

ANALYZING THE RIGHTS AND ENTITLEMENTS OF PERSONS WITH DISABILITIES IN INDIA

Rahul Jain *

Neha Chaudhary **

ABSTRACT

Persons with disabilities have long been marginalized in our society. They face immense discrimination and lack of accommodation, solely due to their conditions. While laws and international conventions secure their rights and protections, true acceptance remains elusive. The Rights of Persons with Disabilities Act, (RPWDA) 2016 received president assent on December 27, 2016, and be effective from June 15th, 2017. The Act includes a long list of provisions to address the requirements included in the Convention on the Rights of Persons with Disabilities (CRPD) and improve the rights of individuals with disabilities in India. The legal intervention sustains a continuum of economic and social rights and underlines the significance of recognizing the inherent dignity, and individual autonomy including full integration and support for society, acceptance of persons with disabilities, equality of opportunity, accessibility, and recognizing the evolving capabilities of children with disabilities. Methodologically, the present research paper will present an overview of the assessment of the rights and entitlements of persons with disabilities in India and will describe the main components of the Rights of Persons with Disabilities Act, 2016, which seeks to promote and protect the rights and dignity of people with disabilities in the areas of life.

*** Doctoral Research Scholar, School of Law, Bennett University (The Times Group), Greater Noida, Delhi (NCR), India.**

**** Doctoral Research Scholar, School of Law, Bennett University (The Times Group), Greater Noida, Delhi (NCR), India.**

INTRODUCTION

Disability rights are not a niche issue they affect everyone regardless of having or lack any particular disability. Disability affects everyone because factors such as accidents, infections, and aging can make anyone disabled either temporarily or permanently. Therefore, safeguarding the interests of people with disabilities is equal for all as we are all unique individuals possessing unique needs. The view of the Human rights-based approach to disability focuses on the nature of the issue, as disability is a socially conditioned phenomenon. It asserts that exclusion from society is not something natural for an individual but is caused by various barriers.³⁷⁴ According to an estimate by the World Health Organization, 15 percent of the global population currently lives with some form of disability, while over 80 percent of that share is found in Low- and Middle-Income (LAMI) Countries. It is predicted that out of a total of 1.36 billion residents in India, over 2.2 percent of this population endure some severe mental or physical disability.³⁷⁵ In other words, in the progressive erstwhile, the integration and inclusion of all people is indicated as the main corridor for sustainable development, with a focus on ensuring the health and well-being of disabled people which is becoming more and more essential. Conceptually, since the condition of disability is transient rather than static, there is no single universal definition of disability that qualifies as a person with a disability. With the implementation of the Rights of People with Disabilities Act 2016³⁷⁶, which introduced 21 criteria listed as disabled, India introduced a revised list, even though the world already has several framework policies. The Rights of Persons with Disabilities Act, 2016, also known as the RPWD Act, is an Indian legislation created to implement the principles of the United Nations Convention on the Rights of Persons with Disabilities and to secure equitable rights for individuals with disabilities across various aspects of life. Ideally, the act is introduced to preserve the dignity of every Person with Disability in society and to purify the victim from any discriminatory

³⁷⁴ Anna Lawson and Angharad E. Beckett, "The social and human rights models of disability: towards a complementarity thesis." 25, *The International Journal of Human Rights*. pp:348–379 (2021) <https://doi.org/10.1080/13642987.2020.1783533>
<https://doi.org/10.1080/13642987.2020.1783533>

³⁷⁵ Disabilities in India - statistics & facts. Available at: <https://www.statista.com/topics/8278/disabilities-in-india/> (last accessed on May 05 2024)

³⁷⁶ The Rights of Persons with Disability Act, 2016. (Act 49 of 2016). Available at: https://www.indiacode.nic.in/bitstream/123456789/15939/1/the_rights_of_persons_with_disabilities_act%2C_2016.pdf (last accessed on May 05 2024)

attitude.³⁷⁷ This act replaced the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, of 1995.

In human history, discrimination and stigmatization of people with mental illness and physical illness have always existed. Unfortunately, it has continued to be widespread even in today's civilized world. Persons with physical and Mental Illness are or can be, neglected and have their rights trampled upon. It is a source of misery for any family when a family's sole breadwinner is struck down by physical or mental illness. Persons with physical Illness or Mental Illness sink into poverty and lose opportunities for employment, social interaction, and self-sufficiency.³⁷⁸ Psychological and societal discrimination against people with physical and mental disabilities is a widespread violation of human rights in (LAMI)Countries. The discrimination against individuals with physical and mental illnesses goes against human rights as outlined by several international agreements, including the United Nations International Covenant on Civil and Political Rights, the Universal International Convention on Economic, Social, and Cultural Rights, and the Convention on the Rights of Persons with Disabilities (CRPD).³⁷⁹

The CRPD is a United Nations-based international treaty designed specifically for the protection of the rights and human dignity of people with disabilities. The CRPD was adopted by the United Nations General Assembly on December 13, 2006.³⁸⁰ The preamble of the CRPD recognizes that disability is a constantly changing and multifaceted condition. The hindrance to full and active participation in society on an equal level for individuals with disabilities is primarily caused by the interaction between their impairments and societal attitudes and environmental obstacles. Attitudinal challenges, rather than limited resources, are typically the biggest obstacles in ensuring the rights of individuals with disabilities are upheld. This convention marked a significant change from a focus on "charity" to a focus on

³⁷⁷ Richard M. Duffy and Brendan D. Kelly (eds). India's Rights of Persons with Disabilities Act. *In India's Mental Healthcare Act*, 2017. pp 61-80 (Springer, Singapore 2020) https://doi.org/10.1007/978-981-15-5009-6_5

³⁷⁸ Patel, Vikram, and Arthur Kleinman. "Poverty and common mental disorders in developing countries." 81 *Bulletin of the World Health Organization* pp: 609-615 (2003)

³⁷⁹ Drew, Natalie, Michelle Funk, Stephen Tang, Jagannath Lamichhane, Elena Chávez, Sylvester Katontoka, Soumitra Pathare, Oliver Lewis, Lawrence Gostin, and Benedetto Saraceno. "Human rights violations of people with mental and psychosocial disabilities: an unresolved global crisis."9803 *The Lancet* 378, pp: 1664-1675 (2011)

³⁸⁰ NCRPD, United Nations Convention on the Rights of Persons with Disabilities. 2006. *Available at:* <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>.(last accessed on May 05 2024)

"rights" for individuals with disabilities, leading to a new era.³⁸¹ This research is inclined to give an overview of the new legislation in India- the Rights of Persons with Disability Act, 2016, and analyze the rights and entitlements in the Act at present.

LEGISLATIVE FRAMEWORK FOR THE RIGHTS AND ENTITLEMENT OF PERSONS WITH DISABILITIES IN INDIA

According to section 2(i)³⁸² of the Persons with Disabilities Act, 1995, “disability” of any class means, blindness, low vision, leprosy cured, hearing impairment, locomotor disability, mental retardation, or mental illness.

The Rights of Persons With Disabilities Act, 2016

Chapter II of the RPWD Act, 2016 covers a range of rights and entitlements for individuals with disabilities. Here are some key provisions

Equality and Non-Discrimination

Section 3³⁸³ of the Rights of Persons with Disabilities Act, 2016 emphatically restates the duty of concerned governments to afford individuals with disabilities equal opportunity, dignity, and regard like all others without prejudice. It lucidly communicates that a person with a disability necessitates no authorization under the law to benefit from the same standards of living as non-disabled individuals. At the same time as discrimination based on a disability’s nature is proscribed, this term amounts to defensive discrimination in situations where legislation presents a rational rationale for differential treatment. A real possibility here would comprise creating environments conducive for disabled people to complete activities and have equal protection. Due to the absence of clearly defined stages in this part, its influence could be restricted. For example, in *Jeeja Ghosh v. Union of India*³⁸⁴, the Supreme Court of India reemphasized how public venues and a lack of accommodation resulted in the systemic exclusion of disabled persons while depriving them of their civil rights. Equality is characterized by more than simply a lack of inequality, it also necessitates affirmative efforts to offset historically and traditionally prejudiced actions through fairness, modification, and enablement. The latter step, as well as an evaluation of accessibility and

³⁸¹ Rao, Gundugurti Prasad, Vemulokonda Sri Ramya, and Math Suresh Bada. "The rights of persons with Disability Bill, 2014: How “enabling” is it for persons with mental illness?." 58 *Indian journal of psychiatry* pp:121-128 (2016)

³⁸² The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.2(i)

³⁸³ The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.3

³⁸⁴ (2016) 7 SCC 761

citizen participation, can help to create a more unified planning and design, similarly enhancing engagement aspects for all community members.

Women and Children with Disabilities

Section 4³⁸⁵ of the Rights of Persons with Disabilities Act protects women and children with impairments, ensuring that “their liberty is equal to all others,” Young people with such diverse experiences of disability demand careful consideration. “Persons with any nature of condition are to be given equitable advice on matters affecting their development and prospects”. The Government provides ‘special’ tailored help and assistance applicable for each individual’s age with their access to affordable learning, social networks, medical care, and other essentials “in the formative years”. “Each individual’s residency is also altered appropriately in such a way that it better engenders independence”. Yet, the advancements in one area are countered by the regress in another. The “over-simplicity in some fields counterbalance the over-complication in many others”. In general, therefore, the varied spirit of the act is maintained when commonality and individual differences are respected.

Justice Ravindra Bhat's landmark ruling in *Bambhaniya Sagar Vasharambhai v. Union of India*³⁸⁶ protected the rights of persons with disabilities as guaranteed under the law. Specifically, the case centered around the petitioner, a cerebral palsy patient who challenged his rejection from admission to MBBS programs. However, the medical board did not provide sufficient justification for refusal, either during the exam or after. Moving forward, a lack of deficiency alone cannot preclude access; more individualized consideration is necessary. Moreover, the notion that impairment alone bars admission was deemed invalid. Ultimately, evaluating boards must furnish stronger reasoning beyond denying opportunities due to disability status in the future.³⁸⁷

Furthermore, in *Vikash Kumar v. Union Public Service Commission*³⁸⁸ case, the Supreme Court affirmed that the notion of reasonable accommodation was pivotal. It refers to acknowledging disability presence by permitting disabled individuals to evolve in any manner feasible. The root of this notion stems from the precept of human dignity and intrinsic

³⁸⁵ The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.4

³⁸⁶ 2023 Live Law (SC) 956/ W.P.(C) No.856/2023

³⁸⁷ Suraj Kumar, Breaking barriers: How Justice Ravindra Bhat expanded scope of disability rights, Live Law. Available at: <https://www.livelaw.in/top-stories/supreme-court-judge-justice-ravindra-bhat-retirement-judicial-career-legacy-important-judgments-241089> (last accessed on 05 May 2024).

³⁸⁸ (2021) 5 SCC 370

worth. Excluding citizens with disabilities from employment can undermine their dignity and intrinsic worth, thus there is a necessity for reasonable accommodation. One must regard individual dignity and intrinsic worth.

Community Life

The RPWD Act of 2016 details the fundamental right of individuals with disabilities to reside where they choose and partake in community living. Section 5³⁸⁹, specifies that governmental bodies must pursue efforts to guarantee persons with disabilities can exercise free will and self-determination in selecting housing that suits their preferences. Support services must also be accessible to allow independent living according to principles of personal autonomy, whether by factors such as age or personal identity. The act aims to uphold basic human rights for all people to control their living circumstances and participate fully in society.

Protection from Cruelty and Inhuman Treatment

Section 6³⁹⁰ of the Rights of Persons with Disabilities Act, of 2016 aims to shield people with disabilities from mistreatment and harm. The government is tasked with guaranteeing that no form of punishment or torment that is degrading, torturous, or inhumane may be inflicted on those with disabilities. Additionally, it states that no person with a disability shall partake in any research project without providing their informed consent willingly. Their approval should be obtained through proper communication with help and consent from a Committee for Research on Disability. In one case, *Mohamed Ibrahim v. Managing Director*³⁹¹, an individual with color blindness was unfairly denied a work opportunity as their condition did not precisely align with pre-established categories of disability. Justice Bhat contended that the current definition of disability is too restrictive and unjust as it only acknowledges specific groups of disabled people for affirmative measures.³⁹²

Protection from Abuse, Violence and Exploitation

Under section 7³⁹³ of the RPWD Act, 2016, it is the duty of the government not to lead any individual with a disability to tortured, offensive behavior and exploitation. The security may be so superior as to preclude any conduct that may amount to brutality and infliction of

³⁸⁹The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.5

³⁹⁰The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.6

³⁹¹CIVIL APPEAL NO(S). 6785 OF 2023

³⁹²Supra Note 6

³⁹³The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.7

suffering to the most susceptible individuals, yet remaining vigilant as persons with disabilities might continue to slip through the networks' cracks of oversight. Complete conformity will be accomplished by utilizing education to enlighten society and eliminate preconceived notions that endorse damaging conduct against the most susceptible.

Protection and Safety

The equal protection and safety of those with disabilities face risks during times of armed conflict and natural disaster, as outlined in Section 8³⁹⁴ of the Rights of Persons with Disabilities Act of 2016. All people, including those with disabilities, deserve to be treated fairly under the law.

Home and Family

The Rights of Persons with Disabilities Act of 2016, under Section 9³⁹⁵ states that no child with a disability shall be separated from their family solely because of their condition except when a competent court determines that the child's best interests so require. A family is the source of life, and separation should never result from a disability.

Reproductive Rights

Reproductive rights granted within Section 10³⁹⁶ of the Persons with Disabilities Act prove crucial, as access to accurate information regarding family planning and choices must be afforded. Clause (2), Section 10 additionally confirms no procedure resulting in sterility may be performed without consent. The Supreme Court upheld a mother's right to her daughter with intellectual disabilities who wished to raise her child, overturning a High Court's forced abortion against the woman's will in ***Suchita Srivastava & Anr. vs. Chandigarh Administration***³⁹⁷. While reproductive freedom is assured under law, truly informed consent remains paramount, as medical procedures must never supersede personal autonomy or violate civil liberties through exclusion of the impaired from decision making which most impacts their lives.

³⁹⁴ The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.8

³⁹⁵ The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.9

³⁹⁶ The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.10

³⁹⁷ (2009) 9 SCC 1

Accessibility in Voting

The election commission is empowered by Section 11³⁹⁸ of the Rights of Persons with Disabilities Act, 2016 to ensure polling centers and stations are physically accessible for all. Furthermore, election materials must be available in varied communication formats for easy comprehension by disabled voters.

Access to Justice

According to Provision 12³⁹⁹ of the Rights of Persons with Disabilities Act, 2016, persons with disabilities shall be provided with access to any Court, judicial, or quasi-judicial bodies of the discrimination on grounds of their disabilities. The government shall in the manner and form provide the auxiliary measures, concretely, for the persons with disabilities outside their family and who require high support.

Legal Capacity

Section 13⁴⁰⁰ of the act ensures equal legal recognition and capacity for persons with disabilities in all aspects of life. No discrimination can occur, and measures must be taken to guarantee people with disabilities enjoy the same rights to make decisions as others everywhere.

Provision for Guardianship

While supported individuals still struggle to make legally valid choices alone, limiting guardianships could help in specific cases. Under Section 14⁴⁰¹, a trusted guardian and person with disabilities would consult on certain important decisions for a set time. Their relationship would respect the individual's authority over their own life. Only in limited scopes of particular decisions, duration, and contexts would a guardian assist. The system ensures focusing on the preferences of the person first. A person receiving enough support might still find value in a restricted guardian to represent their will for some complex matters.

³⁹⁸The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.11

³⁹⁹The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.12

⁴⁰⁰The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.13

⁴⁰¹The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.14

The law could permit this option to empower supported decision-making, respecting each person's circumstance and right to autonomy.

Progress of Persons With Disabilities as Per Rights of Persons With Disabilities Act, 2016

Definition of Disability Incorporated in the Rights of Persons with Disabilities Act, 2016

The RPWD Act 2016 expanded the scope and number of disabilities, aligning the definition with the UNCRPD. The UNCRPD defines "Persons with disabilities" as those with long-term physical, mental, intellectual, or sensory impairments that may hinder their full participation in society. The new RPWD Act also introduces the terms "person with benchmark disability" and "person with high support" separately under Sections 1(r) and 1(t).

The identification of Persons with Benchmark Disability is one of the most important aspects of The Rights of Persons with Disabilities Act, 2016. For instances where a particular disability is not defined in quantifiable terms, an individual with 40 percent or above of the total specified disability is identified as a person with a benchmark disability. The provision may apply to individuals with disabilities quantifiable as well.⁴⁰²

On May 8, 2020, the legal case of *Bhavya Nain v. High Court of Delhi*⁴⁰³ reached its resolution. The issue at stake refers to the fact that the Delhi High Court dismissed the application of Bhavya Nain who intended to participate in the examination for the post of Delhi Judicial Service-2018 examination. Nain was diagnosed with bipolar disorder at the age of 25 and had applied as a person with a disability, completing all stages of the examination. However, the Delhi High Court contended that since the disability was not considered permanent and significantly long-term, if it fell below 40%, he would not qualify for reservation on that basis under the Rights of Persons with Disabilities Act, 2016.

The court acknowledged that mental illness should be considered a form of disability and granted reservations to allow individuals with disabilities, including those with mental illness, to live a normal life. The Supreme Court halted the implementation of the high court's decision but instructed the administration to keep one position open for Nain. Additionally, a medical board was formed to evaluate Nain's ability to fulfill his responsibilities as a judicial

⁴⁰² Bhawna Gupta and Rimpi, "Rights and Entitlements of Persons with Disabilities in India: An Evaluation" 3 *JHRLP*, pp: 21-33 (2020)

⁴⁰³ AIR 2020 DEL 671

officer. The medical board determined that Nain has bipolar disorder but has been in remission, and recommended that he continue regular treatment and follow-up with his psychiatrist.

Prevalence of Disabilities

The legislation Rights of Persons with Disabilities Act of 2016, acknowledges twenty-one diverse types of disabling conditions. Chief among the additional impairments now included are dwarfism, intellectual disability, autism spectrum disorder, cerebral palsy, muscular dystrophy, chronic neurological conditions, specific learning disabilities, multiple sclerosis, speech and language disability, thalassemia, hemophilia, sickle cell disease, multiple disabilities, and injuries sustained from acid attacks or illnesses such as Parkinson's disease.⁴⁰⁴ For classification purposes, the twenty-one disabilities fall into six subgroups: physical disability, intellectual disability, mental health conditions, multiple disabilities, and a catchall grouping for any others not specifically mentioned. The expanded definition aims to provide protection and support for the wide array of individuals living with disabling conditions in India.

Reservation Quota in Higher Education

As per the mentioned RPWD Act, 2016 the Indian Government has fixed 5% reservation in higher education to enhance the accessibility of higher education for individuals with disabilities.⁴⁰⁵

In the case of *Disabled Rights Group vs. Union of India*⁴⁰⁶, Advocate Rajan Mani from the Disabled Law Initiative and Advocate Sija Nair from the Socio-Legal Information Centre presented arguments. In response to a Supreme Court order, the University Grants Commission formed a committee to conduct a comprehensive assessment of the facilities available and teaching approaches for the disabled on university campuses.

Additionally, the UGC was directed to monitor the fulfillment of the reservation quota for disabled students. The petitioner's advocates highlighted the lack of progress in providing accessible courses and campus facilities as mandated by the 1995 and 2016 Disability Acts. They emphasized the need for barrier-free campus environments and accommodations for

⁴⁰⁴ The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.2 (zc) r/w The schedule

⁴⁰⁵ The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.32

⁴⁰⁶ AIR 2018 SC 543

disabled students in various academic settings.⁴⁰⁷ The petitioner proposed various accessibility measures to be implemented in universities and colleges, such as providing note-takers and scribes for hearing and visually impaired students, wheelchair-accessible locations with priority seating, and teaching materials in alternative formats like Braille and audio books. The Court observed that most of these measures were not in place, indicating a prevailing attitudinal barrier in higher education institutions.

Allocation of Job Reservation Quota in the Employment Sector

Similar to the education sector, the Indian government has fixed a 4% reservation in the employment sector under the RPWD Act, 2016.⁴⁰⁸

In the case of the *Union Public Service Commission and Ors v National Federation of Blind*⁴⁰⁹, the Supreme Court made a landmark ruling regarding the inclusion of visually impaired individuals in Civil Services Examinations. As per supreme court directions, the Government of India and the Union Public Service Commission were placed under the obligation to allow visually impaired candidates to participate in the exam with the assistance of Braille or a scribe if they are compliant with other requirements.

The case of *Rajeev Kumar Gupta v. Union of India*⁴¹⁰ has been widely celebrated as a landmark decision in the efforts to accelerate equal opportunities and representation for People With Disabilities in high-ranking government roles. The court's decision, which requires the government to provide a 3% reservation for PWDs in all specified positions within the Prasar Bharati Corporation of India, including Group A and Group B, regardless of the recruitment process, is seen as a significant step forward. The court also emphasized that there is no restriction on reservation in promotions for PWDs, clarifying that the prohibition on reservation in promotions, as outlined in the Indra Sawhney case, does not apply to individuals with disabilities.

CHALLENGES FOR PERSONS WITH DISABILITIES

Challenges in Certifying Temporary Versus Permanent Disabilities

⁴⁰⁷ Ibid

⁴⁰⁸ The Rights of Persons with Disabilities Act, 2016 (Act 49 of 2016), s.34

⁴⁰⁹ (2013) 10 SCC 772

⁴¹⁰ (2016) 13 SCC 153

Psychiatric illnesses can be episodic, fluctuating, and debilitating. Mental disability should be assessed when further treatment and rehabilitation are not likely to reduce the impairment, usually after 6 months. If there is doubt about improvement even after 6 to 12 months of treatment, a temporary disability certificate can be issued, valid for 5 years.⁴¹¹ After treatment and rehabilitation, the percentage of disability may change, so a temporary certificate may be prudent. If the illness improves due to treatment, the percentage of disability may vary at reassessment. It is difficult to predict the improvement in patients with OCD after neurosurgery, leading to challenges in disability certification. A permanent disability certificate is lifelong, so caution is needed before issuing it to ensure that the psychiatric condition has reached a permanent stage.

Challenges in Measuring Disability

The Department of Empowerment of Persons with Disabilities released guidelines for assessing disability, including mental illness, using the Indian Disability Evaluation and Assessment Scale (IDEAS). The scale categorizes mental disability as mild, moderate, severe, or profound based on global disability scores. However, some administrators still insist on specific percentage scores for providing benefits, rather than accepting the range format.⁴¹² Educating them about the rules or expressing the score as a median percentage could help avoid depriving individuals with mental illness of their rights.

Challenges in Certification of Autism

Assessment of autism is not yet included in the RPWD Act, 2016. The current disability guidelines specify certain professionals to certify specific disabilities, which may create obstacles in obtaining disability certificates. Many medical specializations have been left out, such as psychiatrists not being included in the assessment of learning disability. The naming of specialists needs to be amended to allow medical authorities to decide the specialist required for certification. This will prevent PwD from having to travel to different cities and hospitals to obtain disability certificates. The guidelines should also empower private

⁴¹¹ Math, Suresh Bada, Anupam Gupta, Ravi Yadav, and Dhaval Shukla, "The rights of persons with disability bill, 2014: Implications for neurological disability." 19*Ann Indian Acad Neurol.* pp. S28–33 (2016)

⁴¹² Guidelines for evaluation of various disabilities and procedure for certification | Office of Chief Commissioner for Persons with Disabilities. Available at <http://www.ccdisabilities.nic.in/actsguideline/guidelines-evaluation-various-disabilities-and-procedure-certification> (Last accessed on May 05 2024)

practicing doctors to certify disabilities, with proper checks and balances, to address the shortage of human resources.

Challenges in Assessing Specific Learning Disabilities in India

Learning disorders are neuro-developmental conditions that impact a child's ability to process and communicate information. The notification issued on January 4, 2018,⁴¹³ defines "specific learning disabilities" as a group of conditions affecting language processing, including dyslexia and dyscalculia. However, there are concerns about the assessment process, including the lack of a comprehensive battery for older age groups, the absence of specific disability percentage determination, and the exclusion of psychiatrists from the assessment team. Additionally, there are questions regarding the validity of the certification at the age of 18.

Challenges in Advocacy for Job Allocation under the RPWD Act

The RPWD Act, 2016, stipulates that every government organization should reserve just 1% of the total job vacancies available for people suffering from benchmark disabilities, including individuals with autism, intellectual disability, SLD, and mental illnesses. First, the Act combines intellectual disabilities and mental illness into only one category, and second, it reserves only 1% of the vacancies.⁴¹⁴ While there are a significant number of mentally challenged individuals with disabilities, there is doubt about their ability to work efficiently in professional settings. Therefore, there should be an increase in job opportunities for the mentally ill, and professionals with such challenges should advocate for their rights.

CONCLUSION

While India expressed commitment to disabled rights through ratifying the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), systemic changes have progressed slowly. The 2016 Rights of Persons with Disabilities Act aimed to empower those historically viewed as recipients of charity by establishing their entitlement to claim legal protections. However, some deficiencies require prompt attention if the spirit of this

⁴¹³ Ibid

⁴¹⁴ Rao, Gundugurti Prasad, Vemulokonda Sri Ramya, and Math Suresh Bada, "The rights of persons with disability bill, 2014: How "enabling" is it for persons with mental illness?" 58 *Indian J Psychiatry* pp:121–8 (2016)

landmark legislation is to be fully realized. Even as a rights-based framework, the Act can only achieve its aims through proactive enforcement at the state level, where implementation must urgently address the remaining obstacles facing the disabled community. Progress will be measured not by principles alone, but through concrete improvements to the daily lives of those demonstrating great resilience in the face of adversity.

RECOMMENDATIONS

1. Commitment in all sectors to enshrine it in new and existing laws, standards, policies, strategies, and plans will be required. Tailored measures may be necessary for specific programs and services to support individuals with disabilities, considering each person's unique needs and abilities
2. Hearing diverse voices from the disability community provides insight into the challenges they face and potential solutions to address them.
3. Building health workers' and managers' capacity through education, training, and hiring improves competencies to effectively support individuals with disabilities.
4. Reviewing staff knowledge highlights areas for strengthening understanding of disabilities.
5. Developing new university courses in rehabilitation sciences cultivates specialists to address long-term personnel shortages.
6. Integrating intellectual disabilities into learning environments whenever feasible promotes equal learning opportunities. Increasing awareness and understanding among the public can break down stereotypes by implementing thoughtfully designed social campaigns that focus on marginalized issues.
7. Media plays a crucial role in promoting positive representations of disability, challenging misconceptions, and reducing isolation. Collecting community-level data helps in strategic planning and allocating resources for inclusive development.
8. Bolstering disability research strengthens evidence-based policies and practices.