

Rights of Persons with Disability (PwD) in India

CC-14 [Contemporary Issues in India]

Topic-5



By

Dr. Subhas Singha Roy

Chandidas Mahavidyalaya

Khujutipara, Birbhum

Introduction

We often come across a number of disabled persons in different parts of the society. Some are suffering from physical disability, some from psychological and added to their agonies lack sympathetic attitudes even harsh behaviour from our end. We forget that they are not responsible for their disability and they too have the same rights like ours. Moreover, they need special care and treatment for sustaining themselves. World Health Organization (WHO) says that nearly 15% of world population suffer from some form of disability. There are significant number of disabled people under the age of 15 having difficulties in functioning. As per the census in 2011 around 2.21% out of 121 cr people i.e 2.68 crore are disabled (*Ministry of Statistic and Programme Implementation, GoI*). 1.5 crore are male and 1.18 crore are female. Majority (69%) of PwDs reside in rural areas, while rest (31%) in urban areas. Now it is our moral duty to take the problems of the PwD seriously and to provide them a dignified life. For this direction, at national and international levels, several attempts have been taken. Government of India recently enacted a law in 2016 (The Rights of Persons with Disabilities Act) fulfilling its obligation to the UN Convention on the Rights of Persons with Disabilities, 2006 and ratified in 2008.

What is disability?

Disability is a multi-dimensional concept. Disability is a physical and mental condition that limits or prohibits a person's movements, activities or senses and participation in social life. According to WHO, disability is an umbrella term, covering impairments, activity limitations and participation restrictions. An impairment is a problem in body function or structure; an activity limitations is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situation (<https://www.who.int/topics/disabilities/en/>). The Rights of Persons with Disabilities Bill, 2014, defines person with disability as the long physical, mental, intellectual or sensory impairment which hinder his full and effective participation in society equally with others.

Disabilities is not a just a health problem; it involves socio-cultural conditions in which PwD lives. PwD may be of various types-physical, mental, intellectual and sensory. According the UN Convention on the Persons with Disabilities,

disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their effective and full participation in society on an equal basis with others.

Types of disabilities:

Although there are numerous disabilities people suffering from but some of them are very common.

- 1) Physical disabilities include physiological, functional and mobility impairment,
- 2) Visual disabilities imply the loss of vision partially or totally. **Legal blindness** is the 10% or less normal vision.
- 3) Hearing disabilities mean the loss of hearing ability. **Deaf** is that individual who has severe to profound hearing loss. **Deafened** is an individual acquired hearing loss in adulthood. **DeafBlind** is described as the loss of both hearing and eye sight.
- 4) Intellectual disabilities can be termed as low level of intellectual development and capacity. Sometimes it involves a permanent limitation in a person's ability to learn.
- 5) Learning disability is essentially a specific and persistent disorder of a person's central nervous system affecting the learning capacity

There are various theoretical models to understand the disability of them two are very important. They medical model and social model.

Medical model:

By this model, disability is viewed essentially a problem of the concerned person caused by health-related conditions like disease, trauma or accident. This model aspires to cure the deformity or ameliorate their sufferings purely from medial point of view and to bring them to the mainstream of the society. For that they prescribe development of health care system with specialized facilities. Care and cure are the two objectives of this model

Social model

Disability is a social construct than the biological and mental deformities. Social expectations of health construct the idea of disability. Disability is not the individual attribute alone but the social environment and standard social norms define the normal – abnormal dichotomy. Once the medics certify the limitations of the individual in terms of physical, intellectual or mental, society stigmatizes him or her as disabled. The same way society defines the *other*

behavior of the individual as abnormal and deviated. So to ameliorate the problems of the disabled persons needs social action and creation of conducive atmosphere to give them proper place in every sphere as per their ability. So, the problems of disability snowball into human rights issues. Since 1970 in Canada and America people started demanding the equal treatment of the socially stigmatized people. The re-orientation of the attitude of the society and government action can be the game changer for the plight of the disabled persons.

Initiative at the international level

Since the raising of demands from several north American countries in early 1970s, UNO took several steps. Before 1970 the international body adopted medical caring and welfare approach for the disabled. In 1969 General Assembly declaration proposed social welfare measures to all and rehabilitation to the mentally retarded people in order to integrate into society. In 1971 the General Assembly adopted the “The Declaration on the Rights of Mentally Retarded persons. In this declaration medical facility, education and protection from exploitation are emphasized. 1981 was declared as International Year of Disabled Persons (IYDP) Another significant move came from UNO was the declaration of Decade of Disabled Persons (1983-1993) which called for programme of action and implementation equity and equal opportunity. The initiatives of UNO signaled a new dimension of the rights of PwD. Issues of human rights are enmeshed with it. “Disability-specific policies were incorporated within broader human rights instruments and acts were adopted that specifically targeted persons with disabilities”¹. The General Assembly convened a Convention on the Rights of Persons with Disabilities (CoRPwD) on December 13, 2006 to ponder over the problems of PwD and to reach at consensus on the rights of PwD. The convention made a declaration of the rights of PwD enumerating civil and political rights along with rights related to education, health and employment. 82 countries endorsed the declaration on that day and it entered into force on 3rd May, 2008. India was one of the signatories.

India’s initiative

As earlier mention that India has around 2.68 crore PwD and being one of the signatories of the CoRPwD, India has to take some significant measures and in this respect The Rights of Persons with Disabilities Bill was introduced in the Parliament and subsequently passed on 16th February, 2016. The bill received Presidential assent on 27th December, 2016 and came into force from 15th June,

¹ <http://www.britannica.com/topic/United-Nations-Declaration-on-the-Rights-of-Disabled-Persons>

2017. This new bill repealed the earlier Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation Bill, 1995.

This bill regards disability as dynamic and evolving concept. Around 21 types of disabilities are identified earlier it was only 7.

Rights and entitlements of PwD

- 1) Right to equality, liberty, life with dignity and respect, non-discrimination for his /her integration with others equally;
- 2) Special measures to protect the rights of women and children with disability and providing appropriate environment for utilizing their full capacity;
- 3) Government will endeavor that persons with disabilities are given access to a range of inhouse, residential and other community support services to lead a dignified life;
- 4) Reservation in higher education not less than 5% and job reservation not less than 4% and reservation in allocation of land, poverty alleviation schemes not less than 5% to be ensured;
- 5) Every child with benchmark disability between the age group of 6 to 18 years shall have the right to free education;
- 6) Government funded education institution as well as the government recognized institutions will have to provide inclusive education to the children with disabilities²;
- 7) Similarly, government will take appropriate actions against any kind of torture, cruelty and inhuman treatment meted out to the PwD. District Magistrate is given adequate authority to take suitable actions and to rescue them;
- 8) Any person who violates provisions of the Act, or any rule or regulation made under it, shall be punishable with imprisonment up to six months and /or a fine of Rs. 10000/ or both. For any subsequent violation, imprisonment of up to two years and /or a fine of Rs 50000/ to 5,00000/ can be awarded³;
- 9) In case of insult or intimidation or sexual harassment of the PwD, six months to five years imprisonment and fine or both will be meted out;
- 10) Special court will be designated in each district to handle the cases of PwD;

² <https://vikaspedia.in/social-welfare/differently-abled-welfare/policies-and-standards/rights-of-persons-with-disabilities-act-2016>

³ ibid

11) Broad based Central and State Advisory Boards on Disability are to be set up to serve as apex policy making bodies at the Central and State level;

21 types of disabilities enumerated in the bill

- 1) Blindness,
- 2) Low-vision,
- 3) Leprosy cured persons,
- 4) Hearing impairment,
- 5) Locomotor disability,
- 6) Dwarfism,
- 7) Intellectual disability,
- 8) Mental illness,
- 9) Autism spectrum disorder,
- 10) Cerebral palsy,
- 11) Muscular dystrophy,
- 12) Chronic neurological conditions,
- 13) Specific learning disability,
- 14) Multiple sclerosis,
- 15) Speech and language disability,
- 16) Thalassemia,
- 17) Hemophilia,
- 18) Sickle cell disease,
- 19) Multiple disabilities including deaf-blindness,
- 20) Acid attack victim,
- 21) Parkinson's disease