



DIFFERENTLY- ABLED PERSONS AND HUMAN RIGHTS – A SYNERGIC VIEW

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ABSTRACT :

Human Rights are all inclusive, and common, political, financial, social and social rights that have a place with every single individual, including in an unexpected way abled people. In an unexpected way abled people are qualified for the acknowledgment of every human right and crucial opportunities on equivalent terms with others in the public arena, without segregation of any sort. They likewise appreciate certain human right explicitly connected to their status.



Unfortunately, persons with disabilities are routinely subjected to all forms of discrimination, denial, and deprivation of rights with the result that they are often marginalized and excluded and are made to live in a state of relative invisibility, disempowerment and disarticulation. The world is home to over 600 million people with disabilities.

Every person reserve the privilege to full equity under the watchful eye of the law and equivalent security of the law. They reserve the option to monetary and government managed savings, to a sufficient way of life and to be treated with nobility and regard. In this paper an attempt is made to discuss the human rights for the differently-abled person in our country.

KEYWORDS : *Human Rights , financial, social and social rights.*

INTRODUCTION

It goes without saying that persons with disabilities constitute a part of the larger human family. This explains why they are as much entitled to the full range of human rights and fundamental freedoms like any other section of society. Unfortunately, persons with disabilities are routinely subjected to all forms of discrimination, denial, deprivation of rights with the result that they are often marginalized and excluded and are made to live in a state of relative invisibility, disempowerment and disarticulation. The world is home to over 600 million people with disabilities. Over two-thirds of them live in developing countries. Experience in relation to the skills, merit, abilities and contributions of persons with disabilities the world over leads one to subscribe to the following:

- a. That, disability is not merely a medical or a welfare issue; much less a charity issue; rather, it is a development and human rights issue.
- b. That, disability is both the cause and consequence of poverty.
- c. That, ones impairment (physical, mental, intellectual or sensory) need not necessarily be one's overall inability.
- d. That, given proper education and training, a person with disability is potentially capable of leading a life of honour and dignity on an equal basis with others as a useful, contributive, and productive class-one citizen of society.
- e. That, a person with disability can think, speak and act for himself / herself and that it is the duty of

all concerned to ensure to such persons full and effective inclusion and participation in all walks of life.

The human rights based approach or construct of disability upholds the view that disability is a condition which results from interactions of impairments with various barriers in society. Such interactions prevent one's participation in society on an equal basis with others. It is therefore abundantly clear that in the ultimate analysis disability is a condition where one is unable to participate in society on an equal basis with others due to interactions between her/his impairment and various barriers. This is the reason why the said UN convention which is the latest and the only hard law instrument on disability at the international level given an inclusive, rather than a prescriptive or restrictive definition of disability. It says that people with handicaps incorporate those having long haul physical, mental, scholarly and tangible debilitations which r connection with different boundaries impede their interest in the public arena on an equivalent premise with others. As expressed over, the Persons with Disabilities (Equal Opportunities, security of Rights, and Full Participation) Act 1995 (PWD Act) embraces a medicinal model and characterizes inability as:

- (I) Blindness
- (ii) Low vision
- (iii) Leprosy-restored
- (iv) Hearing debilitation
- (v) Locomotor incapacity
- (vi) Mental impediment
- (vii) Mental disease

Meaning OF DISABILITY

An incapacity is regularly characterized as the breaking down, unsettling influence or misfortune in the ordinary working of physical, mental or mental procedures, or a trouble in the capacity to learn, or alter socially which meddles with an individual's typical development and improvement.

HUMAN RIGHTS OF DIFFERENTLY-ABLED PERSONS

Human Rights are all inclusive, and common, political, financial, social and social rights have a place with every single individual, including contrastingly abled people. Diversely abled people are qualified for the acknowledgment of every single human right and essential opportunities on equivalent terms with others in the public arena, without separation of any sort. They additionally appreciate certain human rights explicitly connected to their status.

THE HUMAN RIGHTS ISSUE

- The human privileges of in an unexpected way abled people incorporate the accompanying unbreakable, reliant and entomb related human rights:
- The human ideal to opportunity from any qualification, prohibition, limitation or inclination
- in view of the status of distinctively abled, which has the reason or impact of impeding the happiness regarding human rights and principal opportunities.
- The human ideal to opportunity from segregation in access to lodging, training, social administrations, medicinal services or work.
- The human ideal to dynamic support in all parts of social, financial, political and
- Social existence of society, and in molding choices and strategies influencing oneself and
- network, at the nearby, national and global dimensions.

THE HUMAN RIGHT TO EQUALITY OF OPPORTUNITY.

- The human ideal to full equity under the steady gaze of the law and equivalent security of the law.

- The human ideal to the most elevated feasible standard of wellbeing, to medicinal, mental and utilitarian treatment, including prosthetic and orthotic apparatuses, to restorative and social
- recovery, and different administrations vital for the most extreme improvement of capacities, aptitudes and confidence.
- The human ideal to work, as indicated by capacities, to get compensation that add to an sufficient way of life, and to get equivalent compensation for equivalent work.
- The human appropriate to monetary and government managed savings, and to a sufficient way of life.
- The human appropriate to be treated with poise and regard.

UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (UNCRPD)

This convention recognizes persons with disabilities as subjects having human rights and fundamental freedoms and not as objects needing mere medical care and social protection. It further spells out that disability is an evolving concept and that persons with disabilities are a part of human diversity and humanity. Disability, according to this international treaty results from interaction of impairments with barriers which prevents one's participation in society on an equal basis with others. Article 3 of the said convention envisages general principles which include:

- Respect for dignity, autonomy, freedom to make one's own choices, and independence of persons
- Non-discrimination
- Full in effective inclusion and participation in society
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- Equality of opportunity
- Accessibility
- Equality between men and women
- Respect for the evolving capacity of children and their right to preserve their own identities

Article 4 of the said convention casts some significant obligations on the states parties. Under these obligations, while the states parties have been obligated to adopt all legislative and other measures to promote, protect and ensure human rights and fundamental freedoms to persons with disabilities, they will also need to repeal all laws, policies, and customs which are inconsistent with this convention. Another significant obligation is cast on private entities rendering services which are open for or provided to the public. Such private entities will have to universally and inclusively design their programs and services etc.

Article 5 of the convention provides for non-discrimination. This can be achieved, among other things, by adopting affirmative actions and by introducing the principle of reasonable accommodation and also of universal and inclusive design of environments, facilities, etc. The convention also seeks to address the intersectional concerns of disability with gender and also of disability with age.

Article 6 and Article 7 of the convention specifically deal with women and children with disabilities respectively.

Article 12 of the convention recognizes the legal capacity of persons with disabilities on an equal basis with others and also obligates for the states parties to make support available to those persons with disabilities who may need support to exercise their legal capacity. Unlike its predecessors the soft law instruments, this convention comprehensively deals with civil and political rights of persons with disabilities as well in addition to dealing with bare economic, social and cultural rights. It goes without saying that the UNCRPD makes it obligatory for the states parties to actively consult with and involve persons with disabilities in the decision-making processes, especially in respect of matters which affect their lives.

RIGHTS OF PERSONS WITH DISABILITIES BILL 2016 (BILLNO. 12 OF 2016)**PART 6 - DISCRIMINATION ON THE BASIS OF DISABILITY**

27.-(1) For the purposes of this part, 'discrimination on the basis of disability' means any distinction exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

(2) Affirmative action laws, programmes and policies to promote equality for persons with disabilities shall not be discrimination, as long as such laws, programmes and policies are proportionate to the aim of promoting equality for persons with disabilities.

(3) In applying any privilege under this part, if the State asserts that it doesn't have the assets to actualize the right; it is the duty of the State to show that the resources are not available

(4) The rights set out in this part are the rights of all persons with disabilities, including those who are deemed to be disabled.

EQUALITY AND NON-DISCRIMINATION

28.-(1) All persons with disabilities are entitled to the equal protection and equal benefit of the rights and freedoms under Chapter 2 of the Constitution.

(2) Specific measures which are necessary to accelerate or achieve equality of persons with disabilities shall not be considered as discrimination.

ACCESSIBILITY

29. All people living with incapacities will have the accompanying rights —

(a) to sensible access to all indoor and open air places, open transport and data;

(b) to utilize gesture based communication, Braille or other fitting methods for correspondence;

(c) to sensible access to vital materials, substances and gadgets identifying with the individual's handicap;

(d) to sensible adjustment of structures, foundation, vehicles, working courses of action, standards, practices or strategies, to empower their full investment in the public eye and the compelling acknowledgment of their rights;

(e) in buildings and other facilities open to the public, information, signage and forms in Braille and in easy read and understand modes; and

(f) to forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public.

DISASTER AND HUMANITARIAN EMERGENCIES

All persons living with disabilities have the right to reasonable accommodation with regard to the protection and safety of their persons in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

EQUAL RECOGNITION BEFORE THE LAW

32.- 1) All people with inabilities reserve the option to appreciate lawful limit on an equivalent premise with others in all parts of life, unique measures to elevate such equity and to help access to equity for people with handicaps will not be separation

2) All people with inabilities have parallel appropriate with others to claim or acquire property, to control their own undertakings and to have break even with access to bank advances, contracts and different types of budgetary credit.

3) All persons living with disabilities have the right not to be arbitrarily deprived of his or her property.

ACCESS TO JUSTICE

33.- (1) All persons with disabilities have the right to the provision of procedural and age-appropriate accommodations to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

(2) Special measures in court proceedings for vulnerable witnesses shall be available for persons with disabilities.

LIBERTY AND SECURITY OF THE PERSON

34. All persons with disabilities have the right—

(a) not to be deprived of their personal liberty on the basis of the existence of a disability;

(b) to reasonable accommodation if kept in custody; and

(c) the protection of national and international law on conditions of custody for persons with disabilities.

FREEDOM FROM EXPLOITATION, VIOLENCE AND ABUSE

35. (1) All persons with disabilities, both within and outside the home, have the right to be protected from all forms of exploitation, violence and abuse, including gender-based violence.

(2) persons with disabilities who are victims of any form of exploitation, violence or abuse shall have the right to protective services which foster the health, welfare, self-respect, dignity and autonomy of such persons and takes into account gender and age specific needs.

(3) All persons with disabilities who are victims of any form of exploitation, violence or abuse shall have the right to have the exploitation, violence or abuse investigated by the appropriate State authorities, and where relevant, prosecuted. Protecting the integrity of the person

36. All persons with disabilities have a right to respect for their physical and mental integrity on an equal basis with others

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 advancements of policy and practice in the latter half of the twentieth century is 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.

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