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Research Article



## DISABILITY “INDIAN LEGAL REGIME”

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### ABSTRACT

*“A Person is not disabled until we make them realize that they are disabled.”*

Disability is not an all-or nothing phenomenon but involves degrees of difficulty, limitation or dependence, ranging from slight to severe. For instance, having access to technical aids, services or medication, or physical adaptation to the environment may allow individuals to overcome their disabling conditions. In the total population, the male and female population is 51% and 49% respectively. Majority (69%) of the persons with disability population resided in rural areas (1.86 Cr persons with disability persons in rural areas and 0.81 Cr in urban areas). In the case of total population also, 69% are from rural areas while the remaining 31% resided in urban areas.<sup>3</sup> So we can say that in India Disability is experienced by all persons with disability, regardless of age and gender, including those with sensory, physical and intellectual impairment and mental health difficulties the persons with disability children born in the families that are not financially stable have to face the consequences of poverty too. Disables children at times become pessimistic and start holding them incompetent in comparison to other children. . In this situation, it becomes really important for family and friends to communicate reinforcing messages to the persons with disability children that they are important and loved and very much wanted.

### Introduction

*“A Person is not disabled until we make them realize that they are disabled.”*

Disabilities' is an umbrella term, covering impairments, activity limitations, and participation restrictions. Impairment is a problem in body function or structure, an activity limitation 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 situations. Thus, disability is a complex phenomenon, reflecting an interaction between features of a person's body and features of the society in which he or she lives.

### Objective of the research-

The main aim of the research paper is to point out the Rights of Disability in Indian scenario, some of the research objectives are as follows:

- To protect the rights of disability
- To promote the development for the position of disability

### **Research questions-**

In order to achieve the research objectives, researcher has to answer some research questions that are as follows-

1. What is the position of disability in Indian scenario?
- 2 What are the roles of authorities in Legal Sector?

**Justification-**'Disability' is the consequence of an impairment that may be physical, cognitive, mental, sensory, emotional, developmental, or some combination of these. A disability may be present from birth, or occur during a person's lifetime.

The problems of the disabled and their rehabilitation had occupied my mind. While a boy sitting on to the lap of his mother, he watched the birds, the bees and the butterflies flying, cats, dogs, rabbits and squirrels frolicking, children running, skipping, and chasing each other, the ball bounced and rolled, the cars speed splashing the rain water, the trains and airplanes seem to shake the ground and the air on way to distant lands. The movement of all the things animate and inanimate fascinated him, as if motion was synonymous with life. He would wriggle out of the hands of his mother to go and be a part of this dynamic and pulsating world. But there was a difference. The birds had wings; cats had paws, the little girls skipping rope, had the feet but he had none of these. He was disabled, born without feet. 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.<sup>1</sup> Disability is not an all-or nothing phenomenon but involves degrees of difficulty, limitation or dependence, ranging from slight to severe. For instance, having access to technical aids, services or medication, or physical adaptation to the environment may allow individuals to overcome their disabling conditions.

The 1982, Indian government observed that handicapped persons numbered are increasingly day by day. They have to take the some strong action. These problems have been documented by various organizations and after that Indian government, Ngo's admit many laws, rules and the training methodology and teaching systems etc had been implemented. Some statutory bodies, research centres and institutions are working for Equal Opportunities, Protection of Rights & Full Participation of the persons with disability.

The Government of India has always been proactive in the disability sector. It is not only running<sup>1</sup>

seven National Institutes (NIs) dealing with various types on disabilities and seven Composite Regional Centers (CRCs), which provide rehabilitation services to person with Disability and run courses for rehabilitation professional but also funds a large number of NGOs for similar services and also a National Handicapped Finance & Development Corporation (NHFDC) which provides loans at concessional rates of interest to person with Disability for self-employment.<sup>2</sup> At the Central level also disability being one of the several responsibilities of the Ministry of Social Justice and Employment, but the fact is that they are being looked after by just one bureau, has resulted in inadequate attention, as most of its time and energy is spent only on implementing Ministry's own schemes, meeting their expenditure and physical targets, and organizing annual time-bound activities like the National Awards for empowerment of Person with Disability.

As per the Census 2011 in India out of the 121 Crore population, 2.68 Crore persons are the persons with disability which is 2.21% of the total population of the country. Among the persons with disability population 56% (1.5 Cr) are males and 44% (1.18 Cr) are Females. In the total population, the male and female population is 51% and 49% respectively. Majority (69%) of the persons with disability population resided in rural areas (1.86 Cr persons with disability persons in rural areas and 0.81 Cr in urban areas). In the case of total population also, 69% are from rural areas while the

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<sup>1</sup> <http://www.bfi.org.uk/education/resources/teaching/disability>

remaining 31% resided in urban areas.<sup>3</sup> So we can say that in India Disability is experienced by all persons with disability, regardless of age and gender, including those with sensory, physical and intellectual impairment and mental health difficulties the persons with disability children born in the families that are not financially stable have to face the consequences of poverty too. Disabled children at times become pessimistic and start holding them incompetent in comparison to other children. In this situation, it becomes really important for family and friends to communicate reinforcing messages to the persons with disability children that they are important and loved and very much wanted. Major area of concern as several incidents of sexual abuses on persons with disability women and children has taken place<sup>2,3</sup> in the past few years. Sexual offences against Disabled women have become inevitable be it inside home or outside. Disabled women safety has become a matter of concern. Several sexual buses, rape cases, harassment takes place against the persons with disability women. But in more than 90% cases complaints are not filed.

Nutritional deficiencies and non-existing medical facilities are the direct consequence of economic instability to which persons with disability children are exposed to. With a view to make all Government buildings accessible, the Government of India has issued harmonized guidelines and space standards for barrier free environment for persons with disabilities and elderly persons.<sup>4</sup> A Disabled child can never live a normal life without the support of people around him. It is necessary to develop the ability of tolerance and accept these kids as the part of community. People should never look at their disabilities moreover they should focus on their abilities and provide the persons with disability child to grow and develop in the normal environment.

The makers of the Constitution of India seemed to have been aware of the problems of the vulnerable sections of the society and the persons with disability persons .We can find that such provisions have indeed been made which are found scattered in different parts of the Constitution. It is common knowledge that international human rights law is based on the principles of equality, dignity, autonomy, and liberty/security. The constitution of India has also imbibed the spirit of these values with disability, are reproduced below.

The Constitution of India through its Preamble, inter-alia seeks to secure to all its citizens; Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity. Part-III of the Constitution provides for a set of six<sup>4</sup>

Fundamental Rights to all the citizens (and in a few cases to non-citizens also). All these rights guaranteed under Part III are also available to the Persons with Disabilities (PWD) even though no specific mention of such persons appears in the Part-III of the Constitution

The legislative wing of the state is doing a work of equalization which is to improve the lot and prospects of the weaker classes. In a under- developed country like India this relatively becomes more necessary. There is, indeed, an immense need for social security measures in the country. Indian government has not been unaware of the needs and problems faced by the workers and it becomes evident from the plethora of legislation brought about by Parliament in this regard from time to time

#### **RESEARCH METHODOLOGY**

Research methodology may be defined as the methods used to accomplish the research successfully. It is a systematic means of collecting data and information for the research that could further be used to accomplish the research. In this section, different tools and methods used to collect information will be discussed (flick, 2011). Since quality of information is very important to determine

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<sup>2</sup> <http://www.shodhganga.inflibnet.ac.in>

<sup>3</sup> Government of India (2010): National Council For the Handicapped Welfare, Ministry of Welfare, VigyanBhavan, New Delhi.

<sup>4</sup> Government of India (1994): National Council For the Handicapped Welfare, Ministry of Welfare, VigyanBhavan, New Delhi, on 21st September at p. 1.



the credibility and reliability of research, the research methodology section is very important for researcher.<sup>5</sup> The effective regulations and case studies will be helpful for the researcher.

We also critically review some key developments in legal area that have resulted from disability provisions in legal aspects. Use of different tools and techniques would bring effectiveness to the research ensuring its successful completion. Qualitative research will be used to accomplish this research successfully. It would not only help the researcher to accomplish the research aim and objectives in effectively, but will also help to present reasonable data to support the research (Gass & Mackey, 2005). Appropriate selection of research strategy, research approach would also determine the successful completion of the research.

#### **Possible Information Source**

In order to accomplish this research successfully, there are wide number of information sources<sup>5</sup> available for research that would help to accomplish the research successfully. The researcher would use both primary as well as secondary source of information to accomplish this research successfully. As part of primary source of information, researcher would use questionnaire to get real information and data for the research.

With the data gathered from primary source, it would be quite easy for researcher to identify the original data for disability position in India. A part from this, the researcher would also use secondary source of information through journal, articles, books, web sources etc. to accomplish this research successfully.<sup>5</sup> With the help of secondary information collected through secondary source of information, researcher would be able to develop theoretical knowledge regarding research problem. With use of both primary and secondary source of information, it would be quite easy to accomplish the research successfully by attaining its aim and objectives.

**Potential difficulty:** The researcher would come across wide number of difficulties, while accomplishing this research. These difficulties would not only affect the quality but also the creditability of research. Time constraints is the most important problem that researcher has to face. Since, time is limited; it would be difficult to access all possible source of information (hargittai,2009). In addition to this, the cost will also produce subsequent challenge for researcher to accomplish the research successfully. The perceptions of respondents have also emerged as a challenge for researcher to collect relevant information regarding research.

**Ethical consideration:** While accomplishing this research successfully, there are wide numbers of ethical considerations that researchers have to follow. It is the responsibility of the researcher to follow ethical norms and guidelines, while accomplishing this research.<sup>6</sup> As a part of ethical consideration, the researcher would maintain the confidentiality of the data and information gathered for the research<sup>6</sup>. A part from this, the researcher would ensure that no one's interest would be affected by the outcomes of the research. Prior permission for using information would also be taken during this research. Additionally, proper credit would be given to concerned person or source from where data has been taken through this research. Valid and reliable source of information would only be used for collecting data and information for this research.

#### **Conclusion**

In this research article an attempt has been made to discuss the various government provisions for the persons with disability along with protection of their legal rights. This research also depicts the current situation of disabled persons in India as revealed by Census 2011.

#### **Reverences**

- Government of India (1994): National Council For the Handicapped Welfare, Ministry of Welfare, VigyanBhavan, New Delhi

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<sup>5</sup> [http://www.ilo.org/employment/Whatwedo/Publications/working-papers/WCMS\\_213889/lang--en/index.htm](http://www.ilo.org/employment/Whatwedo/Publications/working-papers/WCMS_213889/lang--en/index.htm)

<sup>6</sup> [www.legalindia.com](http://www.legalindia.com)

- V.R. Krishna Iyer (1982): Law justice and the Persons with disability, Deep & Deep Publications, Delhi
  - [www.legalindia.com](http://www.legalindia.com)
  - Part IV of the Constitution of India.
  - Government of India (1994): The Persons with Disabilities ( Security and Rehabilitation) Bill, All poverty alleviation programmes of the Central and State Governments or any other scheme for the benefit of women or other weaker sections of the community shall be equally applicable to persons with disabilities.", Ministry of Welfare
  - M.P. Jain (2009): Constitutional Law of India, universal publications, New Delhi, at p. 89.
  - Department of Empowerment of Persons with Disabilities (Viklangjan Sashaktikaran Vibhag) vide Cabinet Secretariat's Notification dated 9th December 2014
  - <http://www.bfi.org.uk/education/resources/teaching/disability/>.
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