

Disability Act-2016: An Analytical Study

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Abstract

Presently human rights are being considered as a moral principle of life in the whole world. All human beings should enjoy equal rights without any discrimination on the basis of race, sex, nationality and capabilities. Thus the rights of people with disabilities have become an important issue throughout the world. Several steps are being taken for the welfare and development of disabled people. Rights of Persons with Disabilities (RPWD) bill was passed and came into force as RPWD Act 2016 on 19th April 2017. United Nations convened a convention on the Rights of Persons with Disabilities (UNCRPD) in 2006 ratified by India in 2007. Persons with Disabilities (PWD) act 1995 based on medical perspective of disability is replaced by this act which is more comprehensive. The number of disabilities increased to 21 from 7 along with a number of new provisions of education especially inclusive education through institutional arrangements. The act RPWD-16 is definitely a milestone in the process of optimum development of persons with disability. Society and Countries were not much aware regarding the education of person with disabilities. People always underestimate their abilities. But they prove that they are differently abled in many ways and the needs of their education in inclusive environment has come into focus. Both inclusive education and RPWD Act now work for welfare and development of disabled people and helps to achieve desirable aims. The act has played an active role in encouraging and ensuring inclusive education. This paper intends to highlight the role of the act in ensuring the educational rights of persons with disabilities through inclusive education to educate them.

Keywords: Human Rights, inclusive education, persons with disabilities act, RPWD act, UNCRPD

Introduction

Disability actually is an umbrella term and it covers impairment, activity limitation and participation restriction. The attitude towards persons with disabilities has now begun to change. According to Article 41 of the Constitution of India (1950) embodied in its claws the Right To Free And Compulsory Education for all children up to age 14 years. “The Indian Constitution by its 86th amendment act 2002 Article 21 A ensures free and compulsory education for all children in the age group of 6 to 14 years as a fundamental right in such a manner as the state may by law determines with effect from 1st April 2010” (The Gazette of India August 27, 2009).

The year 1981 was declared as “The International Year of Disabled Person” Since that time the essential needs and priorities of rights of disabled people have been acknowledged by the society instead of old conservative definition of being “Punished by God”. More recently “The Convention on the Right of Persons with Disabilities of United Nation” (UNCRPD) was 2008 signed by 160 countries of the world including India to ensure the rights of equality, a life of dignity and respect.

Rights of persons with disabilities (RPWD) bill was passed by Rajya Sabha on 14th December 2016 and was enforced as RPWD Act 2016, on 19th April 2017 replacing persons with disabilities (PWD) act 1995.

United Nations General Assembly adopted its convention on the right of persons with disabilities on 13th day of December 2006 based on the following 8 principles:-

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices and independence of persons
- Non discrimination
- Full and effective participation and inclusion in society
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
- Equality of opportunity
- Accessibility
- Equality between men and women
- Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Salient Feature of RPWD Act -2016

The act consists of 17 chapters and one schedule. The act is addressed to the appropriate Government and the local authorities to enforce its provisions for taking suitable measures to ensure that the said rights are enjoyed by persons with disabilities.

- One of the most important RPWD Act 2016 is that the number of recognised disabilities have been increased to 21 from 7.
 - The definition of disability is based on an evolving and dynamic concept.
 - The central government is empowered to add more types of disabilities, and free education from 6 to 18 years of the age to every child with benchmark disability.
 - Reservation has been increased from 3 % to 4% for the differently abled person in the education and government jobs.
 - All the existing infrastructure and premises should be made disabled friendly within the provided time limit.
 - The obligations laid down in the Act are mandatory for both Government and private establishments.
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- National and state funds will be created to provide financial support.
- The existing funds will be subsumed with the national fund.
- Grant of guardianship by District Court.
- Each district will be designated with special Courts to handle cases concerning violating of rights of PWDs.
- Additional benefits to persons with benchmark disabilities like reservation in higher education, government job, land allocation, poverty alleviation schemes etc.

The number of disabilities in this act increased from 7 to 21, so as to ensure the educational right of all children and encourage & ensure active role of the Institution and regular classroom teachers, special educators, and administrators even more. All the teachers should be equipped with better & more comprehensive skills to cater to the special educational needs of students with wider spectrum of disability.

Specific Provision for Education:

Chapter III, section 16 of the act discusses the educational rights of the persons with disability, admission without any discrimination.

Sports and recreational activities with others:

- Make building campus accessible with various facilities to provide support services to optimize their social and economic development.
- Appropriate language modes for communication for the blind with deaf and the blind individuals.
- Children with specific learning disabilities should be early identified and intervention is ensured as early as possible.
- Reasonable accommodation should be provided according to requirement
- Monitor participation progress in terms of attainment levels and completion of education in respect of every student with disabilities
- Children with disabilities should be provided with transportation facilities along with the attendant of the children with disabilities having higher support needs.

Section 70 of RPWDACT 2016 describes the following measures to implement section-16:

- To conduct a survey school going children in every 5 years to identify children with disabilities.
 - Establishment of adequate number of Teachers Training Institutions.
 - To train professionals and staff to support inclusive education.
 - Adequate number of resource centers to support inclusive education.
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- To provide books, other learning materials and appropriate assistive device to student with benchmark disabilities free of cost up to the age of 18 years.
- To provide scholarship in appropriate cases to students with benchmark disabilities.
- To make suitable modification in the curriculum and examination system.
- To promote research to improve learning and other measures as may be required.

The section 19 of the chapter IV of this act related with skill development and Employment of persons with disabilities especially for their vocational training and self employment.

- Inclusion in all mainstream formal and nonformal vocational and skill training schemes and programs.
- To ensure the adequate support and facilities to level specific training.
- Skill training program linking with the market.
- Loans at concessional rates including micro credit.
- To market the product made by persons with disabilities.

Chapter V of this act deals with social security health rehabilitation and recreation. Section 24(3) provides social security to orphans, homeless and abandoned children with disabilities to enable them to live with dignity. Disability pension, unemployment allowance, caregiver allowance, comprehensive insurance scheme for persons with disability are also promoted.

Section 27 of the chapter directs competent authority to provide rehabilitation services and facilities for health education and employment.

Chapter VI and section 31 of the act provides the right to free education in a neighborhood school or in a special school of his/her choice in an appropriate environment between the ages of 6 to 18 years of every child with benchmark disability.

Section 32(1) provides reservation to persons with benchmark disabilities in all higher educational institute receiving government grant is not less than 5%.

Section 32(2) also provides upper age relaxation of 5 years to persons with benchmark disabilities.

Section 34 (1) provides 4% reservation in government jobs to persons with benchmark disabilities.

Chapter VIII and section 45 (1) are extremely useful for empowerment of persons with disability through education and employment.

Section 45(1) directs competent authority to make accessible to all public buildings including schools, colleges within a period not exceeding 5 years accessible to all.

Section 47 (1) directs competent authority for induction disability as a component for all education courses available in schools, colleges and universities with special focus on sports, games adventure activities for the persons with disabilities. Proper provision for creating awareness for inclusive education at different levels is made through this section.

Chapter XVII titled miscellaneous of this act mentions the legal powers that the Central, State or the local governments have in order to ensure the welfare of persons with disabilities.

Inclusive Education

The word inclusion literally means “to include” or “bring together”. Inclusive education is when all students, regardless of any challenges they may have, are placed in age appropriate general education classes that are in their own neighborhood schools to receive high quality instructions, interventions and supports that enable them to meet success in the core curriculum. (Bui, Quirk, Almazan & Valenti; 2010; Alquraini & Gut, 2012). According to the census of 2011 the number of PWDs in India are 21.8 million and our education system should be able to provide an opportunity for inclusive education otherwise large number of PWDs will remain uneducated. So the great need of inclusive education is recognised and inclusive education believes that,

- Every child has the ability to learn.
- Able to attend appropriate general class in neighboring schools.
- Should be provided with individualized education program.
- Should be provided in appropriate curriculum according to their needs.
- Should participate extracurricular activities.
- Proper cooperation from every angle.
- Use of optimum capability of every child.
- Instruction by properly trained special educator and teachers.

“All the power is within you, you can do anything and everything. Believe in that don't believe that you are weak. Stand up and Express the divinity within you.” - Swami Vivekananda.

Inclusive Education and RPWD Act 2016:

Plato states-“Education developing in the body and in the soul of people, all the perfection he is capable of” Aurobindo states- “Education means helping the growing soul to draw out this is in itself”.

Gandhiji says, “by education I mean all round drawing out the cost in child and man body mind and spirit”. Swami Vivekananda has said, “Education is the manifestation of perfection already existing in man” But the people, Society and Nation were not much aware regarding the education of people with disability. People always underestimate their abilities. But it has been proved that they are differently abled in many ways and the needs of their education in an inclusive environment come into focus. Both inclusive education and RPWD Act now work together for the welfare and development of disabled people and helps to achieve desirable aims. The act plays active role for legislation to work more freely and sincerely of inclusive education.

RPWD Act and It's Implications for Inclusive Education:

Some chapters of the said act directly or indirectly related with inclusive education as for example chapter number II, III, IV, V, VI, VII, VIII & IX. This act already accepts and describes 21 disabilities and enforces a number of laws to take appropriate measures for the development of persons with disabilities.

- Chapter I focuses the definition of inclusive education and its implication as a mode of education.
- Chapter III describes discrimination free education system suitable for every individual with diversity.
- RPWD act helps to get equal space for everyone and provides an equal and non - discriminating environment to disable persons in general schools.
- Discusses the admission, retention, and full participation of children with disabilities.
- It focuses the objectives of inclusive education. Awareness campaign for rehabilitation of PWDs and prevention of the diseases that may cause disabilities.
- Focuses on the barrier free environment in schools colleges and Society.
- Focuses on cooperation from the society, active participation of parents and family and issuing of disability certificate for proper identification, social security and safety.
- This act focuses for age relaxation of PWDs.
- Focuses on research work on disabilities.
- The act through special measure and provision helps benchmark disabilities for inclusive education to get better facilities and jobs.
- This act includes 21 categories of disabilities and helps to make education more accessible and inclusive for everyone.
- The Act has mentioned the penalties and punishment for refusing admission by Educational Institutes to encourage inclusive education.
- This act connects the PWDs to the society actively by facilitating polling rights, which is the main aim of inclusion.
- This act provides materials, information and facilities to Educational Institutes in order to promote inclusive education.

Conclusion

The main reason of this act is that disability is an integral part of human diversity. So now there is a powerful legal instrument for PWDs for inclusion in the social, cultural and political life in the community without any physical and attitudinal barrier. However, lack of awareness campaign to adopt inclusive attitude and lack of competent specialised teachers and lack of proper evolution system for disabled persons sometimes create problems to achieve the determined goal of the inclusive education magnanimously. For learning of the effectiveness of the RPWD act in our social and national context more studies are required.

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