

Disability and Human Rights: An Indian Perspective

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Abstract

Disability is an inconvenience rather than a tragedy. According to the United Nations (UN), persons with disabilities (PDWs) are those who are unable to ensure, wholly or partially, the necessities of normal individuals as a result of a deficiency in their physical or mental capacities. To have a disability means that they consistently struggle to complete tasks that other people take for granted. Numerous social factors may influence whether or not people with disabilities participate in different activities, which may have an impact on their growth or self-esteem. Due to restrictions and prejudice, people with disabilities are continually denied the opportunity to participate in society on an equal footing. When a citizen is automatically granted human rights at birth, why is the proclamation of these rights separate for people with disabilities? Persons with disabilities cannot be divided into primary and secondary groups because they are also people. People who are disabled or “differently abled” are entitled to the same human rights as everyone else, including life, liberty, equality, security, and dignity. Disabled people in India, however, continue to be an unseen group due to social indifference, psychological hurdles, a narrow definition of “disability” giving rise to legal protection, and a dearth of accurate statistics. But the disabled are not helpless people. They do not want sympathy and neither to live on others’ mercy. This article examines the current legal status of individuals with disabilities in light of current notions and legislation, however, the researcher contends that changing the vision of society is more likely to result in a solution than changing the law. Essentially, it is not an issue; instead, it is a special ability that these so-called “challenged people” have.

Keyword: Disability, legislation, notions, numerous social factors, psychological hurdles

INTRODUCTION

Disability need not be an obstacle to success. We have a moral duty to remove the barriers to participation and to invest sufficient funding and expertise to unlock the vast potential of people with disabilities. Governments throughout the world can no longer overlook the hundreds of millions of people with disabilities who are denied access to health, rehabilitation, support, education, and employment, and never get the chance to shine.

— World Report on Disability 2011, Stephen Hawking

Disability is an inconvenience, not a tragedy. According to the United Nations (UN), persons with disabilities (PDWs) are those who are unable to ensure wholly or partially, the necessities of normal individuals as a result of a deficiency in their physical or mental capacities. People may be physically, mentally, or sensory impaired, suffer from medical ailments or have a mental disorder [1, 2]. These illnesses, ailments, or limitations could be either temporary or permanent. People with impairments are more susceptible to stigmatization and social devaluation. They experience prejudice and ignorance on account of this discrimination [3]. Additionally, because they

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frequently lack access to basic amenities, they frequently do not have the same opportunities as other individuals [4, 5].

Public health is seriously affected by disability, particularly in developing nations like India. The issue will get worse in the future due to the rising trend of non-communicable diseases and the alteration in the age structure brought on by an increase in life expectancy [6]. There are about 80 million disabled people in India, who may be affected by aging, accidents, or certain medical disorders. They could include persons who are physically challenged, intellectually retarded, visually, audibly, or verbally impaired, have limited mobility, or have so-called “medical disabilities” and learning difficulties. Disability is a multifaceted notion that involves how a person’s body operates and structures, their activities, the areas of their lives in which they participate, and the environmental circumstances that influence these experiences [7]. According to the World Bank, one person with a handicap resides in every 12 homes in India. Today, millions of individuals in the world live with one or more impairments. Assessing who is a person with a disability is the most crucial step in the discussion of disability. Due to both their physical and mental conditions as well as typical socioeconomic developments, people with disabilities face the combined difficulty of marginalization. They frequently begin life with few opportunities available to them, and they remain in this situation throughout their lives. A policy framework is in place to uphold their rights, give them an equitable chance to engage fully in society, and improve their sense of worth and dignity. In general, especially in the past, people who are physically challenged typically suffer more as a result of societal stigmas than as a result of their physically incapacitating ailments. People with disabilities experience a wide range of human rights violations, including institutionalization, isolation, stigma, and discrimination, as well as limited access to chances for health, education, and employment.

DISABILITY AND HUMAN RIGHTS [8, 9]

Men have the right to certain freedoms regardless of who they are, where they come from, or where they live. Human rights are defined by our ancient Vedic system as the rights to happiness and interconnectedness. People with disabilities do have human rights, however, those rights are frequently infringed. They consistently have a worse standard of living than other citizens. Particularly in developing nations like India, disability is a severe public health concern. Regardless of caste, creed, or community, individuals with disabilities are among the most marginalised people in India. They regularly are denied access to fundamental human rights and basic social assistance. Disability is a human rights problem as well because:

- Inequalities affect people with disabilities, such as when they are denied equal access to political participation, job, education, or health care due to their handicap.
- Dignity violations affect people with disabilities, for example, when they experience aggression, abuse, prejudice, or disdain as a result of their handicap.
- Some people with disabilities are denied autonomy, such as when they have forcible sterilization, are imprisoned in institutions against their will or are treated as being legally incompetent due to their handicap.

The general education system, a job, freedom of movement within the community, the right to vote, participation in sports and the arts, social protection, access to justice, freedom of medical treatment selection, and the ability to freely enter into legal agreements like those involving the purchase and sale of a property.

Everyone has a right to equality before the law and equal protection under the law, according to Article 7 of the Universal Declaration of Human Rights (UDHR) [10, 11]. Every person has a right to equal protection from any kind of discrimination that violates this declaration as well as from any encouragement of such discrimination. The declaration on rights of disabled persons also grants that all disabled people are entitled to equality and respect for human dignity, free from discrimination based on their race, sex, language, religion, nationality, or other factors. Disability-related rights are essential liberties shared by all citizens.

The convention on the rights of persons with disabilities (CRPD) became legally enforceable in 2008 thanks to a human rights-based framework. This human rights-based perspective insists on equality for all people with disabilities, thus the government must develop programs and policies to build an inclusive society where all people are valued. Cooperation between those who have rights and those who bear duty is necessary, and accountability systems must be put in place [12–22].

Dimensions of Disability in India

According to the human rights concept, all people, regardless of their disability, have basic rights that cannot be questioned. This model expands upon the spirit of the 1948 Universal Declaration of Human Rights, which states that “all human beings are born free and equal in rights and dignity”, by highlighting the fact that people with disabilities have the same rights as everyone else. According to the Census 2011, 2.21% of all people in India are disabled, making up a sizeable portion of the population (Tables 1 and 2).

Table 1. Disabled population in India.

Disabled persons, India 2011		
Persons	Males	Females
2.68 Cr	1.5 Cr	1.18 Cr

Table 2. Disabled population by the type of disability in India, 2011.

Types of Disability	Persons (%)	Males (%)	Females (%)
Seeing	19	52	48
Hearing	19	53	47
Speech	7	56	44
Movement	20	62	38
Mental retardation	6	58	42
Mental illness	3	58	42
Any other	18	55	45
Multiple	8	55	45

The 2030 agenda for sustainable development includes disability as a cross-cutting problem and in many targets. By the CRPD, efforts must be intensified to ensure that the objectives will also be met for people with disabilities.

LEGAL FRAMEWORK FOR DISABILITIES IN INDIA

According to the World Health Organization (WHO), disability is a general word to refer to impairments, activity constraints, and participation limitations. People who are disabled are defined as having at least 40% of any handicap, as determined by medical authorities. For the examination and certification of various disabilities, the ministry of social justice and empowerment has published specific evaluation and certification criteria. The persons with disabilities (equal opportunities, protection of rights and full participation) Act of 1995 and the National Policy Statement of 2006 (for the prevention of disabilities and rehabilitation measures for disabled persons), the establishment of statutory bodies (National Handicapped Finance and Development Corporation), the launch of programs (Accessible India Campaign) and schemes through the department of, among other initiatives, all contribute to the welfare of disabled people (DEPwD). If a person has a physical, mental, or sensory impairment, they are said to have a disability. They do, however, possess some unique talents and heavenly characteristics that can help them overcome that one shortcoming.

The 1995 Act on the Status of Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation)

The law that took effect on February 7, 1996, is known as “The Persons with Disabilities (equal opportunities, protection of rights and full participation) Act, 1995 [23, 24].” It ensures that persons with disabilities have access to equal opportunities and are fully involved in the development of their country. The act addresses components of rehabilitation that are both preventative and promotional, such as education, employment, and vocational training, research, and the development of human resources. It also addresses reservation, the construction of barrier-free environments, PWD rehabilitation, unemployment benefits for PWDs, and the building of homes for people with severe disabilities.

The Mental Health Act, of 1997

The goal of the act is to offer people with learning difficulties greater social services. For those with intellectual disabilities, hospitals and nursing homes were built and maintained.

The Rehabilitation Council of India Act, 1992

The Rehabilitation Council of India Act was created to govern the training of professionals in the field of education for people with special needs.

National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disability Act, 1999

With the highly progressive intention of enabling and empowering people, the act was passed to allow people with disabilities (PWDs) to live as independently and fully as possible in the community or close by, while increasing the facilities that support PWDs’ capacity to live within their family structure. Another goal is to develop procedures for the appointment of trustees and guardians for people with impairments who need such protection. In addition, the act calls for creating a supportive environment in the neighbourhood and providing training and counselling to families of individuals with disabilities [25–28].

National Policy for Persons with Disabilities Act, 2005

The National Policy, which was released in February 2006, acknowledges that people with disabilities are an important source of human capital for the nation and works to foster an environment in which they have equal opportunities, their rights are upheld, and they may fully participate in society. Its goal is to ensure better cooperation between the state and central governments’ various wings. The policy emphasises early identification and intervention, counselling and medical rehabilitation, physical rehabilitation tactics, rehabilitation techniques, and disability prevention.

The Disability and Rehabilitation WHO Action Plan 2006–2011

Early detection and intervention, counselling and medical rehabilitation, physical rehabilitation tactics, rehabilitation measures, and the prevention of debilitating conditions are the main areas of concentration for the policy. The disability and rehabilitation team, a section of the department of injuries and violence prevention, non-communicable diseases, and mental health, will execute or oversee the WHO’s action plan, which is summarised in the paper. On December 30, 2010, under the authority of Section 32 of the Persons with Disabilities (equal opportunities, protection of rights and full participation) Act, 1995, the ministry of social justice and empowerment formed an expert committee (Act No. 1 of 1996). The expert committee was presided over by the additional secretary of the ministry of social justice and empowerment. The expert committee conducted an in-depth analysis of the various jobs carried out in Government of India ministries/departments, public sector organizations, and autonomous entities including universities. This analysis was assisted by three subcommittees. The subcommittees also looked over the jobs that were advertised in 2007 and created

a detailed list of Groups A, B, C, and D posts that were deemed appropriate for people with disabilities. The expert committee's report was turned in on January 24, 2012. The central government accepted the report and the list of positions designated for people with disabilities has been made public by Notification No. 16-15/2010-DD-III, dated July 29, 2013.

Rights to Persons with Disabilities Act, 2016

It has been over a year since the Indian government passed this historic law on disabilities which raised the number of disabilities from 7 to 21 [4–6, 29]. This act, which repealed the previous Persons with Disabilities Act of 1995, has also increased the reserve percentage for persons with disabilities from 3 to 4% in government jobs and 3 to 5% in higher education institutions. The act expressly mentions accessibility to public and private structures, workplaces, businesses, public services, places of worship, cultural and recreational activities, medical and health services, law enforcement agencies, and transportation infrastructure, among other things.

GOVERNMENTAL SCHEMES FOR DISABLED PERSONS

- *Disha—Early intervention and school readiness scheme*: This program helps children with disabilities covered by the National Trust Act who are younger than 10 years old get ready for school.
- *Vikaas—Day care*: A daycare program for people with cerebral palsy and autism, mental retardation and other disabilities, older than 10 years, for developing social and professional skills.
- *Samarth—Respite care*: A programme that provides respite housing to people with disabilities (PwD) from BPL and LIG households who have at least one of the four disabilities defined by the National Trust Act as well as orphans, families in need, and PwD.
- *Gharaunda—Group home for adults*: This programme offers housing and care services for people who have autism, cerebral palsy, mental retardation, and other disabilities throughout their lifetimes.
- *Niramaya—Health insurance scheme*: With the aid of this scheme, people with autism, cerebral palsy, mental retardation, and multiple disabilities would be able to get health insurance.
- *Sahyogi—Caregiver training scheme*: A strategy to establish caregiver cells (CGCs) to educate caregivers and develop a competent labour force to care for people with disabilities (PwDs) and their families.
- *Gyan Prabha—Educational support*: For people with autism, cerebral palsy, mental retardation, and multiple disabilities, a programme encourages enrollment in educational or vocational programmes.
- *Prerna—Marketing assistance*: A scheme is a marketing strategy designed to develop sustainable and widespread channels for the sale of goods and services created by people with autism, cerebral palsy, mental retardation, and multiple impairments.
- *Sambhav—Aids and assistive devices*: This program aims to establish more resource centers in each city to assemble and gather aids, software, and other types of assistive devices.
- *Badhte Kadam—Awareness, community interaction, and innovative project*: This initiative supports registered organizations (RO) of The National Trust in their efforts to raise public awareness of the National Trust's disabilities, knowledge, community participation, and creative project.

CONCLUSION

The overview offered in the preceding paragraphs makes clear that the global movement for the rights of people with disabilities has changed the way that non-disabled people view the need for society to respect and afford opportunities for people with disabilities. People who are disabled are not helpless and do not want pity. They are entitled to lead moral lives and work for the government. All they need to make a fair living is a reputable position. It is the responsibility of society in general

and the government, in particular, to provide them with the means to use their skills for personal improvement and the growth of the country. Although legislation protecting the rights of people with disabilities have been passed, their enforcement has lagged. For the sake of putting the law into practice, disabled people should have simple legal access. The rights of people with disabilities are founded on international human rights norms and are aimed at advancing and defending their human rights. Another strategy for preventing disability is to strengthen the protection of human rights. Saying that human rights are what enable a person to speak up in defense of society would not be incorrect. Human rights are not only rights but they also uphold everyone's dignity. Therefore, a person with a disability is a unique individual who requires unique care, and he or she should have unique human rights. Because disabilities themselves are concerns of human rights, it is necessary to acknowledge that people with disabilities are also an essential component of society and that every effort should be made to include them in its growth.

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