

IMPACT OF INTERNATIONAL LAW ON THE RIGHTS OF DISABLED IN INDIA

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I. INTRODUCTION

Post World War II has seen radical changes in international law especially in the field of human rights with reference to the rights of women, children, and persons with disability. The paper is a brief attempt to analyze the impact of international law on the legislative and judicial process of India. The growing concern for the rights and participation of the disabled has led to various affirmative actions world wide in general and in countries like India in particular under the influence of such environment. The paper will discuss the underlying philosophical assumptions that are driving the process of change and the paradigm shift from charity to rights. It traces the growing influence of non-discrimination values and principles at the level of the United Nations. It also takes a close look at the variety of strategies used by a country like India to implement and place this paradigm shift into national operation, both in non-discrimination laws and in other ways.

II. THE SIGNIFICANCE OF VIEWING DISABILITY AS A HUMAN RIGHT ISSUE

With the paradigm shift from the medical to the social model of disability, disability was reclassified as a human rights issue under international law.¹ Reforms in this area were intended to provide equal opportunities for disabled people and to expose their segregation. National legal paradigms shifted even further, by the end of 20th century, from welfare law towards civil rights law. Several nations came forward with progressive laws towards the persons with disability. This new dimension of disability laws has been welcomed as a major milestone on the path towards eventual recognition of the human rights of disabled people.²

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¹ See for details, e.g., Victor Finkelstein, *ATTITUDES AND DISABLED PEOPLE: ISSUES FOR DISCUSSION* (New York: World Rehabilitation Fund, 1980); Michael Oliver, *THE POLITICS OF DISABLEMENT: A SOCIOLOGICAL APPROACH* (London: St. Martin's, 1990); Michael Oliver, *UNDERSTANDING DISABILITY: FROM THEORY TO PRACTICE* (New York: St. Martin's, 1996); Jenny Morris, *PRIDE AGAINST PREJUDICE: TRANSFORMING ATTITUDES TO DISABILITY* (Philadelphia: New Society, 1991).

² See United Nations General Assembly, *IMPLEMENTATION OF THE WORLD PROGRAMME OF ACTION CONCERNING DISABLED PERSONS; Report Of The Secretary-General*, U.N. Doc. A/54/388/Add.1 (1999).

Before we understand the context in recent perspective it is worth mentioning that a coherent ideology was evolved in the 1940s and 1950s, whereby the United Nations in its Universal Declaration of Human Rights³ and the wider international community through two important international Covenants⁴ approached the disability issue primarily from a medical and social welfare standpoint.⁵ It was then thought that what persons with disabilities needed most was a medical cure. As a result, persons with disabilities received some medical attention, but remained socially isolated—in mental institutions, especially in the case of persons with mental disabilities.

In the 1970s, a broader “social model” emerged, recognizing that the medical model alone could not fully address the needs of persons with disabilities.⁶ Instead of focusing on their physical disabilities. It sees the problem not as residing in the persons with disabilities themselves, but as resulting from structures, practices and attitudes that prevent the individual from exercising his or her capabilities. Thus, the social model gives priority

³ The United Nations, which was founded on the principle of equality for all, extended its concern for persons with disability with same sense of equity. The Preamble to the Charter affirms the dignity and worth of every human being and gives primary importance to the promotion of social justice. Persons with disabilities are, *de facto*, entitled to all the fundamental human rights upheld by the Charter and other human rights instruments. Article 25 of the Declaration states that each person has “the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”.

⁴ Anti-discrimination principles were established by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which were adopted in 1966. Together they form the most comprehensive international code of binding legal provisions in the area of human rights. The two Covenants develop and supplement the provisions of the Universal Declaration, and the three instruments together make up what has come to be known as the International Bill of Human Rights. Disability is perhaps the area in which the importance of recognizing the indivisibility and interdependence of human rights and fundamental freedoms, as both Covenants do, is most evident and sharp.

⁵ Report of the United Nations Consultative Expert Group Meeting on INTERNATIONAL NORMS AND STANDARDS RELATING TO DISABILITY (Berkeley, 8-12 December, 1998) Division for Social Policy and Development, United Nations Department of Economic and Social Affairs, at 1.

⁶ *Id.* at 1-2.

attention to the way persons with disabilities want to live and to the right they have to participate fully and equally in society.⁷

A new approach to disability was adopted in 1970s. The concept of human rights for disabled persons began to become more accepted internationally. Two major declarations on the disabled were adopted by the General Assembly in the new decade. The Declaration on the Rights of Mentally Retarded Persons of 20 December 1971 provided a framework for protecting rights through national and international action. The Declaration stated that mentally retarded persons had, to the degree feasible, the same rights as other human beings, including a right to proper medical care and education, to economic security, to a qualified guardian, as required, to protection from exploitation and access to legal procedures. The Declaration stated that, if possible, mentally retarded persons should live with their families or with foster parents and should participate in various aspects of community life. Essentially, the Declaration paved the way for future comprehensive sets of principles, which would eventually seek to integrate persons with disabilities into society.

The Declaration on the Rights of Disabled Persons, adopted by the General Assembly on 9 December 1975, encouraged national and international protection of the rights of the disabled. Recognition was given to the fact that disabled persons were entitled to the same political and civil rights as others, including measures necessary to enable them to become self-sufficient. The Declaration reiterated the rights of disabled persons to education, medical services, and placement service. Realizing the need to promote the full participation of the disabled in the social life and development of their societies, the Declaration further recognized their right to economic and social security, to employment, to live with their families, to participate in social and creative events, to be protected against all exploitation, abuse or degrading behaviour, and to avail themselves of legal aid.

A. International Year For Persons With Disability (1981)

On 16 December 1976, the General Assembly declared the year 1981 as International Year of Disabled Persons (IYDP), stipulating that it would be devoted to integrate disabled persons fully into society.

⁷ The Declaration on Social Progress and Development, adopted on 11 December 1969, affirmed the fundamental freedoms and principles set forth in the Charter of the United Nations and emphasized the need to protect the rights and welfare of the disabled and the physically and mentally handicapped.

Once the year (1981) for persons with disability was earmarked, this was followed by the chain of events and programme, which comprehensively led to empowerment of the persons with disability and led to the calls for their full participation in the society. Various programs were declared, resolutions were passed and adhoc committees were set up for the prevention, rehabilitation and the integrations of the people with disability in the coming decades.

The International Year of Disabled Persons, 1981, was celebrated with numerous programmes, research projects, policy innovations and recommendations. Many conferences and symposiums were held during the Year, including the First Founding Congress of Disabled People International, held in Singapore from 30 November to 6 December. The Trust Fund for the International Year, established in 1977, collected over \$510,000 in contributions from Member States.

B. World Programme of Action Concerning Disabled Persons (1982)

In 1982, immediately after IYDP 1981 was over the UN General Assembly adopted World Programme of Action concerning Disabled Persons. The Programme restructured disability policy into three distinct areas: prevention; rehabilitation; and equalization of opportunities.

The following definitions were developed from the perspective of the World Programme of Action Concerning Disabled Persons:

- (a) Prevention is any measure aimed at preventing the onset of mental, physical and sensory impairments (primary prevention) or at preventing impairment, when it has occurred, from having negative physical, psychological and social consequences (secondary prevention);
- (b) Rehabilitation is a goal-oriented and time-limited process aimed at enabling an impaired person to reach the optimum mental, physical and/or social functional level, thus providing the individual with the tools to change her or his own life. It can involve measures intended to compensate for a loss of function or a functional limitation (for example, by technical aids) and other measures intended to facilitate social adjustment or readjustment;
- (c) Equalization of opportunities is the process through which the general system of society, such as the physical and cultural environment, housing and transportation, social and health

services, educational and work opportunities, cultural and social life, including sports and recreational facilities, are made accessible to all.⁸

Implementation of the Programme of Action, using multicultural and multidisciplinary approaches, was addressed by the General Assembly on 3 December 1982 and 22 November 1983. In a broad sense, implementation was sought through long-term strategies integrated into national policies for socio-economic development, preventive activities that would include development and use of technology for the prevention of disablement, and legislation eliminating discrimination regarding access to facilities, social security, education and employment. At the international level, Governments were requested to cooperate with each other, the United Nations and non-governmental organizations.

C. United Nations Decade of Disabled Persons: 1983 - 1992

The proclamation in December 1982 of the United Nations Decade of Disabled Persons (1983-1992) led to the comprehensive activities, designed to improve the situation and status of the disabled. Emphasis was placed on raising new financial resources, improving education and employment opportunities for the disabled, and increasing their participation in the life of their communities and country.

In 1984, Leandro Despouy of Argentina was appointed as Special Rapporteur to study the connection between human rights violations, violations of fundamental human freedoms and disability. He was to report biannually to the Sub-Commission on the particular human rights situation of disabled persons. His final report in which he recommended the establishment of an international ombudsman was submitted in 1991.

At this juncture, the United Nations also took itself to task; with the General Assembly noting that persons with disabilities would enjoy the same rights to employment as all other qualified citizens and that the United Nations itself would declare employment opportunities open to all persons, regardless of sex, religion, ethnic origin or disability.

The importance of these events could be summarized in the words of Margaret Joan Ante:

The International Year of Disabled Persons, 1981, was a milestone in the long history of the struggle of people with disabilities against discrimination and segregation, and for equal rights. The World

⁸ General Assembly Resolution 37/52 of 3 December 1982.

Programme of Action concerning Disabled Persons, the fruit of collective work by Governments and organizations, recognized disabled persons first and foremost as citizens vested with all the rights and obligations that this implied. The problems of disabled persons could not be isolated. Their solution depended on the recognition of the rights and needs of disabled persons, on the political commitment to resolve the problems, on the formulation and implementation of effective and integrated strategies."⁹

D. International Day of Disabled Persons

On 16 December 1992, the General Assembly appealed to Governments to observe 3 December of each year as International Day of Disabled Persons. The Assembly further summarized the goals of the United Nations regarding disability and asked the Secretary-General to move from consciousness-raising to action, placing the Organization in a catalytic leadership role which would place disability issues on the agendas of future world conferences.

In the same year, the Economic and Social Council endorsed the proclamation of 1993-2002 as Asian and Pacific Decade of Disabled Persons, a decision taken by the Economic and Social Commission of Asia and the Pacific, in order to effectively implement the World Programme of Action in the Asian and Pacific region.

III. THE STANDARD RULES ON EQUALIZATION OF OPPORTUNITIES

FOR PERSONS WITH DISABILITIES, 1993

Eleven years later,⁴ after the World Programme of action concerning persons with disability was declared in 1993, the General Assembly unanimously adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities. The Standard Rules consist of 22 Rules aimed at ensuring that all persons with disabilities can exercise their rights in the societies where they live.

By adopting the World Programme of Action and the Standard Rules at the UN General Assembly, governments committed themselves to work towards the goal of equal opportunities for persons with disabilities. Although both instruments are "soft," i.e., non-binding, they have played a critical role in supporting the development of strategies, policies and programmes that advance the disability agenda locally, nationally and internationally. These

⁹ Margaret Joan Anstee, Director-General of the United Nations Office in Vienna and Head of Centre for Social and Humanitarian Affairs at the opening session of the global meeting of experts, Stockholm, Sweden, 17-22 August 1987.

developments had so much impact on the nations world wide that according to the results of a survey reported by Mr. Bengt Lindqvist, the Special Rapporteur on Disability of the Commission for Social Development, 81 percent of the respondent countries indicated that the Standard Rules had led to governmental initiatives promoting awareness and equality of persons with disabilities.¹⁰

In the past two decades, many governments enacted disability laws. The Asia-pacific region alone saw the enactment of the laws, including the Law of the People's Republic of China on the Protection of Disabled Persons in 1990, the Rehabilitation of Disabled Persons Act of Thailand in 1991, the Magna Carta for Disabled Persons of the Philippines in 1992, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act of India in 1995, the Act for the Protection of the Rights of Persons with Disabilities of Sri Lanka in 1996, Ordinance on Disabled Persons of Vietnam in 1998 and the Disability Welfare Act of Bangladesh in 2001.

IV. RIGHTS AND DIGNITY OF PERSONS WITH DISABILITIES:

A New International Convention

Since there were already a number of international instruments protecting the rights of persons with disabilities, the legitimate question arose why there was a need for new international convention. As indicated earlier, the World Programme of Action and the Standard Rules are important and useful tools, but they are not binding. Governments may or may not respect and use them. Though proved earlier they definitely influenced the policy making process amongst most of the nations. The disabled community however, concluded that what was required was a legally binding document, which would ensure that the human rights of persons with disabilities were recognized, protected, and reflected in national laws and practises—a new instrument that would be comprehensive and based on the input of the persons with disabilities themselves.

In 2001, at its 56th session, the General Assembly adopted Resolution 56/168, which called for the establishment of an ad hoc committee to “consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities.”¹¹

¹⁰ A/52/351 of 16 September 1997, para 27.

¹¹ General Assembly Resolution 56/168 of 19 December 2001.

Under this resolution an Ad Hoc Committee was established to develop a text proposal for the convention. Overarching principles and rights, equality in civil and political rights, equality in economic, social and cultural rights, monitoring mechanisms, and other issues were discussed.

In its current draft, the Convention spans over 25 articles, covering a range of important issues that affect the every day life of people with disabilities. For example under Draft Article 17 which covers the area of education, the Convention asserts, "States Parties shall ensure that where the general education system does not adequately meet the needs of persons with disabilities, special and alternative forms of learning should be made available (and that) any such special and alternative forms of learning should reflect the same standards and objectives provided in the general education system".

With regards to accessible voting draft Article 18 covering participation in political and public life asserts that "States Parties... shall undertake to protect the right of citizens with disabilities to vote by secret ballot." Influenced by these developments even in India. Election Commission has been asked to provide for the independent voting measures to the persons with disability, especially the visually challenged. Once completed, this Convention will help to aid all forms of advocacy work undertaken by the disability sector.

V. UNESCAP DECLARATION FOR DECADE OF DISABLED PERSONS (1993-2002 AND 2003-2012)

The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) in its commitment towards the developing society declared the Asian and Pacific Decade of Disabled Persons, 1993-2002, through a series of regional campaigns held annually since 1993 in Okinawa, Japan (1993), Manila, Philippines (1994), Jakarta, Indonesia (1995), Auckland, New Zealand (1996), Seoul, South Korea (1997), Hong Kong SAR, China (1998), Kuala Lumpur, Malaysia (1999), Bangkok, Thailand (2000), Hanoi, Vietnam (2001) and Osaka, Japan (2002). The Asian and Pacific Decade of Disabled Persons was extended for another decade, 2003-2012 by resolution 58/4 on Promoting an Inclusive, Barrier-free and Rights-based Society for People with Disabilities in the Asian and Pacific Region in the 21st Century, what is known as the Biwako millennium framework in achieving the full participation and equality of persons with disabilities.

Twenty seven countries adopted the Biwako Millennium Framework for Action toward an Inclusive, Barrier-free and Rights- Based Society for Persons with Disabilities in Asia and the Pacific (BMF) on 25-28 October 2002. The said Framework "encourages Governments to actively implement

the paradigm shift from a charity-based approach to a rights-based approach to the development of persons with disabilities and to move towards the human rights perspective, especially the perspective of the right to development for persons with disabilities, bearing in mind General Assembly resolution 56/168 of 19 December 2001 on a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities”, which calls upon the State Parties to enact national laws towards the implementation of the Convention as a legal obligation, with a provision regarding technical support and strong international, regional and national monitoring mechanisms.

VI. PROTECTION OF THE RIGHTS OF PERSONS WITH DISABILITY: INDIAN PERSPECTIVE

In view of the international development, India has also adopted a progressive attitude towards the rights of the persons with disability in its Constitution, progressive legislations and judicial activism.

A. Rights of Persons with Disability under Constitution of India

The opening word of the Preamble of the Constitution are “We, the people of India”. The word “people”, used in the Preamble, itself indicates that no discrimination was envisaged by the Constitution makers amongst the people of India on any ground whatsoever; be it religion, race, colour, creed, caste or even disability. People suffering from disability, whether they were blind, physically disabled or even mentally retarded, were included in the word “people” and an assurance was given in the Preamble “to secure to all its citizens: justice, social, economic and political” as also equality of status and of opportunity and to promote fraternity so as to uphold the dignity of the individual.

In order to achieve the objectives set out in the Preamble through the mechanism of the Constitution, certain very important and relevant provisions were incorporated such as, Articles 14, 15 and 16 guaranteeing equality before law and equality of opportunity for *all* citizens in matters relating to employment or appointment to any office under the State. The Constitution also guaranteed “right to life” to all its citizens which means that every person including disabled has a right to live with dignity. This also means that the “disabled” like other citizens or people; possess all the basic human rights particularly because they are “human beings” though there was no direct reference to the rights of persons with disability in any of the articles.

However, Article 41 of the Constitution reads:

The State shall, within the limits of its economic capacity and

development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 41, thus, makes effective provision for securing the Right to work to person suffering from disability. It is worth noting that international help to person suffering from disability started much later. Further, in view of the provisions contained in Articles 36 and 37, it is apparent that Article 41 is a mandate both to the Legislature and the Courts. Though, Article 41 does not confer a justiciable right, the Supreme Court has by its own interpretation, bearing in mind the goal of socio-economic justice, held that the Courts should so interpret a statute as will advance the objective underlying Article 41.¹²

In *Daily Casual Labour employed under P&T Department v. Union of India*¹³, the Supreme Court observed that job security, was an ingredient of the right to work in view of the philosophy of socio-economic justice. Invoking Article 41, it has been held in many cases that if a person becomes “disabled” during the tenure of his service for any reason whatsoever, he cannot be thrown out of service; he has to be provided alternative job.

In spite of the Constitution provisions referred to above and the positive attitude of the judiciary, persons suffering from disability of one or the other kind were hardly provided any opportunity to lead a dignified life by opening the doors of employment to them or to secure opportunities for them in other spheres of life. The philosophy of the Constitution was hardly given any effective implementation so far as citizens suffering from disability were concerned until there was a global awakening brought about through the efforts of the United Nations which, to begin with proclaimed the Universal Declaration of Human Rights in 1948.

B. Legislative Actions

The last decades of the 20th Century saw the enactment of the four important legislations for the rehabilitation and welfare of people with disabilities. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act was passed in 1995. This is an important legislation that provides for both preventive and promotional aspects of rehabilitation such as education, employment and vocational training,

¹² *Jacob M. Puthuparambil v. Kerala Water Authority*, (1999) 1 SCC 28.

¹³ (1998) 1 SCC 122.

reservation, research and human resource development, creation of barrier-free environment, inclusion and independent living.

The Rehabilitation Council of India Act 1992 led to the establishment of the Rehabilitation Council of India (RCI). The RCI is responsible for standardizing and monitoring training courses for rehabilitation professionals, granting recognition to institutions running courses, and maintaining a Central Rehabilitation Register of rehabilitation professionals. The RCI Act was amended in 2000 to give the RCI the additional responsibility of promoting research in rehabilitation and special education.

Mental Health Act, 1987 and The National Trust Act 1999 provide for the constitution of a national body for the welfare of people with autism, cerebral palsy, mental retardation, and multiple disabilities. The Act mandates promotion of measures for the care and protection of persons with these disabilities in the event of the death of their parents, procedures for appointment of guardians and trustees for persons in need of such protection, and support to registered organizations to provide need-based services in times of crisis to the families of the disabled.

The four legislations are comprehensive in spirit and together deal with all aspects pertaining to rehabilitation, training, employment, long-term settlement, human resource development and research and documentation.

Apart from these legislations, Modifications to the Unified Building Bye-laws, 1983, pertaining to the National Capital Territory of Delhi was set in motion in April 2002. These bye-laws are applicable to all new buildings, recreational areas and facilities used by the public. It does not apply to private domestic residence. These byelaws are an important factor in building a barrier free environment in the public places. Delhi Hat and Delhi Metro are some of the example of such efforts.

C. Judicial Decisions

Not only the legislative efforts have gone a long way in empowering the persons with disability by the above legislative measures, the judiciary has also interpreted the laws in a very progressive manner under the influence of International law.

In *Sheela Barse v. Union of India*¹⁴, directions were issued by the Supreme Court that physically and mentally retarded children and abandoned or destitute children shall be lodged in protective or observation homes and if such children are accused of any offence, the investigation and trial against

¹⁴ (1986) 3 SCC 632.

them be expedited by setting up juvenile courts in each District and a cadre of trained Magistrates for dealing with such cases be formed.

In *Daya Ram Tripathi v. State of U.P.*¹⁵, it was held by the Supreme Court that if in an advertisement, issued by the U.P. Public Service Commission, one post in the Provincial Civil Service (Executive Branch) was reserved for physically handicapped persons and the appellant, namely, Daya Ram Tripathi, who was such a handicapped person, appeared in the Combined State Services Examination, held in 1982, pursuant to such advertisement and was declared qualified in that Examination, the Government could not deny him a suitable post in the PCS (Executive Branch). It was further observed that the Government having announced its declaration to rehabilitate physically handicapped persons, by reserving posts for them in all the services of the Government, could not later create needless hurdles. The cadre of the PCS (Executive Branch) was large enough to easily accommodate physically handicapped persons in suitable posts.

In *Godawari Bai v. DDA*¹⁶, appropriate directions were issued by the Supreme Court for out of turn allotment of flats made by the DDA to the handicapped persons including the blind lady.

In *Death of 25 Chained Inmates in Asylum Fire in Tamil Nadu, In re v. Union of India and Others*,¹⁷ taking *suo motu* cognizance of the death of 25 chained inmates in an asylum fire in Tamil Nadu, the Supreme Court issued directions to the Cabinet Secretary and the Union of India to indicate the policy, if any, framed under section 8(2)(b) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. In *National Federation of Blind v. Union Public Service Commission*¹⁸, a Division Bench of the Supreme Court comprising of Justice Kuldip Singh and Justice N.M. Kasliwal directed the Government of India and Union Public Service Commission to permit blind and partially blind eligible candidates to compete and write Civil Services Examination in Braille-script or with the help of scribe. The Government of India was also commended to decide the question of providing preference/reservation to the visually handicapped persons in Groups "A" and "B" posts in Government and public sector undertakings expeditiously.

¹⁵ (1986) Supp. SCC 497.

¹⁶ (1990) Supp. SCC 124.

¹⁷ See (2002) 3 SCC 31.

¹⁸ (1993) 2 SSC 411.

It is also appropriate to refer two judgements of the Delhi High Court. One is *Pushkar Singh v. University of Delhi*¹⁹ and the other is *Shruti Karla v. University of Delhi*.²⁰ In the first case, the Executive Council of the University of Delhi had decided that there would be, without relaxation in required qualifications, 3% reservation for blind and orthopaedically handicapped candidates in teaching posts in the University and Colleges. The petitioners contended before the Delhi High Court that in spite of resolution of the Executive Council of the Delhi University, there was no reservation made for teaching posts, inasmuch as, no appointment of the physically handicapped had been made except in Dr. Ambedkar College. The High Court while allowing the writ petition directed the respondents to comply with the resolution of the Executive Council of the Delhi University with effect from the date of resolution so that the number of posts which have to be reserved for visually and orthopaedically handicapped persons are calculated subject wise and after ascertaining the number of posts, steps should be taken to fill up those posts from amongst the handicapped persons by adopting the regular selection procedure.

VII. CONCLUSION

Human rights are a matter of international concern and their advocates and guardians do exercise constructive influence across geographical and cultural boundaries. An increasing number of countries are opting for laws favorable to disabled people. Legislation establishes a coherent and comprehensive framework for the promotion of just and fair policies and their effective implementation. It creates formal procedures which hasten the process of full and total integration of the disabled in the society. United Nations and the efforts of world around have gone a long way in the recognition of civil rights of the persons with disability. India has responded positively to the international instruments to provide equal opportunity, protection of their rights and full participation in the socio-economic processes.

The Government, through its comprehensive and just legislation, has taken a lead to support the large community of people with disabilities in India and has provided a framework for the implementation of legal, progressive and economic activities. Without disabled people's rights being clearly entrenched in the law, there could be no progress in changing age old attitudes and improving the quality of life for people with disabilities.

¹⁹ 2001 (II) Apex Decisions (Delhi) 749.

²⁰ 2001 (II) Apex Decision (Delhi) 582.

The disabled should not be dependent any more on the charity of people. They should become an integral part of the society in every way. It is their right and the new law with emphasis on full participation declares, in no uncertain language, that they shall have it.

The Indian disability law treats disability, as a civil rights rather than a mere health and welfare issue. The law recognizes that the primary issue facing disabled people is their exclusion from the mainstream activities of the society and hence the emphasis in the law is on full integration and participation. It is discrimination, and not impairment, that disables people. The law recognizes the importance of consultation with disabled people on issues which directly or indirectly affect them. The government, therefore, has set up mechanisms for consultations with people with all types of disabilities.

One out of every ten people in India suffers from one form of disability or the other, that is they possess physical or mental impairment substantially limiting one or more of major life activities. In other words, 90 million of our countrymen live with, and learn to overcome in their own individual ways, problems which non-disabled can seldom understand. The law should enable not only one in ten people but also nine out of every ten people to lead their lives to their fullest potential. The law declares that disability need not be insurmountable as long as it can be properly understood and catered for. The law attempts to eradicate factors which produce low self-esteem in disabled people and empowers them to confront the insensitivity and ignorance of others.

The real danger now is that those who had been vigorously demanding its enactment might become complacent and think that the job has been done. The Act must be implemented in schools and colleges, in factories and workplaces, in transport and shopping Centres. People with disabilities, and those who care for them, must ensure that discrimination is outlawed and barriers are removed as much from the physical environment as from the attitudes of ordinary people. The real battle for the right to full citizenship and active participation of disabled people is ahead. The Act is comprehensive but must be enforced with sincerity and determination. There is a need for strong monitoring agency to see that their efforts are realized in totality. Here the role of international agencies would go a long way in liberating the barriers of persons with disability.