



A Study of RPWD ACT-2016: Provision and Implementation

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ABSTRACT

Rights of Persons with Disabilities (RPWD) Act, 2016 is basically enacted to operationalize human rights enshrined in the United Nation Convention on Rights of Persons with Disabilities (UNCRPD), ratified by India in 2007. This act is a lot more comprehensive than the Persons with Disability (PWD) Act, 1995. The number of disabilities increased from seven to twenty-one in this act along with a number of new provisions and institutional arrangements, therefore, it presents many challenges before school education. This paper includes specific provisions with their implications with reference to teachers, special educators, and school administration. It also covers the concerns and challenges emerging from the act.

Keywords: *Persons with Disability Act, Rights of Persons with Disabilities Act, UNCRPD.*

INTRODUCTION

India after signing and ratifying the UNCRPD in 2007, the process to enact new legislation in place of the Persons with Disabilities Act, 1995 (PWD Act, 1995) began in the year 2010 to make it compliant with the UNCRPD. After various consultation meetings and drafting process, the Rights of PWD Act, 2016 (RPWD Act, 2016) was passed by both houses of the Parliament. It was notified on December 28, 2016, after receiving the presidential assent. Principles stated to be implemented for the empowerment of persons with disabilities (PWD) are respect for individual autonomy, inherent dignity including the freedom to make one own choice, and independence of persons. The Act lays stress on effective participation and inclusion in society, non-discrimination, respect for difference and acceptance of disabilities as an integral part of human diversity and humanity, accessibility, equality of opportunity, equality between women and men, respecting evolving capacities of children with disabilities, and respecting right of the children with disabilities to preserve their identities. The principle reflects a paradigm shift in the matter of disability from a social welfare concern to a human rights issue.

Disability can be defined as the condition which may restrict a person's mental sensory or mobility functions. It definitely does not mean a disabled person is unable to do all the important



aspect. It affects a person's activities that might have been be present from birth or occur during a person's lifetime. Disabilities affect a person in several ways. Some people who need wheel chair, some people are deaf, blind or mentally retarded. People with disability may require to assist to overcome the effect of their disability. Disability is very much a part of the human experience; almost everyone is temporarily or permanently impaired at some point in life. Their difficulties increase as we get old. The meaning of disability is different from community to community. The use of it may be as per different models such as social and medical model. Medical model basically deals with the physical and mental attribute of a person, which are intuition of medical view and social model deals with constraints imposed by the society.

According to the preamble to the United Nations Convention on the Rights of Persons with Disabilities (2006), the disability arises from the interaction between the impairment a person may suffer and barriers that "hinder their full and effective participation in society on an equal platform with others." It also includes „long- term physical, mental, intellectual or sensory impairments“ whilst the barriers can be attitudinal or environmental. Recently GOI passed the Rights of Persons with Disabilities Bill 2016; the Parliament has adopted a radically transformative piece of legislation that addresses the concerns of the most marginalized section of Indian society. The World Bank estimates that about 15% of the world's population is affected by one disability or the other. Exclusion of persons with disability from the labour market leadsto an annual loss of approximately 3-7% of the GDP. According to the Census 2011, India is home to almost 26.8 million people with disabilities and that is a huge underestimation. The RPWD Act, 2016 says that "the appropriate Government shall ensure that the PWD enjoy the right to equality, life with dignity and respect for his or her own integrity with others." The Rights of Persons with Disabilities Bill, 2014 was introduction into Parliament on 7th February 2014 and was passed by the Lok Shabha on 14th December 2016. The bill was passed by Rajya Sabha on 16th February 2016 and received the President's assent on 28th December 2016. The Act, finally become operational on 19th April, 2017.

The Central Government rules 2017 have been notified under section 100 of the Act and have come into force with effect from 15th June 2017. The PWD Act, was focused more on right The substantive provisions of the Act- relate to prevention and early detection, education, employment, affirmative action, non- discrimination / barrier free access, research and manpower development and institutions for persons with severe disabilities.

After the implementation of RPWD Act, 2016 the types of disabilities increased from existing 7 to 21 and the Central Government will have the power to add more types.

The 21 disabilities are given below:

1. Blindness
2. Low-Vision
3. Leprosy cured persons
4. Hearing Impairment



5. Locomotor Disability
6. Dwarfism
7. Intellectual Disability
8. Mental Illness
9. autism spectrum disorder
10. Cerebral Palsy
11. Muscular Dystrophy
12. Chronic Neurological Condition
13. Specific Learning Disabilities
14. Multiple Sclerosis
15. Speech and Language Disabilities
16. Thalassemia
17. Hemophilia
18. Sickle Cell disease
19. Multiple Disabilities, including deaf blindness
20. Acid Attack Victim
21. Parkinson's Disease

OBJECTIVE OF THE STUDY

- To Study the specific provisions with their implications with reference to the teachers, special educators, and school administration in the school system in the light of RPWD Act 2016.

REVIEW OF RELATED LITERATURE

The review of related literature is very essential for a successful completion of research. A careful review of literature is one of the major steps in any research study. It helps the researcher to understand and lay a sound foundation for his/her investigation. Bruyère, S.M. (2000). has strongly advocated that woman with disabilities should take up their right to approach the appropriate authorities to do the needful. He has put emphasize the independent development and integration of the woman with disabilities in the mainstream of development for which they themselves should come forward to establish their rights.

Bhatnagar & Das (2013) has very strongly advocate that the regular secondary school Teachers there in Delhi, India in order to work with students with disabilities in inclusive education settings. A total of about 470 teachers responded to a two-part questionnaire. Part-one



of the questionnaires collected information about personal and professional characteristics of the teachers. Part-two was a Likert scale which asked the teachers to indicate their concerns on a list of statements related to inclusion. Data was analyzed using the descriptive statistics and t-tests. The data indicated that the teachers in Delhi, overall, had a moderate level of concerns to implement inclusive education in the schools. And they were not concerned about their increased workload due to the inclusion. In addition, a majority (95%) of the teachers mentioned that they had not received any training in special education. The implications for teacher training in India are discussed in terms of the different models that can improve teacher quality for inclusive education.

Chintapatra & Sen Gupta (2021) rightly observed that Every child has the right to education. But children with special needs have mostly got their knowledge and education in special schools according to the earlier education system. But this exclusion violated the human rights of disabled children. In inclusive education the approach is that the special children learn better when they do so with other normal children. Nadia district of West Bengal lies in Eastern India, having a literacy rate of 74.97%. Total elementary school including primary (i-iv) and junior high (v-viii) is 4067. The main purpose of this of this paper is to find out how far elementary schools follow the RPWD guideline with special reference to inclusive education. In this research paper, the descriptive survey method has been adopted. Inclusiveness is needed in common school paradigms. After careful observation and scrutiny of the above review of literatures, finally the researcher found the research gap. A number of studies have been done on PWD Act but no studies have been done yet on RPWD Act, 2016. So, this can be the research gap on which research can be done.

SPECIFIC PROVISIONS AND THEIR IMPLICATIONS

There are a number of provisions made in RPwD Act, 2016 for children with disabilities which are need attention of regular classroom teachers, special teacher and other professionals engaged in education of such children.

- Section 3 of the act directs total authority to make sure that persons with disabilities enjoy the right to equality, a life with dignity and respect for his/her integrity equally with that of others. The provision is essentially applicable to the school administration with reference to children with disabilities.
- Section 4(2) provides that competent Government and local authorities must make sure that children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability. It means the that school administration is not only expected to include students with disabilities in the process of decision making affecting them such as decisions regarding their sitting arrangements, designing and implementation of Individualized Educational Programmes etc.
- There is a high chance of abuse, violence and exploitation of the children with disabilities in special and inclusive school settings. Section 7(1) provides legal remedies available against these incidents.



□ Chapter-III of the act is devoted to educational provisions for children with disabilities. Section 16 of the chapter provides that all the recognized educational institutions including private schools provide inclusive education to the children with disabilities. In order to meet this objective, the institution should:

- a) Admitting them without any discrimination;
- b) Provide proper facilities for sports and recreation;
- c) make various facilities like building, campus accessible;
- d) provide a proper support service to optimize their social and academic development;
- e) ensure that most appropriate languages, modes, and means of communication for the individuals who are blind, deaf and deaf-blind;
- f) early identification and proper intervention for children with specific learning disabilities;
- g) monitor participation, progress and attainment levels of children with disabilities;
- h) provide transportation facilities to the children with disabilities and also to acknowledge that the attendant of the children with disabilities having high support needs.

It has already been observed that private schools resist in implementing RTE Act 2009 with reference to the admission of children of weaker sections in their schools, at the same time they may not show a positive attitude towards the inclusion of children with disabilities in private schools for various reasons.

Section 17 prescribes the following measures to implement Section 16 of the act:

- a) To conduct a proper survey of school going children in a gap of five years to identify children with disabilities;
- b) to establish a sufficient number of teacher training institutions;
- c) to train professionals and staff properly to support inclusive education;
- d) to establish a sufficient number of resource centers to support inclusive education;
- e) to provide books, other learning materials and appropriate assistive devices to students with benchmark disabilities without any cost to the age of eighteen;
- f) to give scholarships to students with benchmark disability; and
- g) to make necessary modifications in the curriculum and examination system;
- h) Due to financial constraints, few states may find it difficult to implement the provisions of section 16 and 17 regarding inclusive education.

The provisions made in section 19 of chapter-iv of the act relate to the skill development and employment of the persons with disabilities. The knowledge of these provisions is important for



rehabilitation workers and special teachers engaged in vocational training and guidance & counselling of students with disabilities. It provides:

- a. inclusion of persons with disabilities in all the mainstream formal and non-formal vocational and skill training schemes and programs;
- b. to make sure that a person with disability has adequate support and facilities to avail specific training;
- c. exclusive skill training programs for people with disabilities with active links with the market;
- d. loans at the concessional rates including that of microcredit; and
- e. marketing the products that are made by persons with disabilities.

□ Section 24 (3) provides social security to homeless, orphans and abandoned children with disabilities, enabling them to live their life with dignity.

□ Section 27 of the act gives competent authority to provide rehabilitation services and facilities to persons with disabilities on the ground of health, education and employment.

□ To make sure effective participation in sporting activities of the persons with disabilities Section 30 of the act directs competent authorities to take few measures:

- 1) restructuring of courses and programmes to ensure access, inclusion and participation of persons with disabilities in all the sporting activities;
- 2) redesigning and supporting infrastructure facilities of all sporting activities for the persons with disabilities;
- 3) develop such technology to enhance potential, talent, ability and capacity in sporting activities of all the persons with disabilities;
- 4) provide multi-sensory essentials and features in all the activities to ensure effective participation of all persons with disabilities;
- 5) allocate funds for the proper development of state of art sports facilities for training of persons with disabilities;
- 6) promote and organize disability-specific sporting events for the persons with disabilities and also facilitate awards to the winning person and other participants of such sporting events.

□ According to Section 31 of the act, every child with benchmark disability between the age of six to eighteen shall have the right and access to free education in a neighbourhood school, or in a special school, of his or her choice in an appropriate environment.

□ Section 32 (1) provides five percent reservation to persons with benchmark disabilities in all the Government and Aided higher education institutions. They are also given a relaxation of five years in upper age limit for the purpose of admission in such institutions.



- Section 34 (1) provides four percent reservation in Government jobs to the persons with benchmark disabilities. These provisions are extremely useful to empower persons with disability through education and employment.
- Section - 45(1) directs total authority to make all public building including schools accessible within a period of not more than five years of notification of rules for such purpose. Quite a few numbers of schools in different parts of the country even lack basic amenities; therefore, due to inadequate funds and several other practical reasons, the states and local bodies might not be able to find it possible to achieve the target within the stipulated time frame.
- In order to develop human resource for the purpose this act, Section 47 directs total authority to induct disability as a component for all education courses for schools, colleges and University teachers and conduct training programs for even sports teachers with the focus on sports, games, adventure activities for the peoples with disabilities. This provision will create a sense of awareness among professionals and thereby make the acceptance and inclusion of persons with disabilities at different levels of education much easier.
- The act has an inbuilt institutional arrangement to implement the provisions of the act. The teachers should be completely aware of all such arrangements to protect the rights of these students with disabilities.
- The Act has a provision of Central Advisory Board (CAB) and the State Advisory Board (SAB) on disability to advise the central government and the state government respectively on policy formulation and other matters related to persons with disabilities.
- The concerned ministers of the central government and the state government will chair these boards.
- Chief Commissioner (CCPD) and state commissioners (SCPD) for persons with disabilities are also provided in the act to redress the grievance of persons with disabilities.
- The CCPD and SCPD can take cognizance of cases of deprivation of rights suffered by persons with disabilities.
- The Act also provides for District Level Committee to oversee implementation of the various provisions of the Act at the district level.
- Section 84 directs the State Government to establish a Special Court at the district level for speedy trial of offences under this Act.
- The Act includes chapter 16 which prescribes penal provisions for contravention of provisions of the Act, or of rules and regulations framed thereunder; and, also for fraudulently availing of benefit by any person under the Act etc.

CONCLUSION

A moderate level of teacher concerns for inclusive education should be a matter of 'real concern' for policy makers in India. Previous research conducted in India in this area has consistently conveyed this message (Bhatnagar & Das, 2013; Das, Sharma & Singh, 2012; Das

et al., 2013; David & Kuyini, 2012). Policy initiatives coupled with fiscal support from the government of India and outside agencies such as UNESCO and the World Bank have been directed towards inclusive education to a greater degree since the passage of the PWD Act, 1995. While these initiatives have brought the notion of inclusive education to the forefront of society. Successful participation of regular school teachers is instrumental for this reform in India. There is an urgent need to address their concerns in order to realize inclusion imperative for such a large number of children with disabilities in India. The RPWD act is based on assumptions that disability is an important part of human diversity. Therefore, the act is a very powerful legal instrument to include PwD in economic, socio-cultural and political life of the community by removing physical and attitudinal barriers. It shows us resolve to serve the most un-served, unseen and marginalized section of the society.

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