



DISABILITY LAWS IN INDIA: CONCEPTUAL STUDY

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Abstract:

India is one of the first signatory to United Nations Convention on the Rights of Persons with Disabilities which means we have to adopt it in its full spirit.¹ As many as 70 million disabled people spread across India continue to be treated as second-class citizens. For them segregation, marginalisation and discrimination are norms rather than exception that is faced with barriers put by stereotyped attitudes, they are generally viewed as objects of charity and welfare as the world merrily goes about trampling their most basic human rights. As the term disability carries with it the connotation of a lack or deficiency, whether mental, physical or sensory, it has been defined primarily in terms of medical deficit. However, it has to be acknowledged that the word disability is itself not a homogeneous category, subsuming under it different kinds of bodily variations, physical impairments, sensory deficits and mental or learning inadequacies, which may be either congenital or acquired. Disability has been recognised as a human rights issue focusing attention on the needs of disabled people. The primary responsibility for ensuring respect for the rights of persons is with government and it has taken various steps to provide equal opportunities to persons with disabilities by enacting several Acts and implementing various policies and schemes

¹ www.mierjs.in/ojs/index.php/mjestp/article/download/56/33

for the empowerment of persons with disabilities but still not reached its end. Thus, this paper makes an attempt to examine various regulations relating to disability and its possible solution for smooth implementation.

Keywords: disability, statues, laws and regulation, Indian scenario, bad law.

I. Introduction:

Human rights, a citizen receive from his birth, separate rights were not announced for him, then why was the announcement of human right separately for disabled persons? Disabled is also human; it is not an item to be divided into primary and secondary. Therefore, the rights that an ordinary citizen receive from his birth, likewise a disabled person also receives same rights, since he also comes in the category of citizen of a country, not a secondary person. Therefore, The Constitution of India is equally applicable to every legal citizen of India, even if they are in any way (physically or mentally) healthy or disabled. Yes, it is of course that the disabled person needs some privileged rights rather than a normal person which should be given them. The reason is that they are special (Special child, special person). The second reason is, we ignored disabled persons, they are kept away from their rights, understood as problems, and seen as burden and abhorrence. In India, the disability sector in general estimates that 4-5% of the population is disabled. The Planning Commission recognizes this figure as 5%.² As many as 70 million disabled

²Government of India, Planning Commission, Vision 2020, 15 July 2008. <http://www.planningcommission.nic.in/reports/genrep/bkpaper2020/30bg2020.doc>.



people spread across India continue to be treated as second- class citizens. For them segregation, marginalization and discrimination are norms rather than exception. Faced with barriers put by stereotyped attitudes, they are generally viewed as objects of charity and welfare as the world merrily goes about trampling their most basic human rights. Sadly, this is so despite the United Nations Declaration of Human Rights in 1948 that makes observance of human rights a precondition for ensuring justice, freedom and peace. In 1992, India became a signatory to the Proclamation on Full Participation and Equality of People with Disabilities in the Asian and Pacific Region. This was adopted at Beijing at a conference convened by the Economic and Social Commission for Asian and Pacific Region. The proclamation brought an obligation upon the country to enact a law as per its solemn affirmations. And so, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act of 1995 got through Parliament. Amongst the four domestic legislations related to disability it is this Act that provides entitlements of rights to persons with disabilities and mandates the government to provide facilities for their full participation. The provisions under the Act are all very empowering but unfortunately, even though the Act was passed almost 19 years ago, its implementation remains woefully inadequate. Those responsible for its implementation and several persons with disabilities often remain unaware of the provisions of the Act.³ After in the last quarter of the 20th century, there has been growing awareness in the disability sector

both at the national and international levels. The period of 1983- 1992 which was proclaimed by the general Assembly as the U.N Decade for disabled person, a global movement has emerged which recognises the importance of integration of people with disabilities in the society. Today the issues relating to the disabled are no longer mere welfare measures but have grown into fundamental human right issue, a demand for full participation, equal opportunity and protection of rights from all perspectives have been taking place. The dominant social attitude towards persons with disability has been one of pity, from which springs insidious forms of discrimination - the eventual source of their exclusion and extreme isolation. Effects of disability-based discrimination have been particularly severe in fields such as education, employment, housing, transport, cultural life and access to public place and services. Despite some progress in the terms of legislation, such violations of the human rights of persons with disability have not been systematically addressed in the society. The statistics data on their situation in India shows that there need more reforms and policy changes for them. Situations of person with disability often have been kept till rehabilitation and social services. A need exists for more comprehensive legislation to ensure the rights of disabled persons in all aspects – Political, Civil, Cultural, and economic rights- on an equal basis with persons without disabilities. Appropriate measures are required to address the existing discrimination and to promote thereby opportunities for persons with disabilities in social life and development.

³ http://combatlaw.org/wp-content/uploads/Combat_Law_Jan-Feb_2008.pdf

II. Concept of disablement



Disabilities is an umbrella term, covering impairments, activity limitations, and participation restrictions. An 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.

— World Health Organization, Disabilities⁴

Disability is not a tragedy but an inconvenience. As noted above, about 650 million persons or one-tenth of the world's population are estimated to be disabled in one form or another, e.g., Visual, auditory, physical, speech, cognitive and neurological. Unlike the disability legislation in various countries, the persons with Disabilities (Equal opportunity, Protection of Rights and Full Participation), Act 1995 in India, recognises only limited forms of disabilities such as:

- I. Blindness;
- II. Low vision;
- III. Leprosy-cured;
- IV. Hearing impairment;
- V. Locomotors disability;
- VI. Mental retardation
- VII. Mental illness

Disability means the state or quality of being mentally or physically disabled or weakness, incapacity or inability to hold a certain job because of physical or mental handicap, want or legal qualification.

In pursuance of the U.N. Charter, the General Assembly of the United Nations, adopted the Declaration on the Rights of the Disabled Persons.⁴ The term "disabled person" means "any person unable to ensure for himself or herself wholly or partly the necessities of a normal individual and or social life as a result of a deficiency, either congenital or not, in his or her physical or mental capabilities".⁵ The conditions of disability have been dealt with by legislations in two kinds of situations in India. One, which determines compensation on the occurrence of disability—whether it be on road or workplace. The Workmen's Compensation Act, 1923 and the Motor Vehicle Act, 1988 are two major statutes which are related with compensation-related disability legislations. The second situation of disability law making is when persons are disqualified from educational opportunities or undertaking particular jobs due to their disabilities. However, the important of these laws is the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

III. Constitutional provisions: disability

The Preamble of a statute is a preliminary statement of the reasons which have made the passing of statute desirable, and its position is located immediately after the title and date of issuing the presidential assent. A Preamble may also be used to introduce a particular section or group of sections.⁵

The Preamble of the Constitution of India professes to secure to all its citizens social, economic and political justice. The concept of justice is already pregnant with various

⁴ <https://en.wikipedia.org/wiki/Disability>

⁵ Aparajita Baruah: Preamble of the Constitution of India



diverse notions of rights---morality, welfare, happiness, liberty and equality. Social justice means abolition of all sorts of inequalities which may result from the inequalities of wealth, opportunity, status, race, religion, caste, title and the like.

To achieve the ideal of social justice, the Constitution lays down the directives for the State to strive to eliminate inequalities in status, facilities and opportunities, to minimize the inequalities in income, to secure just and humane conditions of work and maternity relief; to prevent exploitation of children in labour and industry; to provide free primary education to all; to promote educational and economic interests of the backward classes; to secure that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; to check the concentration of wealth and means of production to the common detriment.

Social justice is not a simple or simple idea of society but is an essential part of complex social change to relieve the poor etc., from handicaps, penury to ward off distress, and to make their life livable, for greater good of the society at large. Hence, by removing the exclusion and discrimination against persons with disabilities, State should ensure the social security, social insurance or other social welfare schemes which are in existence or are being developed for the general population. State should encourage local communities, welfare organizations and families to develop self-help measures and incentives for employment or employment-related activities for persons with disabilities. Right to employment,

education and non-discrimination will embolden the right to social security.⁶

The Constitution of India applies uniformly to every legal citizen of India, whether they are healthy or disabled in any way (physically or mentally). Under the Constitution the disabled have been guaranteed the following fundamental rights:

- 1.The Constitution secures to the citizens including the disabled, a right of justice, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and for the promotion of fraternity.
- 2.Article 15(1) enjoins on the Government not to discriminate against any citizen of India (including disabled) on the ground of religion, race, caste, sex or place of birth.
- 3.Article 15 (2) States that no citizen (including the disabled) shall be subjected to any disability, liability, restriction or condition on any of the above grounds in the matter of their access to shops, public restaurants, hotels and places of public entertainment or in the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of government funds or dedicated to the use of the general public. Women and children and those belonging to any socially and educationally backward classes or the Scheduled Castes & Tribes can be given the benefit of special laws or special provisions made by the State. There shall be equality of opportunity for all citizens (including the disabled) in matters relating to employment or appointment to any office under the State.

⁶ Pranam Kumar Rout: Rights of Physically Challenged-A Legal Deliberation



4.No person including the disabled irrespective of his belonging can be treated as an untouchable. It would be an offence punishable in accordance with law as provided by Article 17 of the Constitution.

5.Every person including the disabled has his life and liberty guaranteed under Article 21 of the Constitution.

6.There can be no traffic in human beings (including the disabled), and beggar and other forms of forced labour is prohibited and the same is made punishable in accordance with law (Article 23).

7.Article 24 prohibits employment of children (including the disabled) below the age of 14 years to work in any factory or mine or to be engaged in any other hazardous employment. Even a private contractor acting for the Government cannot engage children below 14 years of age in such employment.

8.Article 25 guarantees to every citizen (including the disabled) the right to freedom of religion. Every disabled person (like the non-disabled) has the freedom of conscience to practice and propagate his religion subject to proper order, morality and health.

9.No disabled person can be compelled to pay any taxes for the promotion and maintenance of any particular religion or religious group.

10.No Disabled person will be deprived of the right to the language, script or culture which he has or to which he belongs.

11.Every disabled person can move the Supreme Court of India to enforce his fundamental rights and the rights to move the Supreme Court is itself guaranteed by Article 32.

12.No disabled person owning property (like the non-disabled) can be deprived of his property except by authority of law though

right to property is not a fundamental right. Any unauthorized deprivation of property can be challenged by suit and for relief by way of damages.

13.Every disabled person (like the non-disabled) on attainment of 18 years of age becomes eligible for inclusion of his name in the general electoral roll for the territorial constituency to which he belongs educational institution maintained by the State or receiving aid out of State funds on the ground of religion, race, caste or language. Article 45 of the Constitution directs the State to provide free and compulsory education for all children (including the disabled) until they attain the age of 14 years. No child can be denied admission into any education institution maintained by the State or receiving aid out of State funds on the ground of religion, race, caste or language.

Article 47 of the constitution imposes on the Government a primary duty to raise the level of nutrition and standard of living of its people and make improvements in public health - particularly to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to one's health except for medicinal purposes. The health laws of India have many provisions for the disabled. Some of the Acts which make provision for health of the citizens including the disabled may be seen in the Mental Health Act, 1987. List-II Entry 9 of the Constitution of India deals with Relief of the disabled and unemployable, to be provided by the State. The State legislatures has exclusive power to make laws on these subjects. But in exceptional situations, Parliament can also enact legislations on subjects mentioned in



the State list. There are 61 subjects (Entries) in the State List. Though States have exclusive powers to legislate with regards to items on the State List, Articles 249, 250, 252, and 253 lay down situations in which the Union Government can legislate on these items. Though relief of the disabled is a state subject, the Central government has a cardinal duty to discharge. The Ministry of Welfare has been made the nodal Ministry by the government for the welfare of the disabled people.

Until the recent past, there was no comprehensive law for persons with disabilities. The first attempt was made in July, 1980 when a Working Group was set up. A draft legislation known as 'Disabled Persons (Security & Rehabilitation) Bill, 1981 was prepared. As it is known, 1981 was International Year of Disabled Persons. In the year 1987-88 a Committee was constituted under the Chairmanship of Member of Parliament Shri Bharul Islam who was the former Judge of the Supreme Court.

The Committee submitted its report in June 1988 and it made wide-ranging recommendations concerning the various aspects of rehabilitation, e.g., prevention, early intervention, education, training, employment etc. These recommendations, however, could not be enacted into a law. It should also be mentioned that since welfare of the Disabled is a State subject, Indian Parliament lacked jurisdiction in passing a comprehensive legislation at the national level.

The Economic and Social Commission for Asia and the Pacific (ESCAP) at its 40th

Session held at Beijing in 1992 adopted its Resolution 48/3 which proclaimed the period 1993-2002 as the Asia and the Pacific Decade of Disabled Persons with a view to give impetus to the implementation of World Program of Action in the ESCAP Region beyond 1992. India is a signatory to the ESCAP Resolution. The Resolution emphasized on the enactment of legislation aimed at equal opportunities for people with disabilities, protection of their rights and prohibition of abuse and neglect of these persons and discrimination against them. Under Article 253 of the Constitution of India, Parliament can enact a law even in respect of a subject of State List in order to give effect to international conference. This made it possible for Indian Parliament to enact a comprehensive law for persons with disabilities.

In September 1993 a National Conference of eminent NGOs, State Governments and various associated Ministries of the Government of India was organized which inter-alia recommended enactment of a comprehensive legislation. As a result of the Government of India's commitment at ESCAP Conference, recommendation of the National Conference, recommendation of the previous Committees and strong NGO movement in the country, the process of discussion and consultation for drafting a comprehensive law was started in right earnest towards the end of 1993. Initially a draft was prepared and it was circulated to all the State Governments, eminent NGOs of the country, professionals and the other concerned Ministries of the Government of India.

The Act has 14 chapters and seeks to:



- a) Spell out the State's responsibility towards prevention of impairments and protection of disabled people's rights in health, education, training, employment and rehabilitation;
- b) Work to create a barrier-free environment for disabled people;
- c) Work to remove discrimination in the sharing of development benefits;
- d) Counteract any abuse or exploitation of disabled people;
- e) Lay down strategies for a comprehensive development of programmes and services and for equalization of opportunities for disabled people; and
- f) Make provision for the integration of disabled people into the social mainstream.
- g) The Act has been in effect since from 7th February, 1996⁷

Justice V.R Krishna Iyer has opined that— Society is guilty if anyone suffers unjustly. He, further, held that the task of social justice is to make comprehensive legislation regarding disabled persons from womb to tomb. The judicial system can only do what the law empowers it to do. Parliament must first make adequate amendments to the law for the judiciary to be effective. The judiciary should be given training in disability and remedial jurisprudence. The state must empower every person including a pregnant woman and a child in the womb to have corrective treatment so that deformities may be avoided and child nutrition taken care of. On the whole, the Constitutional foundation is equalitarian in fact and in law, for every person to the

extent science and technology can help and state resources set right.⁸

In order to implement the principle of equality of status and opportunity, it is the duty of the State to demolish the wall between the normal and disabled persons. All the rights and privileges should be made available even to the disabled persons.

IV. Family law: disablement

Under the Hindu Succession Act, 1956 which applies to Hindus it has been specifically provided that physical disability or physical deformity would not disentitle a person from inheriting ancestral property. Similar in the Indian Succession Act, 1925 which applies in the case of intestate and testamentary succession, there is no provision which deprives the disabled from inheriting an ancestral property. The position with regard to Parsis and the Muslims is the same. In fact, a disabled person can also dispose his property by writing a 'will' provided he understands the import and consequence of writing a will at the time when a will is written. For example, a person of unsound mind can make a Will during periods of sanity. Even blind persons or those who are deaf and dumb can make their Wills if they understand the import and consequence of doing it.

V. Beneficial provisions: disabled people

There are various laws relating to marriage was enacted by the parliamentary Legislative for different communities in India. All these laws' relating to marriage is also equally applicable to the disabled

⁷69. disabilityworld.org/April-May2000/Governance/India.htm

⁸5. Aparajita Baruah: Preamble of the Constitution of India at p.62-63



persons. The most of these acts which was passed by parliament, and it has been provided that the following circumstances to the disable person at the time of undertaking a marriage.

According to the Acts, either party is an idiot or lunatic which as unable to give a valid consent due to unsoundness of mind or suffering from a mental disorder. Such an extent as to be that the party is unfit for marriage to procreation of children.

Under such acts as the Hindu Marriage Act 1955, the Christian Marriage Act 1872, the Parsi Marriage and Divorce Act 1935 it pertained to note here that the special Marriage Act, which as special for spouses of different religions and Foreign Marriage Act, for marriage outside India. The Child Marriage Restraint Act 1929 are also applies to the disabled person. This Act was amended by the parliament in 1978 to prevent the solemnization of child marriages in India” [30]. Similarly, it also specified that the disabled person cannot act as a guardian of a minor under the Guardian and Wards Act 1890. Even if the disability is of such a degree that one cannot act as a guardian of the minor. The same position was taken by the Hindu Minority and Guardianship Act, 1956 which has also covered under the Muslim Law”.⁹

In the connection under the Hindu Succession Act 1956 which were applied only to Hindus. It has been also specifically provided that physical disability or physical deformity would not disentitle a person from inheriting ancestral property. Hence, the

⁹ vikaspedia.in/education/parents...for...disabilities/legal-rights-of-the-disabled-in-india

Indian Succession Act 1925 applied in the case of intestate and testamentary succession. There is no provision which deprives the disabled from inheriting an ancestral property”.¹⁰

Similarly, the Muslims, Christians, and the Parsis are also the same position. In facts disabled person can also dispose his property by writing a ‘will’ provided he understands the import and consequences of writing a will at the time when a will is written. Even blind persons or those who are deaf can make their wills if they understand the import and consequence of doing it”.¹¹

Thirdly, the rights of the disabled have not been split out in the labour legislation, because the provisions which cater to the disabled in their relationship with the employer are contained in delegated legislation such as rules, regulations and standing orders. Further, it also provides answer to various issues related to disabled person employed under PWD Act 1995”.¹²

Fourthly, another important act which was enacted during the British Rule to Judicial Procedures for the disabled. These act also known as the designs Act 1911”.According to these act which deals with the law relating to the protection of designs any person having jurisdiction in respect of the property of a disabled person (who is incapable of making any statement or doing anything required to be done under this Act) may be appointed by the court under Section 74”¹³, to make such statement or do such thing in the name and on behalf of the person subject

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

¹³ Ibid



to the disability. The disability may be lunacy or other disability.

There are several beneficial provisions which have been specified in the income Tax law especially for disabled person. According to under section 80 DD¹⁴, to provide for a deduction in respect of the expenditure incurred by an individual or Hindu Undivided Family resident in India on the medical treatment (including nursing), training and rehabilitation etc. of handicapped dependents. For officiating the increased cost of such maintenance, the limit of the deduction has been raised from Rs.75,000 to Rs. 1, 25,000. In case the tax benefits get only Individual Suffering from disability¹⁵ as well as any dependent family member of the individual is suffering from a disability¹⁶. Similarly, a new section 80V¹⁷ has been introduced to ensure that the parent in whose hand's income of a permanently disabled minor has been clubbed under Section 64, is allowed to claim a deduction up to Rs.20,000 in terms of Section 80 V. It also provides for an additional rebate from the net tax payable by a resident individual who has attained the age of 65 years which was specified under Section 88B¹⁸ of income tax. It has been amended to increase the rebate from 10% to 20% in the cases where the gross total income does not exceed Rs. 75,000

VI. Judicial pronouncements: right of disabled people

¹⁴ Income tax Axt,1961, <https://www.hrblock.in/.../section-80dd-tax-deduction-on-medical-expense>

¹⁵ Section 80U Under Income Tax Act 1961

¹⁶ section 80DDB under Income Tax Act 1961

¹⁷ Income tax Act, 1961, <https://www.hrblock.in/.../section-80dd-tax-deduction-on-medical-expenses>

The Indian Judiciary has played a very significant role in developing the human rights of the disabled persons. In a number of cases the Supreme Court and the High Courts interpreted the disability legislations furthering the objectives contained therein. The extraordinary powers vested in the Supreme Court under Articles 32 and 142, and the High Courts under Article 226 of the Constitution of India, have ensured that the rights of the citizens, and more specifically, that of the disabled citizens, are not trampled upon.

In *Javed Abidi v. Union of India*¹⁸, while directing Indian Airlines to provide concessions for passengers suffering from locomotion's disability, the Supreme Court keeping in view the object of the persons with disabilities Act, 1995, directed creation of various free environment for person with disabilities and making special provisions for their rehabilitation, medical care, education, employment, training and protection of their rights.

In *D.N. Chanchala v. State*¹⁹, the Supreme Court advocating the right based approach to disability extended the equitable principle of preferential treatment under Art 15 (4) to persons with disabilities to bring them to the mainstream of the society by giving them equal opportunity in the field of education. The Allahabad High Court in *National Federation of Blinds UP Branch v. State of UP*²⁰ ordered the Lucknow Development Authority not only to give preference in the matter of allotment of land houses to

¹⁸ [(1999) 1 SCC, 467]

¹⁹ [AIR 1971 SC 1762]

²⁰ [AIR 2000 All 258]



handicapped persons, but also to provide concessional rates to them.

In *Chandan Kumar Banik v. State of West Bengal*²¹ the Supreme Court rescued mentally challenged inmates of a hospital in Hooghly District who were being kept chained by the hospital administration to control their unruly and violent behaviour. Absence of reservations for persons with a physical handicap in medical colleges was found by the Calcutta High Court to be an infringement of Persons with Disabilities Act and the Constitution as well in *Dy. Secy. (Mart), Deptt. of Health and Family Welfare v. Sanchita Biswas*²². This view of the Calcutta High Court finds support in a fluty of judgments [*Raman Khanna (Dr.) v. University of Delhi*, (2003) 106 DLT 97; *Vijay Kr. Agarwal v. State of Rajasthan*, CWP No. 1239 of 2000; *A.P. Federation of the Blind v. Registrar, Andra University*, WP No.10234 of 1999; *Benny v. State of Kerala*, WA No. 3660, decided on 30.01.2003 etc.] pronounced by referent High Courts of the country. In *Sheela Barse v. Union of India*,²³ the Supreme Court held that mentally ill non-criminal persons cannot be kept in jail and opined that keeping the non-criminals in jail along with other convicts is unconstitutional. Like this in a plethora of cases, the Indian judiciary has shown its concern towards the protection of the human rights of the disabled persons and played a vital role in the realm of disability rights in India.

VII. International laws: disablement

²¹ [1995 Supp (5)]

²² [AIR 2000 Cal 202]

²³ [(1993) 4 SCC, 204]

The United Nations since its inception in 1945 is making a relentless campaign for the protection of human rights of all in general and various deprived sections in particular. Based on the International Bill of Rights, the U.N. formulated the first specific document regarding disabilities in 1971 in the form of Declaration on the Rights of Mentally Retarded Persons. Basically, all international human rights instruments, protect the human rights of persons with disabilities, as they apply to all persons, thus principle of universality is reinforced by the principles of equality and non-discrimination which are included in human rights instruments. International human rights law determines that every person has:

1. The right to equality.
2. The right to non-discrimination.
3. The right to equal opportunity.
4. The right to independent living.
5. The right to full integration.
6. The right to security

The Universal Declaration of Human Rights (UDHR) represents the normative basis that led to formulating the standards concerning persons with disabilities that exist today. In Article 25(1) of the UDHR specifically mentions the socio-economic rights of people with disabilities: the right to an adequate standard of living, including food, clothing, housing and medical care and social services and the right to security in the event of unemployment, sickness, disability, widowhood, and old age or other lack of livelihood in circumstances beyond his control. The Universal Declaration recognises a form of equity inherent in human dignity with equal and inalienable rights as the foundation of freedom and



justice; that all men are born free, and equal in dignity and rights; that all are equal before the law; and that all are entitled to equal protection against discrimination and that everyone has the right to freedom of thought International Covenant on Civil and Political Rights, 1966 (ICCPR) lists several rights that are relevant to disability. Article 26 states that all people are equal before the law and have the right to equal protection of the law.

In 1969, the United Nations General Assembly adopted the Declaration on Social Progress and Development,' which started the movement relating to the right of persons with disability. The Declaration while proclaiming the right to live in dignity for all people emphasised the need to assure disadvantaged sectors of the population equal opportunities for social and economic advancement.

In 1971 General Assembly adopted the declaration on the rights of mentally disabled persons. The Declaration states that: "The mentally retarded person has, to the maximum degree of feasibility, the same rights as other human beings". The Declaration calls for national and international guidance as would enable him to develop his maximum potential. Proper medical care and such education, training, rehabilitation and the rights of disabled persons. The mentally retarded person has a right to action to ensure that it will be used as a common basis for the protection and international action to ensure that it will be used as a common basis for the protection of the rights of disabled person.

In 1975, the General Assembly adopted the "Declaration on the Rights of Disabled Persons." It was the first international

document that tried to define the term "disability". Like the Declaration on Mentally Retarded Persons, this Declaration also stresses that disabled persons have the inherent right to respect for their human dignity and the right to enjoy a decent life, as normal and full as possible. They are entitled to measures designed to enable them to become as self-reliant as possible, and that their special needs must be taken into consideration at all stages of economic and social planning.

The Declaration on the Rights of Deaf-Blind Persons, 1979 also guarantees universal human rights to all deaf-blind persons. Article 1 of the Declaration states that "every deaf-blind person is entitled to enjoy the universal rights that are guaranteed to all people by the Universal Declaration of Human Rights and the rights provided for all disabled persons by the Declaration of the Rights of Disabled Persons".

In a landmark resolution adopted on 16 December 1976, the United Year' of Nations General Assembly proclaimed 1981 as the "international Disabled Persons" with the theme "Full Participation and Equality". Two international human right treaties, namely the convention on the Elimination of All forms of Discrimination Against Women, 1979 (CEDAW), and the Convention on the Rights of the Child (CRC) highlighted particular vulnerability of women and children to right abuse.

Thus, the United Nations and its various agencies are contributing substantially towards the integration of persons with disabilities by adopting various conventions, declarations and recommendations.

VIII. Conclusion



Inevitably, as mentioned the issue of disability is related to many other social, economic and political issues including those of chronic poverty, gender inequality, mal-administration and political victimization. All these must be removed to make the 'disability right' a reality. There must be active involvement of disabled people in planning and policy making process relating to their lives and full recognition and enforcement of human rights as well as various other rights associated with them. It is clear that the Constitution of India needs amendment in order to include the persons with disabilities within its ambit. Part III and Part IV should be amended as promptly as possible. Protective and Welfare legislations can work effectively only when the Constitution is amended accordingly. The duties of the states to oblige of constitutional norms regard to provide equal opportunities and protection of disabilities rights, because the majority of disable persons can lead a better quality of life in the society.

It also required special attention to women with disabilities to provide a protection against exploitation and abuse in the society. In keeping of view, it needs Special programs for with women disabilities to developed for education, employment and providing of other rehabilitation services. However, the state should take an initiative for prevention of disabilities and organized the various Programs for prevention of diseases.

Another important thing that it needs special attention to children with disabilities is the most vulnerable group. The states should strive to ensure right to development as well as recognition of special need and of care,

protection and security for children with disabilities. It ensure that right to development with dignity and equality creating an enabling environment and also Organized the special health vocational training along with specialized rehabilitation services Children with disabilities.

Every state also ensures that the persons with disabilities obtain the disability certificates without any difficulty in the shortest period of time and adoption of obtain the disability certificates must be simple procedures. It provides additional expenditure for facilitating activities of daily living, medical care, transportation, assistive devices, etc to disabled persons. Sometime disabled person's families and care givers are not afforded to give the better treatment to them. The state Government as well as Central Government also encouraged developing a comprehensive social security policy for persons with disabilities.

Besides, the NGO's has played a very important role to provide affordable services to complement the endeavors of the Government as well as the provisions of services for persons with disabilities. The states also have a very important role to formulation policy, planning, implementation, monitoring and also seeking their advice on various issues relating to persons with disabilities.

Every state should strive to improve the quality of life of persons with disabilities. It also ensures to establish the research center for disabilities person regarding to do the research on their socio-economic and cause of disabilities. The state should take necessary steps to provide them opportunity



for participation in various sports, recreation and cultural activities. In many decades central Government has passed very important acts for the Persons with Disabilities. It brings the developments programs in the disability sector, and makes a certain amendment to the disabilities Act which have become necessary. All the attempts made till to date in India for providing equal rights and opportunities for the persons with disabilities are purely based on medical model and lack the social, economic, and legal perspective making such protection discriminatory. However, the future of the disabled individuals is not all that gloomy there is lot of scope for amendments to the existing legislation PD Act 1995 in conformity with UN Convention on the Rights of Persons with Disabilities (2006) to which India a signatory in the following areas:

- Inclusion of a new definition on 'persons with disabilities that endorses the social model of disability as it locates the problem of disability outside the individual person.
- Inclusion of Right to Barrier free environment in order to ensure proper accessibility to the persons with disability in all buildings and facilities both in rural and urban areas. In this regard the State must formulate suitable Accessibility Standards from time to time by adapting prevailing international standards on physical environment information and communication technologies and develop systems that are suitable to Indian conditions.
- Promotion of Right to Equality and Non-Discrimination and 'reasonable accommodation' by the State would enable them to have access to, participate in, or advance in employment, to enjoy legal

capacity on an equal basis with others in all aspects of life right.

- As women and girls with disabilities are more vulnerable to all kinds of exploitation, abuse and violence, they must be taken care off in all settings at all places including, home, care-houses, educational institutions, institutions, workplaces.
- The Right to access court is an essential component of guaranteeing the enjoyment of any right therefore, all buildings which are related to the justice system, including courts and police stations, should be made accessible to persons with disabilities.
- To promote, protect and enforce the rights of the persons with disability on an equal basis with others a Disability Rights Authority (DRA) must be constituted.

Thus, a clear and comprehensive procedural mechanism is to be formulated for the advancement of disability rights. It is important to realize that human rights of the disabled cannot be fought for and secured in a vacuum.
