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Review of special education services and legislative provisions in higher education for women with disabilities

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Abstract

According to Pandit Jawahar Lal Nehru "When women move forward, the family moves, the village moves. But in India, women have been victims of stigma and discrimination, oppression, violation since decades. As far as disability is concerned, women with disability become double source of discrimination, isolation and stigma on the ground of gender and impairment. Though the world celebrated international year of women in 1975 and year of disabled in 1981. They are deprived of many opening available in the society and especially women with disability deprived of access to many facilities and services. Women with disabilities are the most vulnerable in Indian society. Disability affects hundreds of millions of families in developing countries. Currently around 10% of the world's population or roughly around 650 million people live with disability. Around 21 million people have different types of disabilities.

According to census 2001, the total population of disability is 21906769 out of which 9301134 are women (Census, 2001). As per Census 2011, in India, out of the 121 Cr population, about 2.68 Cr persons are 'disabled' which is 2.21% of the total population. In an era where 'inclusive development' is being emphasized as the right path towards sustainable development, focused initiatives for the welfare of disabled persons are essential. This emphasizes the need for strengthening disability statistics in the Country (Disability Report, 2016).

As far as Education is concerned, education is seemed less important for girls in Indian society as they are not expected to become bread winners. Disabilities limit their opportunities even more. The higher education system in India is a powerful tool to build a knowledge-based society.

The United Nations Convention on Rights of People with Disabilities (UNCRPD) that was adopted in 2006 is a landmark convention which first time in history, talks about the concerns and issues of people with disabilities at a global forum. Before this in 2000, 'The Biwako Millennium Framework' already talked in seven principles about the Right Based Society and Women with Disabilities.

The present study will review the special education services and legislative provisions related to women with disabilities in all aspects like social and educational etc. in India. In this paper the investigator will find out the reasons for not getting the benefits of government policies and programs for women with disabilities and discuss experience in the field of rehabilitation related to women with disabilities. The researcher will also explain the provisions of education for women with disabilities with reference to Right to Persons with Disabilities Act 2016.

Keywords: UNCRPD, the biwako millennium framework, RPWD

Introduction

Women and disability are a growing concern and seems to be increasing rapidly. According to census 2001, there are 2.19 crore persons with disabilities in India who constitute 2.13% of the total population. This includes persons with visual, hearing, speech, locomotors and mental disabilities. 75% of the persons with disabilities live in the rural areas, 49% of the disabled are literates and only 34% are employed. The earlier emphasis on medical rehabilitation has now been replaced by the emphasis on social rehabilitation. There has been an increasing recognition of abilities of persons with disabilities and emphasis on mainstreaming them in the society based on Capabilities. The government of India has enacted 3 legislations for the persons with disabilities. According to census 2001, the total population of disability is 21906769 out of which 9301134 are female (Census, 2001). As per Census 2011, in India, out of the 121 Cr population, about 2.68 Cr persons are 'disabled' which is 2.21% of the total population. In an era where 'inclusive development' is being emphasized as the right path towards sustainable development, focused initiatives for the welfare of disabled persons are essential.

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This emphasizes the need for strengthening disability statistics in the Country (Disability Report, 2016).

Historical Perspective of Education for Persons with Disabilities: The history of education of persons with disabilities is progression from segregation to integration, and now to inclusion. It may be important to look at the development in the West, in England in particular since a general perception persists in this country that our system has been influenced by the British education system. In India, we do not have such parallel legislations, though we have policy statements from time to time including the Persons with Disability Act of 1995, which encourages for integrated education. However, we have not been able to provide the constitutionally guaranteed elementary education for eight years to all children, despite the repeated promises, programs and projects. The gaps between educational opportunities in India are not confined only to the disabled and non-disabled, it may be seen across the country among its diverse population as well as the geographical spread.

Recently in India, the situation of women with disability revealed by the national survey of disability organizations shown not good. The population of women is 28.45% of the entire strength of the decision-making bodies and women with disability having only 3.71%. There are only 25% of the women with disability were the program beneficiaries, and the girls who were receiving education only 38.34%. The national conference on employment found the issues of women with disability as a priority area. It was pointed out by the panel of women that many organizations are working for women with disabilities but very less initiatives taken in India for the problems of women with disabilities. At the end, the women with disabilities faced lot of reproductive health issues and sexual diseases. Through higher education, awareness could be spread among the women with disabilities.

Disability: The first ever *World report on disability* produced jointly by WHO and the World Bank, claims that at present, 1 billion people are estimated to live with some form of disability, which is about 15% of the world population. Around 190 million (3.8%) people are at the age of 15 years (WHO 2019). The number of people living with disability is increasing due to ageing populations and increasing chronic health conditions and demographic trends. Different disabilities cause poor health, lower education achievements, fewer economic opportunities and higher rates of poverty among people with disabilities. This is largely due to the lack of services available to them and if exist, they are invariably of poor quality or under resourced. However, all people with disability have the same general healthcare needs as everyone else, and therefore need access to mainstream healthcare services. Disability is extremely diverse. At present, almost everyone is likely to experience some form of disability temporary or permanent at some point in life. People with disabilities and older having significant difficulties in functioning, often requiring healthcare services.

In order to develop awareness in the higher education system and also to provide necessary guidance and counselling to differently-abled persons, it is expected that the Institutes.

Special Education Unit Services

1. Facilitate admission of differently-abled persons in various courses;
2. Provide guidance and counselling to differently abled individuals
3. Create awareness about the needs of differently abled persons, and other general issues concerning their learning
4. Assist differently-abled graduates to gain successful employment in the public as well as private sectors.

The major functions of the Enabling Unit will be as follows

- To provide counselling to differently - abled students on the types of courses they could study at the higher education institutions.
- To ensure admission of as many differently-abled students as possible through the open quota and also through the reservation meant for them.
- To gather orders dealing with fee concessions, examination procedures, reservation, policies, etc., pertaining to differently-abled persons.
- To assess the educational needs of differently abled persons enrolled in the higher education institutes to determine the types of assistive devices to be procured.
- To conduct awareness programmes for teachers of the institute about the approaches to teaching, evaluation procedures, etc, which they should address in the case of differently-abled students.
- To study the aptitude of differently-abled students and assist them in getting appropriate employment when desired by them after their studies.
- To celebrate important days pertaining to disability such as the World Disabled Day, White Cane Day, etc., in the institute and also in the neighbourhood in order to create awareness about the capabilities of differently-abled persons.
- To ensure maintenance of special assistive devices procured by the higher education institute under the HEPSN scheme and encourage differently-abled persons to use them for enriching their learning experiences.
- To prepare annual reports with case histories of differently-abled persons who are benefited by the HEPSN scheme sanctioned to the higher education institute.

Providing access to differently – abled persons

It has been felt that differently-abled persons need special arrangements in the environment for their mobility and independent functioning. It is also a fact that many institutes have architectural barriers that disabled persons find difficult for their day-today functioning. The colleges are expected to address accessibility related issues as per the stipulations of the Persons with Disabilities Act 1995, and ensure that all existing structures as well as future construction projects in their campuses are made disabled friendly. The institutes should create special facilities such as ramps, rails and special toilets, and make other necessary changes to suit the special needs of differently-abled persons. The construction plans should clearly address the accessibility issues pertaining to disability. Guidelines on accessibility laid out by the office of the Chief Commissioner of Disabilities.

Providing Special Education Equipment to augment educational services for differently abled persons

Differently-abled persons require special aids and appliances for their daily functioning. These aids are available through various schemes of the Ministry of Social Justice and Empowerment. In addition to the procurement of assistive devices through these schemes, the higher education institute may also need special learning and assessment devices to help differently-abled students enrolled for higher education. In addition, visually challenged students need Readers. Availability of devices such as computers with screen reading software, low-vision aids, scanners, mobility devices, etc., in the institutes would enrich the educational experiences of differently-abled persons. Therefore, colleges are encouraged to procure such devices and provide facility of Readers for visually challenged students.

Women and Disability Laws

The Constitution of India premised on the principle of social justice and human rights. It mandates the State to accord justice and equality to all members of the society in all the facets of human activity. In India there are four other legislations specifically directed towards the protection, welfare, rehabilitation and development of people with disabilities. However, these enactments are covering all respective issues of disability but remain silent on the discrimination and violence faced by women with disabilities that differentiate their situation from men with disabilities. India has ratified the United Nation Convention on the Rights of Persons with Disabilities, 2006 (UNCRPD), in September, 2007, which is emphasizing on issues of multiple discrimination against women with disabilities. Further in order to incorporate the significant provisions enshrined in the UNCRPD (2006) in our national legal frame work Indian parliament has drafted a bill named as “The Rights of Persons with Disabilities Bill, 2014”

Status of Women with Disabilities Girls and women of all ages with any form of disability are among the most vulnerable and marginalized group of society. Despite their significant numbers, they remain hidden and silent, their concerns unknown and their rights unrecognized. Women with disabilities carry society’s cross on their backs and they face triple discrimination because of their disabilities, gender and poverty. They are commonly stereotyped as sick, helpless, childlike, dependent, incompetent and asexual, greatly limiting their options and opportunities. They are subjected to physical, psychological, sexual and financial violence, neglect, social isolation, trafficking, institutionalization, degradation, detention, denial of health care and forced sterilization and forced psychiatric treatment. They are at high risk of gender-based and other forms of violence based on social stereotypes and biases that attempt to dehumanize them. Violence against them occurs in various spheres, including in the home and the community. The forms of violence to which women and girls with disabilities are subjected are varied and represent intersectional and multiple discrimination based on gender and disability. Across the globe, forced sterilization is performed on young girls and women with disabilities for various purposes, including eugenics-based practices of population control, menstrual management and personal care, and pregnancy prevention (Including pregnancy that results from sexual abuse).

The practice of forced sterilization has been debated and justified by governments, legal, medical and other professionals, and family members and carers as being in the “best interests” of women and girls with disabilities. However, arguments for their “best interests” often have little to do with the rights of women and girls with disabilities and more to do with social factors, such as avoiding inconvenience to caregivers, the lack of adequate measures to protect against the sexual abuse and exploitation of women and girls with disabilities, and the lack of adequate and appropriate services to support women with disabilities in their decision to become parents. Systemic prejudice and discrimination against women and girls with disabilities continues to result in widespread denial of their right to experience their sexuality, to have sexual relationships and to found and maintain families. The educational arena is also part of a larger picture of double discrimination based on gender. Women and girls with disabilities fare less in the educational arena than either their disabled male or nondisabled female counterparts. Further, in employment, women with disabilities often experience unequal hiring and promotion standards, unequal access to training and retraining, unequal access to credit and other productive resources, unequal pay for equal work and occupational segregation. Moreover, disabled women are less likely than disabled men to make use of many existing social services, including residential services, due to social, cultural and religious factors.

The problems that confront women with disabilities are even more severe in the rural areas due to lack of information, awareness, education, income, and contact resulting in extreme isolation and invisibility. Crime against disabled girls and women are also frequently unreported because they and their families have no courage or strength to report these to police. Public awareness about such matters consequently remains low and follow-up action on their behalf does not takes place. The situation of women with disabilities in respect of access to justice and protection from abuse is also aggravated by the impact of the combined effects of both gender and disability. They even lack access to legal protection and representation as law enforcement mechanisms and national – level legislations, policies are ill-equipped to address their issues. Although some progress has been made in improving the status of women in general, disabled women have remained a largely ignored group. Equality of opportunity and treatment for women has yet to be achieved in most societies.

Legal Framework for the Protection of Rights of Women with Disabilities in India

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, shortly called as PWD Act, is the principal and comprehensive legislation concerning disabled persons. It has fourteen chapters dealing with various issues.

The Rehabilitation Council of India Act 1992 under this act, the Rehabilitation Council of India

RCI has been constituted which is the government body, to regulate training programmes and courses targeted at disabled, disadvantaged, and special education requirement communities. It is the only statutory council in India that is

required to maintain the Central Rehabilitation Register which mainly documents details of all qualified professionals who operate and deliver training and educational programmes for the targeted communities. In the year 2000, the Rehabilitation Council of India (Amendment) Act, 2000, was introduced and notified consequently by the government of India. The amendment brought definitions and discussions provided within the earlier Rehabilitation Council of India Act, 1992, under the ambit of a larger act, namely, PWD Act, 1995.

The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999

As certain groups among the disabled are more vulnerable than others, a special enactment for the protection of such persons, their property and well-being was felt necessary. The enactment of this Act aims to fulfil a common demand of families seeking reliable arrangement for their severely disabled wards. The specific objectives of the Act are to enable and empower persons with disabilities to live as independently and as fully as possible within and as close to the community to which they belong; to promote measures for the care and protection of persons with disabilities in the event of death of their parent or guardian; and to extend support to registered organisations to provide need-based services during the period of crisis in the family of disabled covered under this Act.

The RPwD Act, 2016 was enacted on 28.12.2016 which came into force from 19.04.2017. The salient features of the Act are

1. Responsibility has been cast upon the appropriate governments to take effective measures to ensure that the persons with disabilities enjoy their rights equally with others.
2. Disability has been defined based on an evolving and dynamic concept.

The Act covers the following specified disabilities:

Physical Disability

Locomotor Disability

1. Leprosy Cured Person
2. Cerebral Palsy
3. Dwarfism
4. Muscular Dystrophy
5. Acid Attack Victims

Visual Impairment

1. Blindness
2. Low Vision

Hearing Impairment

1. Deaf
2. Hard of Hearing

Speech and Language Disability

Intellectual Disability

1. Specific Learning Disabilities
2. Autism Spectrum Disorder

Mental Behaviour (Mental Illness)

Disability caused due to

Chronic Neurological Conditions such as-

1. Multiple Sclerosis
2. Parkinson's Disease

Blood Disorder

1. Haemophilia
2. Thalassemia
3. Sickle Cell Disease

Multiple Disabilities

1. Additional benefits have been provided for persons with benchmark disabilities and those with high support needs.
2. Every child with benchmark disability between the age group of 6 and 18 years shall have the right to free education.
3. 5% reservation in seats in Government and Government aided higher educational institutions for persons with benchmark disabilities.
4. Stress has been given to ensure accessibility in public buildings (both Government and private) in a prescribed time-frame.
5. 4% reservation in Government jobs for certain persons or class of persons with benchmark disability.
6. The Act provides for grant of guardianship by District Court or any authority designated by the State Government under which there will be joint decision – making between the guardian and the persons with disabilities.
7. Broad based Central & State Advisory Boards on Disability to be set up as policy making bodies.
8. The Act provides for strengthening of the Office of Chief Commissioner of Persons with Disabilities and State Commissioners of Disabilities which will act as regulatory bodies and Grievance Redressal agencies and also monitor implementation of the Act. These Offices will be assisted by an Advisory Committee comprising of experts in various disabilities.
9. Creation of National and State Fund to provide financial support to the persons with disabilities.
10. The Act provides for penalties for offences committed against persons with disabilities.
11. Designated special Courts to handle cases concerning violation of rights of PwDs.

Accessibility Guidelines and Standard for Higher Education Institutions and Universities

The University Grants Commission has introduced various initiatives to provide the facilities required by persons with disabilities to ensure their equal participation and inclusion in Higher Education Institutions (HEIs). With an increase in the number of benchmark disabilities and recognizing their needs, it has become imperative to prepare the guidelines to ensure the inclusion of persons with disabilities in HEIs and Universities in an effective manner.

An expert committee has been constituted by the Chairman, UGC to prepare the Accessibility Guidelines and Standards for Higher Educational Institutions and Universities for persons with disabilities are intended to suggest the HEIs make provisions for persons with disabilities and to provide them an accessible environment for their barrier-free participation in all respect. Each HEI is required to develop an effective accessible mechanism at their premises for the persons with disabilities ranging from the admission process till the completion of the course.

To effect the United Nations Convention, the Rights of Persons with Disabilities (RPWD) Act, 2016 was enacted replacing the erstwhile Act, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995. Section 16, 17, and 18 of its Chapter III (Education) pertains to the duty of the educational institutions and specific measures to promote and facilitate inclusive education; and adult education respectively.

The National Education Policy (NEP) 2020 also envisages that education is the foremost primary measure to achieve economic and social mobility, inclusion, and equality. It highlights the inclusive practices by making corresponding changes in curriculum, pedagogies, continuous assessment, and student support systems to ensure quality education.

Taking a comprehensive view of the inclusion of persons with disabilities in HEIs, these guidelines cover the parameters such as the need assessment and support provision for diverse benchmark disabilities; accessible information, communication and learning resources; inclusive mobility infrastructure; universal accessibility in built infrastructure; accessible curriculum, teaching and learning systems, accessible assessment and examination system, accessibility of resources and services, inclusive campus life; and Governance and Monitoring of Accessibility and Inclusive Practices. Nevertheless, the HEIs may include provisions apart from these to provide equal participation in all respect.

It is hoped that the provisions covered under these guidelines will help the HEIs develop an inclusive mechanism to provide an accessible environment for persons with disabilities to live independently and participate fully in all respects of their educational life.

Conclusion

Hence, we can conclude that women with disabilities are amongst the most marginalized and disadvantaged people in the world. The intersection of gender inequality and disability presents a situation of multiple levels of discrimination. They are less likely to be educated, employed and well-housed than almost any other population group. They have not only been invisible in international development frameworks but also in international human rights treaties. Until the adoption of UNCRPD, there was no legally binding international law that explicitly named women and girls with disabilities as requiring protection which has also been ratified by India. A gendered reading of disability law reveals that there is a need to incorporate gender concerns in India. There is a need to adopt such strategies to ensure that women with disabilities are not neglected from policies and programmes.

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