

RIGHTS OF PERSONS WITH DISABILITIES: CONTEMPORARY DEVELOPMENTS*

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1. At the outset, I congratulate the Vice-Chancellor and the Law Centre-II for initiating a discussion on the Rights of Persons with Disabilities. It gives me immense pleasure to inaugurate this National Seminar, which aims at spreading awareness about the rights of disabled persons in the society and to have a threadbare discussion on the National and international aspects of the topic.

2. Disability is a concept which is understood and interpreted by various social thinkers, jurists and social workers keeping in mind the inherent philosophy of the term in its actual sense. Though the term 'disability' carries with it the assumption of a deficiency whether physical, mental or sensory in respect of some people but there are ample examples of the persons with disability proving their mettle, inspiring by their intellectuality, positive attitudes and outlook towards life.

3. As the term disability carries with it the connotation of a lack or deficiency, 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. It subsumes 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 recognized as a human rights issue in the international arena, with the adoption of Convention on the Rights of Persons with Disabilities, 2007 by the United Nations.

4. Keeping in mind the different situation posed by the disabled persons, it is important that their rights need to be understood and studied from various perspectives including human rights and laws in India which will help mitigate the gap between the abled and the differently-abled persons in their attainment of persona and dignity in true sense of the term. Through this Seminar an endeavor should be made to understand various issues relating to the rights of persons with disabilities and the laws in existence in India.

5. The disability rights debate is not about the enjoyment of specific rights but about ensuring the equal effective enjoyment of all human rights, without discrimination, by people with disabilities. The primary responsibility for ensuring respect for the rights of persons with disabilities rests with the government. The Government of India has taken various steps to provide equal opportunities to persons with disabilities by enacting several Acts and implementing various policies and schemes for the empowerment of persons with disabilities.

6. Even though our Constitution guarantees equal rights to each individual of our country, and despite several enabling legislations for around 2.21% of our total population, spread across the country, the situation has been less than satisfactory. For them segregation, marginalization and discrimination are norms rather than exception. Faced with barriers put by stereotypical attitudes, they are generally viewed as objects of charity and welfare and often insensitivity from fellow citizens. To my mind, the answer to this lies in not only strict

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enforcement of existing laws but simultaneous exposure and education of the people at large towards disability and how to deal with it.

7. As far legislations are concerned, in 1992, India became a signatory to the Proclamation on Full Participation and Equality of People with Disabilities in the Asia Pacific Region. The Proclamation brought an obligation upon the countries to enact legislation as per its solemn affirmations. In line with that commitment, Indian Parliament enacted “The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act”, 1995 which came into operation with effect from January 1, 1996. It was subsequently amended in 2010.

8. After India signed and ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2007, Parliament adopted a radically transformative piece of legislation, titled the “Rights of Persons with Disabilities Act, 2016” that addresses the concerns of arguably the most marginalized section of Indian society. This Act repeals the earlier law on disability i.e. Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participations) Act, 1995 and institutionalizes a much-awaited robust rights regime in line with the principles of UNCRPD. It is worth mentioning here that the law emerged out of exemplary pre drafting consultations with various stake holders, most of all the target audience themselves. Between March 2014 when it was first introduced and till its passage in 2016, it underwent thorough Parliamentary scrutiny as well.

9. The Rights of Persons with Disabilities Act, 2016 explicitly envisages civil and political rights of persons with disabilities in addition to envisaging the economic, social, and cultural rights of such persons. It comprises a whole range of provisions including provisions in respect of equality and non-discrimination, women and children with disabilities, community life, protection from cruelty and inhuman treatment, protection from abuse, violence and exploitation, home and family, reproductive rights, accessibility in voting, access to justice, legal capacity, and provision for guardianship where and to the extent needed etc. It emphasizes on full and effective participation and inclusion in society and acceptance of disabilities as part of human diversity. It prohibits discrimination against persons with disabilities, unless it can be shown that such act is a proportionate means of achieving a legitimate aim. It reflects a paradigm shift in thinking about disability from a social welfare concern to a human rights issue. Thus, it is a milestone in struggle for equal opportunities for disabled people in India.

10. This seminar, I am informed, is intended to provide platform for disability researchers and activists to share their learning and perspectives on contemporary developments and issues with respect to rights of disability in India. The intention is to not only to explore the process of accessing justice through litigations and procedural practices but also to explore matters concerning how law indirectly and often directly impacts the lives of people with disabilities in India. The platform also intends to discuss both national and international laws that concern people with disabilities. The Rights of Persons with Disabilities Act, 2016 has come in to force on 27th December, 2016 and the rules have also been notified by the Government. We feel that it is time to open up the discussion to include perspectives and experiences of people with disabilities in to issues concerning their everyday lives. With these words, I wish all the best to the organizers of the Seminar and students in all their future endeavors.

Thank You
Jai Hind