

EDITORIAL

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DISABILITY, LAWS AND MODELS: AN OVERVIEW**Dr. Shyam Ganvir, PhD¹ Dr. Ankita Arun Gundecha²**

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OVERVIEW:

There are various growing definitions and perceptions of disability. It leads to various complications leading to independency for all other activities of daily living, making occupational limitations and economically dependent. So there is an need to make them aware of various schemes available in India, for supporting them for various economic, pension and educational scholarship schemes.

The rights and laws of persons with disabilities must therefore be understood and studied from a variety of perspectives, including human rights and various other laws in India, which will fill the gap or close the gap between persons with disabilities and persons with disabilities in their personal attainment in the true sense of the term.

Throughout this research report, the writer puts a great deal of focus on the different legislative frameworks and regulations existing throughout our country and allows a comprehensive analysis on how such laws have led to the advancement of the legal status of people with disabilities in India.

KEY WORDS: Disability, Dignity, Laws, ModelsReceived 28th May 2020, Accepted 28th June 2020, Published 30th June 2020www.vimsptcr.in**CORRESPONDING AUTHOR****Dr. Ankita Arun Gundecha,**

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INTRODUCTION

Disability is any limitation or loss of ability to do action in a manner or within the spectrum deemed natural for human beings. That refers to a range of failure to conduct those tasks in everyday life^[1]. Failure can be physical, neurological or also mental. Every human being is born free and equal in values and rights^[1]. There are growing social influences which can have an effect on how an person with disabilities is included or excluded from engaging in different activities^[2]

The principle of non-discrimination aims to encourage fair opportunities in a common definition of impairment, such as age , sex and children.^[1]The main obligation regarding the welfare of people with disabilities lies with the government in order to offer resources and equitable care through the implementation of a variety of education and job programs and systems, the retirement of individuals with disabilities.

A two-tailed t-test for correlated samples showed that the mean professionals core was significantly greater ($p < 0.05$) than the mean personal score.^[11]

Several experiments have been conducted to examine the condition of physiotherapists who are physically ill after beginning preparation or practice. This contributes to an rise in understanding by practitioners of both positive and negative effects and the implications of disability^[10]

India is the first signatory agreement to the United Nations Convention on the Protection of People with Disabilities which has done so.

Persons with disabilities, Lok Sabha was enacted in 1995 on 12 December 1995 and came into effect on 7 February 1996. This Act extends to India.^[6] Liability for the provision of equal services and amenities is assigned to federal and state governments, city companies and municipalities^[6]

Disability Models: Before the cycle of philosophic contemplation starts from a disability standpoint, it is important that there are various concepts of impairment that help one understand and talk about people with disabilities^[7]

Moral Models of Disability:

It is the oldest practice, like other practices associated like wrongdoing and retribution, a feeling of remorse. This trend is associated with the shame of the entire nation. All this has affected the thinking and action of people with disabilities^[7]

Biomedical Model of Health

The biomedical model of health is the most popular in the western world and focuses mostly on wellbeing in terms of biological influences. The scientific concept of disease is used in the biological model of wellbeing. Similarly, it looks on illness mainly in terms of the treatment that the individual has. The biomedical model is usually contrasted with the biopsychosocial model^[7]

Medical model of disability:

The medical model of disability is provided by disability as an individual's problem, caused by illness, injury or other health condition, which therefore requires sustained medical assistance provided in the form of individual treatment by professionals. This approach is focused on the premise that disability-related problems will be met exclusively by people with disabilities^[7]

Rehabilitation model:

This is the same as the clinical paradigm utilized by people with disabilities to receive guidance, rehabilitation, medication or other services in recovery care^[7]

Social model of disability:

The social model of disability places the challenge of disability as a societal problem and as a part of the full integration of individuals into society. Under this model, impairment is not a private characteristic, but rather a modest set of disabilities, all of which are created by the social environment. The management of the matter and document therefore involves government policy and the collective duty of society as a whole making the institutional improvements appropriate for the full inclusion of people with disabilities in all aspects of social life.^[7]

Disability laws in India

The Preamble to the Constitution of India is dedicated to maintaining civil, economic and democratic fairness for all its people. The definition of justice is also focused on various conceptions of liberty, morals, health, pleasure, democracy and equality.^[8] Social justice requires the reduction of all sorts of inequality that result from disparities in wealth, employment, position, race, religion, etc. ^[8] To order to promote the goal of social justice, the Constitution sets out guidelines for the State and aim and eradicate disparities to wealth, services and resources, to reduce income differences, to guarantee equitable and humane working and maternity benefits; to avoid the abuse of children in jobs and industry; to include quality primary education for all; to promote educational and economic interests of the backward classes; to provide that the ownership and security of the material resources used for the community.^[8]

Justice V.R. Krishna Iyer argued that the State is equally concerned with securing justice, equality and dignity, indirectly even to the mentally and physically deprived parts of the population, as is evident from the provisions of Articles 15(4) and 16(4) of the Constitution.^[8]

Article 15 of the Indian Constitution limits discrimination on grounds of faith, race, caste, sex or place of birth. (a) access to markets, public restaurants, hotels and palaces for public entertainment, and (b) use of wells, reservoirs, bathing, roads and public resorts; are funded entirely or partially from State funds or devoted to the benefit of the general public.^[8]

Article 16 of the Constitution of India deals with the issue of equal rights in matters of public employment.

Health law:

Article 47 of the Constitution places on the State a primary duty to lift the diet and quality of life of its citizens and to increase public safety, in particular with a view to banning the ingestion of intoxicating beverages and substances that are hazardous to one's wellbeing, except for medicinal purposes. Indian health law includes a range of guidelines for the elderly. Any of the acts that provide for the welfare of people, including those with disabilities, can be found in the Mental Health Act, 1987.^[8]

Education law:

The right to education is at the hands of all people, including the elderly. Article 29(2) of the Constitution provides that no person is to be refused admission to any educational institution established by the State or to receive State assistance on grounds of religion, race, caste or language. Article 45 of the Constitution orders the State to provide free and compulsory education for all children (including the disabled) before they reach the age of 14. No child may be refused admission to any educational institution operated by the State or obtain State assistance on grounds of religion, ethnicity, caste or language.^[8]

Family law:

Different marriage laws passed by the State for various populations apply similarly to the elderly. The rights and obligations of the parties to marriage, as in the case of polygamy, people with disabilities or people without disabilities, are regulated by the particular rules and regulations of the various marriage acts, such as the Hindu Marriage Act, 1955, the Christian Marriage Act, 1872. The Child Marriage Restriction Act, 1929, as amended in 1978 to prohibit the formalization of child marriages, also extends to individuals with disabilities.^[8]

Labour law:

The rights of the impaired are not so explicitly laid out in labour law, but the rules pertaining to the impaired in their partnership with the workplace are laid down in subordinate laws, such as legislation, regulations and standing orders^[8]

Acts

Rights for persons with disability Act (2016)

1. Respect for human rights, moral liberty, including the right to make one's own decisions, and the equality of persons;
2. Non-discrimination in rights;
3. Total and successful engagement and involvement in society;
4. Respect for the distinctions and recognition of people with disabilities as part of individual diversity and humanity;

5. Equal opportunities;
6. Accessibility of access;
7. Equality for men and women
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to pre-serve their identities.
 - ◆ adopt legislation and other appropriate administrative measures where needed;
 - ◆ modify or repeal laws, customs, or practices that discriminate directly or indirectly;
 - ◆ include disability in all relevant policies and programmes;
 - ◆ refrain from any act or practice inconsistent with the CRPD;
 - ◆ take all appropriate measures to eliminate discrimination against persons with disabilities by any person, organization, or private enterprise^[9]

Guidelines for certification:

Pursuant to the Rules on Persons with Disabilities (Equal Opportunity, Protection of Freedoms and Complete Participation), 1996 notified by the Central Government on 31 December 1995 in the exercise of the powers bestowed by Sections (1) and (2) of Section 73 of the Act on Persons with Disabilities, the person authorized to grant a disability certificate shall be a medical board; Consisting of at least three representatives, of which at least one is a professional in a particular area for the evaluation of locomotor / visual, including affected vision / hearing and speech impairment, intellectual retardation and leprosy, as the case may be, properly named by the federal and state governments.

The specified tests, as indicated in the Guidelines, should be carried out by the Medical Board and recorded before the certificate I have issued. The certificate would be valid for a period of five years for persons whose disability I is temporary while it is valid for a lifetime in the case of permanent disability. The Director General of Health Services, Ministry of Health & Family Welfare will be the sole authority in the event of any dispute / doubt regarding the interpretation of definitions / classifications / assessments / tests, etc. In order to be eligible for any concession / benefit, the minimum level of impairment should be 40%. Vari-

ous benefits, in accordance with and in accordance with the PWD Act, various benefits and allowances are to be given to affected persons.^[9]

Mental health act, 2017:

Mental impaired people are applicable to the following rights:

The right to be diagnosed and cared for in psychiatric hospitals or nursing homes founded or operated by the government or any other body for the treatment and care of mentally ill persons.^[10] Mental ill people have the right to access from the State controlled, directed and organized mental health services. The Central Authority and the State Authorities established pursuant to the Act are responsible for such regulation and for issuing licenses for the establishment and maintenance of psychiatric hospitals and nursing homes.^[10] Treatment in the Government Hospitals and Nursing Homes mentioned above may be received either as a patient or on an outpatient basis. Mental patients may request voluntary admission to these hospitals or nursing homes, and minors may request admission through their guardians. Mental ill people have the right to be released when they are cured and have the right to 'leave' a mental health institution in compliance with the rules of the Act.^[10]

RCI Act, 1992

This Act offers assurances to ensure the high nature of the facilities provided by the different recovery workers.

1. To retain the privilege to be represented by skilled and certified health practitioners whose identities are kept in the Record held by the Council.
2. To ensure the preservation of the minimum levels of education necessary for the acceptance of recovery qualifications
3. To insure that the principles of ethical behaviour and integrity are upheld by recovery practitioners in order to defend from fines.
4. To have the guarantee of the regulation of the profession of rehabilitation professionals by a statutory council under the control of the central government and within the limits laid down in the statute^[11]

THE NATIONAL TRUST FOR WELFARE OF PERSONS WITH AUTISM, CEREBRAL PALSY, MENTAL RETARDATION AND MULTIPLE DISABILITIES ACT, 1999

1. The Central Government is expected to create the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in New Delhi, in compliance with this Act and for the benefit of the disabled.
2. The National Trust, formed by the Central Government, shall ensure that the items that have been defined as enshrined in the Act are located.
3. This is the duty on the part of the Board of Trustees of the National Trust to provide for an appropriate quality of life for any recipient specified in any order this receives, and to offer financial support to designated entities for the execution of any authorized plan for the benefit of the impaired.
4. Affected people have the option to be put under the tutelage designated by the local level councils in compliance with the rules of the Act. The guardians so named shall be expected to be liable for the affected individual and their properties and to be accountable for the alternative.
5. A person with a disability has the right to have his guardian removed under certain conditions. These include abuse or neglect of the disabled, or neglect or misappropriation of the property under the care of the disabled.
6. If the Board of Trustees is unwilling or persistently refuses to fulfill its functions, a recorded disabilities organization.
7. The National Trust shall be bound by the provisions of this Act with regard to its accountability, financial supervision, accounts and audit^[1]

CONFLICTS OF INTEREST: None

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REFERENCES :

1. World Health Organization. Disability prevention and rehabilitation: report of the WHO Expert Committee on Disability Prevention and Rehabilitation [meeting held in Geneva from 17 to 23 February 1981].
2. World Health Organization. Declaration of Alma-Ata: International Conference on Primary Health Care, Alma-

Ata, USSR, 6–12 September 1978.

3. World Health Organization. International Consultation to Review Community-Based Rehabilitation (CBR): Helsinki 25-28 May 2003. World Health Organization; 2003.
4. World Health Organization. CBR: A strategy for rehabilitation, equalization of opportunities, poverty reduction and social inclusion of people with disabilities: joint position paper.2005.
5. World Health Organization. Disability, including prevention, management and rehabilitation. Geneva, Switzerland: Author. 2005 May.
6. Naties V. Convention on the rights of persons with disabilities, New York: United Nations.2006
7. Smart J. Models of disability: The juxtaposition of biology and social construction. Handbook of rehabilitation counseling. 2004;25-49.
8. Bhattacharyya R. Disability Laws in India: A Study.2014;1(4).
9. Math SB, Gowda GS, Basavaraju V, Manjunatha N, Kumar CN, Philip S, Gowda M. The rights of persons with disability act, 2016: Challenges and opportunities. Indian journal of psychiatry. 2019 Apr;61(Suppl 4):S809.
10. Mishra A, Galhotra A. Mental healthcare Act 2017: Need to wait and watch. International Journal of Applied and Basic Medical Research. 2018 Apr;8(2):67.
11. Disabilityaffairs.gov.in (internet). department of empowerment of person with disability (divyangjan) government of India ministry of social justice and empowerment. Updated (02/04/2018). Available from: disabilityaffairs.gov.in/content/page/acts.php.
12. Munyi CW. Past and present perceptions towards disability: A historical perspective. Disability Studies Quarterly. 2012 Apr 9;32(2).
13. Barker RG. Adjustment to physical handicap and illness. Social Science Research Council; 1953.
14. O'hare C, Thomson D. Experiences of physiotherapists with physical disabilities. Physiotherapy. 1991 Jun 10;77(6):374-8.
15. Vargo JW, Semple JE. Professional and personal attitudes of physiotherapy students toward disabled persons. Australian Journal of Physiotherapy. 1988 Jan 1;34(1):23-6.

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