



JCGS Policy Brief

Analysis of Disability Laws in India

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Introduction

The right to self-affirmation, identity, and development is primarily denied to people with disabilities because they are the poorest of the poor and the weakest of the weak, as well as being at a disadvantage in terms of education, society, and the economy. Life is tough due to a hostile physical and social environment that excludes persons with disabilities from all social sectors, not because of the person's medical condition (Pandey & Charles, 2019).

According to Centres for Disease Control and Prevention (2020), disability is any physical or mental condition (impairment) that limits an individual's ability to participate fully in activities and in the environment around them.

Even though the Indian legislature has passed numerous laws and policies to ensure that disabled people in India have the same legal rights as other citizens in terms of employment, education, and health care, the Rights of Persons with Disability Act of 2016 does not include any guidelines for authorities to comply with its provisions. The authorities in question misuse the phrases "must endeavour" and "within the limits of their economic capabilities" (Rights of Persons with Disabilities Act, 2016). They use this as a basis to challenge the statute's legitimacy.

This article will analyze the problems in the Disability Act of India to preserve the rights of persons with disabilities and properly execute the legislation of the Rights of Persons with Disabilities Act of 2016. Detailed implementation guidelines must be established with effective dates, deadlines, alternative arrangements, temporary relief, and other criteria.

Indian Disability Policies

India ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) after adopting it. The Rights of Persons with Disability Act, 2016 (hereafter referred to as 'The Act') replaced the Persons with Disabilities Act 1995 to comply with the UNCRPD (Sharma, 2019). It was an important step toward ensuring that people with disabilities can access equal opportunities and fully participate in building our country. The Act outlines both preventive and promotional aspects of rehabilitation, including the rehabilitation of people with disabilities and housing for those with severe disabilities. It also covers reservations, full and effective social

participation, equal opportunity, nondiscrimination, and creating a barrier-free environment. The Act's goals and objectives, however, have not been achieved.

Flawed definition and lack of data

According to the United Nations Development Program and other surveys, the data on the population of people with disabilities in the 2001 census is incorrect ('Rights of Persons with Disabilities Act brought little change' 2020). This is due to several reasons, including the lack of training and awareness among enumerators about disabilities, as well as the flawed definition of "disability." Although the 2016 Rights of Persons with Disabilities Act aims to address all types of disabilities, it has a limited definition of what constitutes a disability and does not acknowledge the global classification issued by the WHO. In developed countries like Australia, the UK, and the USA, the definition of "disability" is more inclusive, including individuals with internal conditions that may not be visible (Kothari, 2010). As a result of this flawed definition, the total number of disabled people in India remains unknown.

The availability of valid and reliable data is critical to develop and evaluate policies and programs implemented by Governments at various stages.—One of the causes is that enumerators are untrained and have minimal awareness about disability in people due to the flawed definition of what 'disability' is.

With little knowledge and training, the enumerators in 2001 discovered that 2.1% of the population comprises disabled people (Census of India, 2001). The census only covered five different categories of disabilities, completely ignoring people with mental and intellectual disabilities. According to the 2011 census, there are around 26.8 million disabled people in India. This equates to 2.21% of the overall population, of which 14.9 million men and 11.8 million women, 18.6 million live in rural areas and 8.2 in urban areas, and who together make up a total population of 34.9 million (Registrar General of India, 2016).

Issue in Education, Reservation, Infrastructure and Employment

Despite India's Right to Education, 9,90,000 children between the ages of six to fourteen who are among the nation's 2.9 million disabled children do not attend school, according to a UNESCO and UNICEF report (*Making Schools Accessible to Children with Disabilities*, 2016). Children without disabilities have little to no experience with disabilities as they grow up. The government of India is yet to produce some concrete laws that focus solely on the education of children with disabilities (Gulyani, 2017); reservations for positions and seats in higher education programs are pointless because not enough disabled persons qualify for these positions and seats. For instance, few students with disabilities complete the Secondary School Leaving Certificate (SSLC) (*'Rights of Persons with Disabilities Act brought little change'* 2020). Where is the question qualifying for professional courses? These just serve to illuminate further why reforming our society has proven to be so challenging. The administration has adopted a top-down strategy. The grassroots level is where this strategy fails.

Even though the Indian Constitution guarantees equal rights, disability continues to be a source of societal prejudice and inequality. People with disabilities have fewer opportunities to engage in popular social, political, and economic activities, which reduces their chances of empowerment.

Workplace discrimination is still a major issue for the community, notwithstanding the Rights of Persons with Disabilities Act, 2016, which forbids employers from doing so in any aspect of employment. Including ramps, elevator access, accessible restrooms, expanding entrances and hallways, etc., are some of the most often made physical adjustments to buildings. There are several ways to increase accessibility. In India, most courts do not have accessible restrooms and ramps. People with disabilities are not common in our public lives. The Accessible India Campaign found that less than 50% of our government buildings are accessible to people with disabilities (*Accessible India Campaign* 2021).

Conclusion

In the developing world, disabled individuals are not only the poorest people, but also the most mistreated (Lakshmana & Maruthi, 2018). Every nation has people with disabilities, and

many of them deal with prejudice daily. People with disabilities have the right to life, liberty, equality, security, and dignity simply because they are human. Disabled individuals in India, however, continue to be an underrepresented group due to social prejudice, psychological barriers, a limited definition of "disability" that qualifies for statutory protection, and a dearth of reliable statistics. Numerous issues affect people with impairments, such as lack of resources, societal stigma, and hostile attitudes.

To guarantee that the "accessibility" clause is put into practice, the relevant authorities still need to act. The government frequently uses the phrase "within the limits of their economic capacity." (Rights of Persons with Disabilities Act, 2016, India); they use this phrase to argue against the statute's right. To ensure that the provisions of the Indian Act are effectively observed, a deadline must be set for the authorities to comply to. The disability rights movement has resulted in some reforms over the last 20 years, but they have been excruciatingly slow. Persons with disabilities must feel included in society. Inclusion should become a part of our culture, service, and goods, from the physical environment to workday structure and technology.

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