, and informed the state that the excuses that the Coordinating Committees had not been set up and that schemes had not been formulated were not sufficient reason for not complying with the Act.

### **Kunal Singh vs. Government of India**

Kunal Singh had been a constable with the Special Services Bureau. While on duty, he suffered an injury to the leg. Gangrene set in and the leg had to be amputated. Singh was 'invalidated from service'. Ruling in his favour, the court drew attention to the clear provisions of the People with Disabilities Act, according to which "the employer shall not dispense with or reduce in rank an employee who acquires a disability during the service".

A celebrated case involving access in India involved the famous disability rights activist, **Javed Abidi**, and the **Union of India**. Indian Airline statutes allowed for a 50% concession on fares for people who were visually impaired. Abidi argued that using surface transport systems like trains and buses were far more problematic for people with locomotor disabilities and that Indian Airlines' policy of limiting the fare concession to people with visual impairments was arbitrary. He also detailed the loss of dignity that people with locomotor disabilities suffered because of the lack of facilities to lift wheelchairs into commercial aircraft or to allow them to move in the aisles. Although Indian Airlines argued that the costs of extending concessional services to people with locomotor disabilities would be prohibitive, the court did not accept the argument, and people with 80% locomotor disabilities became eligible for concessions. Consequent to Abidi's petition, Indian Airlines announced that ambulifts and aisle chairs would be made available to people with disabilities at the major airports to start with and extended in a phased manner to other airports. This case was noteworthy, in that the court thanked the petitioner for bringing the matter to the notice of the court and for speeding up

the process of implementation of the provisions of the People with Disabilities Act by the Central and State governments.

### **Pushkar Singh & Ors. vs. University of Delhi & Ors**

In this case the petition was filed in the High Court of Delhi by Pushkar Singh and four others against University of Delhi & Ors alleging that reservation on the teaching post have not been provided by Delhi University according to circular dated 25<sup>th</sup> October , 1994 regarding 3% reservation as recommended by the committee for blind and orthopaedically handicapped categories be made known in every advertisement of the university/college and at least one disabled person must be appointed in each college during the Academic Year 1994-95. The court allowed the writ petition and directed the respondents to comply with Resolution No.193/3 dated 16<sup>th</sup> July, 1994 of the Executive Council of Delhi University w.e.f. date of this Resolution. This exercise should be done to calculate the number of posts which will have to be reserved for visually and orthopaedically handicapped persons in terms of the aforesaid Resolution and the Provisions of Disabilities Act and the number of posts which are to be reserved in the aforesaid manner should be earmarked subject wise keeping in view the criteria laid down in office memorandum dated 25<sup>th</sup> November, 1986. This exercise be done within a period of two months from the date of this judgment. Further, while implementing the decision aforesaid, if number of posts are not available, the respondents should have options either to create supernumerary post or terminate the services of those whose appointments were made subject to the decision of this writ petition as per order dated 14<sup>th</sup> July, 1995 in CM.4271 of 1995. It is simply because the posts which would now be earmarked for handicapped persons were meant for them, are occupied by others and thus recruitment not validly made.

### **Dr. Raman Khana vs. University of Delhi & Ors**

In this case Raman Khana was suffering from Haemophilic Arthropathy of right knee causing 40% physical disability. He applied in Delhi University for a postgraduate course in Community Medicine. The Court held that reservation policy as per section 39 of the Act is also applicable to post graduate courses. Court further directed that Delhi University does not have power to insist that a person who have produced Medical Handicapped Certificate from any of the nine hospitals mentioned in the order dated 8/8/2002 should appear before a Medical Board constituted by the University. As there is only one candidate who has applied under physically handicapped category and whose certification shows that he is above 40% degree of disability. The court directed the MCI and Delhi University to reconsider the policy of disqualifying candidate with disability of the upper limbs for availing the benefits enshrined in the Disabilities Act. If this is not done it would directly offend section 39 of the Disabilities Act.

### **Shri Suhas Vasant Karnik vs. Union of India and Ors**

In this case, the Bombay High Court had the occasion to examine whether a blind person could be declared ineligible for seeking promotion. The High Court held that the respondent is not entitled to discriminate amongst the members of staff merely because some of its members are physically handicapped. It further held that the respondent is under constitutional obligation to encourage participation of visually handicapped persons in activities of the Bank on par with other members of the staff, and to consider cases of visually handicapped staff for promotion fairly and equitably.

### **Anka Toppo vs. AIIMS**

Anka Toppio aggrieved on being denied the right to take the examinations for MBBS final year, on losing sight, by the All India Institute of Medical Sciences (AIIMS), approached the NHRC. The Respondent was of the opinion that “in view of the severe visual loss suffered by Shri Toppo, it would not be possible for him to work in the medical profession”. After great persuasion by the NHRC and on exposing the Respondent to numerous examples of blind people successfully pursuing medical profession, the Respondent finally agreed to take steps to examine the petitioner for the MBBS course by offering a modified methodology of examination. In the light of the experience of this case the NHRC at its sitting on 28 May 2001 expressed the view that the Medical Council of India should perform a similar exercise so that the same facility and system is available in other medical institutions of the country as well.

### **National Association for the Blind & Others vs. Central Board of Secondary Education & Others**

In this the Delhi High Court directed to “grant an extra hour to blind students (appearing for a written examination): meaning thereby that they shall be given 4 hours instead of 3 hours given to normal students”. Respondent No.1 was also directed to permit the school from which a blind candidate is to appear to choose amanuensis, subject to observance of the relevant rules. Due to paucity of time, the Court did not allow the prayer in respect of modification of the mathematics paper and supply of question papers in Braille. However, it directed that “so far as the future examinations are concerned, proper curriculum and examination system shall be fixed keeping in view the objectives of the Act”.



## Conclusion

The treatment of people with disabilities has varied through the centuries, and it has more commonly been oppressive than otherwise. A sustained campaign for rights by persons with disabilities, their family members and well wishers has given birth to new thinking about disability. This has a clear bearing on the legal and policy frameworks and the mechanisms for their implementation.

One of the most significant advancement of policy and practice in the latter half of the twentieth century has related to the right of people with disabilities to live and participate in their communities, and to secure the maximum possible support so that services related to rehabilitation, education, and employment are all provided through systems that comply with minimum standards of quality. In this context, it is also important to realize that disability rights cannot be fought for and secured in a vacuum. Inevitably, the issue of disability is related to many other social, economic and political issues, including those of chronic poverty, gender equity and environmental damage.

While it may be possible to discuss the issue of disability rights in much greater length and depth, the issue is ultimately a simple one. As human beings, in addition to access, education, health care, rehabilitation services and employment, all people with disabilities need a safe, secure and accessible environment which is respectful of their dignity. We need to learn to care for all human beings as human beings, with due respect for all their differences.



## Check Your Progress

1. Enumerate the complete range of rights to which a differently abled person is entitled?
2. Elucidate the international conventions that deal with rights of the disabled?
3. Highlight the main constitutional provisions and domestic laws that deal with the subject of rights of the disabled in India?
4. Is it true that intersections of disability with gender, poverty, age and other factors compound the problem of differently abled persons. If yes, how?
5. With what objectives the Rehabilitation Council of India was set-up in the country.
6. What are the specific objectives of the National Trust Act 1999?
7. Write in bullet-points on the role played by the National Human Rights Commission for protecting and promoting the rights of differently abled people?
8. Is it true that a large proportion of disability is on account of natural and man-made disasters. If yes, how?
9. Name two international and national organisations working in the country for the rights of the disabled?
10. In this era of globalisation do you think there is need for reservation in employment for the differently abled people in the private sector.





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