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Rights of Blind Persons with the special reference to the Right to Person with Disabilities Act, 2016: An Analysis

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ABSTRACT

Every human being is equal and should be treated as such, regardless of their physical or mental abilities. Disabled people, on the other hand, are frequently mistreated and deprived of basic rights in the world. Every human being is born with the same dignity and rights. Human rights abuses, stigma, and discrimination affect people with disabilities all around in the world. This is owing to society's apathy, which leads to condemnation and hostility toward such people. The term "visual impairment" is used to describe any type of vision loss, whether it is complete blindness or partial blindness. Vision is a continuous, thorough, and exact source of information about objects and people, as well as a repository of personal data. This direct source of knowledge, social engagement, and socially oriented behaviour is hampered by vision impairment. Because blind people lack superhuman senses, they must rely on their other senses to navigate. Hearing is the major sense for blind people, whereas vision is the primary sense for them. Human rights and fundamental freedoms enable us to develop our inherent characteristics, intelligence, abilities, and conscience in order to meet our material and spiritual needs. Blind persons are frequently denied access to health care, support, education, and jobs. After Appropriate implementation of laws is a positive step in ending discrimination against people with disabilities and their social, economic, and cultural isolation. However, we have a long way to go in our attempts to create a society that is sensitive to and caring of blind people. In this Research article based on the rights of blind people, legislation for the protection of blind people's rights, issues experienced by blind people in society, and viable solutions for securing their rights.

Keywords: *Visual impairment, discrimination, vision, blindness.*

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I. INTRODUCTION

“The only thing worse than being blind is having sight but no vision.”

- ***Hellen Keller***

A disabled person is a physically challenged, incapacitated, impaired handicapped person.³ Disability is defined as “person with a disability means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others.”⁴ According to the Declaration on the rights of 1975, a disabled person is unable to ensure by himself or herself, wholly or partly, necessities of a normal individual or social life.⁵ “Having a disability places you in the world's largest minority group. Currently around 10% of the world's population, or roughly 650 million people, live with a disability. In most of the OECD countries, females have higher rates of disability than males.”⁶

Disabled persons mean such persons in the world suffering from either physical or mental disabilities. They suffer from discrimination and lower standard of living as compared to the rest

of the population due to their vulnerability resulted out of disability. Disabled peoples are often denied basic educational opportunities. They are kept isolated from the society due to social attitudes towards society them.⁷

Some of the landmark efforts are as follows-

1. “Declaration on the Rights of Disabled Persons in, 1975.”⁸
2. “International year of Disabled Persons, 1981.”⁹
3. United Nations Decade of Disabled persons (1983-1992).¹⁰
4. Convention on the Rights of the persons with disabilities, 2006¹¹.
5. Disability Rights Committee.
6. Optional Protocol to the Convention on the rights of persons with Disability.

Every aspect of a person's daily life is affected by visual impairment. Anger, rage, amazement, sorrow, and grief are all common responses to vision loss. A person's ability to carry out daily chores may be hampered by a visual impairment. Blind people should be treated equally to non-disabled people, with no fear of being

³ The Concise Oxford The saurus, pg no. 199(24th impression, 2003)

⁴ Section 2(S)of The Rights of Persons with Disabilities Act, 2016

⁵ United Nation. 2022. *History of United Nations and Persons with Disabilities – A human rights approach: the 1970s | United Nations Enable*. [online] Available at:

<<https://www.un.org/development/desa/disabilities/history-of-united-nations-and-persons-with-disabilities-a-human-rights-approach-the-1970s.html>> [Accessed 24 April 2022].

⁶ Disabled World. 2022. *Disability Statistics: Information, Charts, Graphs and Tables*. [online] Available at: <<https://www.disabled-world.com/disability/statistics/>> [Accessed 23 April 2022].

⁷ Dr. Bhagyshree A. Deshpande-Human Rights Law &Practice, first edition 2017, Central Law Publication Allahabad,pgno.92.

⁸ UN General Assembly 30th session 1975-1976.

⁹General Assembly Resolution 31/12, <https://www.un.org/development/desa/disabilities/the-international-year-of-disabled-persons-1981.html>

¹⁰ United Nations. 2022. *United Nations Decade of Disabled Persons 1983-1992 | United Nations Enable*. [online] <<https://www.un.org/development/desa/disabilities/united-nations-decade-of-disabled-persons-1983-1992.html>> [Accessed 24 April 2022].

¹¹ United Nations General Assembly Session 61 Resolution 106, Convention on the Rights of Persons with Disabilities A/RES/61/106, 13 December, 2006.

humiliated, embarrassed, or looked down on because of their disability. They don't want to be treated 'differently.' They may require special accommodations in order to work. Some people are born blind, while others become blind as a result of unfortunate events in their lives.

People who are visually impaired or blind come from various walks of life, including athletes, teachers, typists, singers, lawyers, housewives, computer programmers, physiotherapists, and social workers, to name a few. Despite their blindness or visual impairment, such persons have a diverse set of skills and can achieve a lot. Many famous people, such as Louis Braille, Helen Keller, Stevie Wonder, and others, performed amazing things while impaired.

Louis Braille, a French educator, despite the fact that he was blind (at the age of three), invented a designed braille writing those who are enables blind and they can read by feeling a series of structured bumps that represent letters. This method helped blind individuals all across the world and is still in use today. His blindness made him devised this method of reading and writing which benefited other blind people to understand essential written texts.¹²

(A) Objectives of the Study

1. To investigate the impact of disabilities on disabled people.
2. Research the Fundamental Rights of Disabled People.

3. Research the statutory laws pertaining to disabled people.

(B) Research Methodology of the Paper:

My paper is based on analytical study of the research, and I used secondary information data for this research paper. The researcher obtained data from various books, Magazines, Journals, Newspapers, and various websites, which are listed in the Reference section.

II. WHAT IS BLINDNESS?

The term "blindness" is often used as a relative phrase for "visual impairment," or "poor vision," which refers to a person's inability to see clearly despite the use of eyeglasses, contact lenses, medicine, or surgery. The retina, a small layer of light-sensitive tissue in the back of the eye, is where the image is produced. The retina converts light into nerve signals when it passes through the eye. These impulses are then sent to the brain via the optic nerve. The eye cannot connect with the brain without a retina or optic nerve causing vision problems.

Blindness and Vision Impairment Causes

Common causes of vision impairment are following given below:

Cataract - A Cataract is a clouding of the lens of the eyes that can occur at any age and for a variety of reasons, such as heredity, age, trauma, skin disease, radiation, drug usage, and medication.¹³

¹² Story of Louis Braille-Available at-
<https://www.pathstoliteracy.org/story-louis-braille>,
(Accessed on 20-07-2021)

¹³ Contract-<https://en.wikipedia.org/wiki/Cataract>
(Accessed on 22-7-21)

Glaucoma- Glaucoma is a type of eye illnesses that causes loss of vision by damaging the optic nerve (or retina). In the majority of instances, fluid accumulates at the front of the eye.

Trachoma-Trachoma is a bacterial infection caused by the Chlamydia trachomatis bacteria. Trachoma is contagious and spreads directly or indirectly by contact with infected people's eyes, eyelids, nose, and throat secretions.¹⁴

Diabetic retinopathy- “Diabetic retinopathy is an eye condition that can cause vision loss and blindness in people suffering from diabetes. It damages blood vessels in the retina causing vision loss. Person with prolonged diabetes has higher possibility of developing diabetic retinopathy”¹⁵.

Uncorrected refractive errors- Refractive error prevents light focusing precisely on the retina.

Refraction is the process of bending light to form a focused image on the retina. The light should be redirected or “refracted” in such a way that the rays focus into a precise image on the retina.

Corneal opacity - “Corneal opacity is a disorder of the cornea. Cornea is the transparent structure on the front of the eyeball that allows light to pass through it. Corneal opacity occurs when the cornea becomes scarred. It results in blurred vision, loss of vision or blindness”¹⁶

Meaning of Blindness

“(a) Blindness means a condition where a person has any of the following conditions, after best correction—

(i) Total absence of sight; or

(ii) Visual acuity less than 3/60 or less than 10/200 (Snellen) in the better eye with best possible correction; or

(iii) Limitation of the field of vision subtending an angle of less than 10 degree.

(b) Low-vision means a condition where a person has any of the following conditions, namely:—

(i) Visual acuity not exceeding 6/18 or less than 20/60 up to 3/60 or upto 10/200 (Snellen) in the better eye with best possible corrections; or

(ii) Limitation of the field of vision subtending an angle of less than 40 degree up to 10 degree.”¹⁷

Major impact on the life of visually impaired person or blindness includes:

- **Barriers-** “Means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society.”¹⁸
- **Communication:** “Includes means and formats of communication, languages, display of text, Braille, tactile communication, signs, large print,

¹⁴ Trachoma- <https://en.wikipedia.org/wiki/Trachoma> (Accessed on 22-7-21)

¹⁵ https://en.wikipedia.org/wiki/Diabetic_retinopathy (Accessed on 22-7-21)

¹⁶ https://en.wikipedia.org/wiki/Corneal_opacity

(Accessed on 22-7-21)

¹⁷ Schedule 1B of the The Rights of Persons with Disabilities Act, 2016.

¹⁸ Section 2 (c),

accessible multimedia, written, alternative modes and accessible information and communication technology.”¹⁹

Discrimination: “In relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation.”²⁰

Convention on the Disabled Person

“The United Nations Convention on the Rights of Persons with Disabilities (CRPD) is an international human rights treaty and was adopted by the United Nations General Assembly on 13 December 2006. It was opened for signature on 30 March 2007.”²¹

“Its main objective is to protect the rights and dignity of people with disabilities. Countries that ratified the convention are responsible to promote, protect, and ensure the full enjoyment of human rights by persons with disabilities and ensure that persons with disabilities enjoy full equality under the law”²².

“India is a signatory and ratified The United Nations Convention on the Rights of Persons

with Disabilities (CRDP) in 1st October, 2007 in accordance with Article 35 of the Convention. In November 2015, India submitted its First Country Report on the Status of Disability in India.”²³

“Rights of Persons with Disabilities Act, 2016”²⁴

“The Rights of Persons with Disabilities Act, 2016 is the disability legislation passed by the Indian Parliament to fulfill its obligation to the United Nations Convention on the Rights of Persons with Disabilities, which India ratified in 2007. The Act repealed the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.”²⁵

“The process of replacing the Persons with Disabilities Act of 1995 (PWD Act, 1995) with new laws to comply with the UNCRPD was initiated in the year 2010. The Rights of Persons with Disabilities Bill, 2014 was introduced in Parliament on 7 February, 2014 and passed by the Lok Sabha on 14 December, 2016 and the Rajya Sabha on 16 December, 2016. The bill received the President's assent on 27 December, 2016 and the Rights of Persons with Disabilities Act, 2016 become effective on 19 April, 2017.”²⁶

Objectives of this Act

The principle denotes a shift in disability perspective from one of social welfare to one of

¹⁹ Section 2(f)

²⁰ Section 2(h)

²¹

[https://www.internationaldisabilityalliance.org/CRPD_\(Accessed on 22-7-21\)](https://www.internationaldisabilityalliance.org/CRPD_(Accessed on 22-7-21))

²²

[https://en.wikipedia.org/wiki/Convention_on_the_Rights_of_Persons_with_Disabilities_\(Accessed on 22-7-21\)](https://en.wikipedia.org/wiki/Convention_on_the_Rights_of_Persons_with_Disabilities_(Accessed on 22-7-21))

²³

<https://pib.gov.in/Pressreleaseshare.aspx?PRID=1584572> (Accessed on 23-7-21)

²⁴ ACT NO. 49 OF 2016. [27th December, 2016]

²⁵ The Rights of Persons with Disabilities Act, 2016

²⁶

https://en.wikipedia.org/wiki/Rights_of_Persons_with_Disabilities_Act,_2016 (Accessed on 23-07-2021)

human rights. The stated principles to be implemented for the empowerment of people with disabilities are as follows:-

- Individual autonomy, including the freedom to make one's own choices, as well as individual independence, are all valued.
- Participation and inclusion in society must be full and effective.
- There must be accessibility.
- Acceptance of differences and disabilities as components of human diversity and humanity.
- Equality of opportunity in society.
- There must be gender equality.
- Respect for children with disabilities' developing abilities, as well as respect for children with disabilities' right to maintain their identities

It specified disabilities under of this Act i.e. “the disabilities as specified in the Schedule includes blindness, low-vision, leprosy-cured persons, hearing Impairment (deaf and hard of hearing), locomotor Disability, Dwarfism, intellectual Disability, mental Illness, autism spectrum disorder, cerebral palsy, muscular dystrophy, chronic neurological conditions, specific learning disabilities, multiple sclerosis, speech and language disability, thalassemia, hemophilia, sickle cell disease, multiple disabilities including deaf-blindness, acid attack victim, parkinson’s disease.”²⁷

²⁷ Sec. (2zc).

²⁸ Sec.-3

Under the Disabilities Act, 2016 disabled persons are entitled for following rights:

Right to Equality and no discrimination:- “(1)

The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

(2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.

(3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.

(4) No person shall be deprived of his or her personal liberty only on the ground of disability.

(5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.”²⁸

“Women and children with disabilities: (1) the appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others.

(2) The appropriate Government and local authorities shall ensure that all 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.”²⁹

²⁹ Sec.4

“Right to live in the Community-: (1) the persons with disabilities shall have the right to live in the community.

(2) The appropriate Government shall endeavour that the persons with disabilities are,—

(a) Not obliged to live in any particular living arrangement; and

(b) Given access to a range of in-house, residential and other community support services, including personal assistance necessary to support living with due regard to age and gender”³⁰

Right to Protection from cruelty and inhuman treatment of Disabled persons-

“People with disabilities must be protected from cruelty and inhuman treatment. The concerned government must take steps to safeguard disabled people from torture, cruel, inhuman, or humiliating treatment.”³¹

“The appropriate government must take necessary steps to safeguard disabled people from all sorts of abuse, violence, and exploitation.”³²

“Right to Protection and safety of Life-: The persons with disabilities have equal rights of protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters. The National Disaster Management Authority and the State Disaster Management Authority are responsible for ensuring the safety and protection of people with disabilities.”³³

The Right to a Home and family-: This Act states that no disabled child should be separated from his or her parents unless a competent court orders it in the child's best interests. When a disabled child's parents are unable to care for him or her, the competent court shall place the child with close relatives, or, if that is not possible, within the community in a family set up.³⁴

Right of Reproductive rights-: As per the provision of this Act, “the appropriate government need to ensure that people with disabilities have access to accurate reproductive and family planning information and no disabled person shall be subjected to any medical procedure that results in infertility without his or her free and informed consent.”³⁵

Right to caste the Vote -People with disabilities can vote. In this regard, the Election Commission of India and State Election Commissions must ensure that all polling stations are accessible to people with disabilities, and that all materials pertaining to the electoral process are easily understandable and accessible to them.

Right to access of justice-: “The appropriate Government must ensure that persons with disabilities have equal right to access to any court, tribunal, authority, commission, or other body with judicial, quasi-judicial, or investigative functions, without discrimination based on disability.”³⁶

³⁰ Sec.5

³¹ Sec. 6

³² Sec.7

³³ Sec.8

³⁴ Sec. 9

³⁵ Sec. 11

³⁶ Sec.12

The Right to have Legal capacity:- “Persons with disabilities have the equal right as others to own or inherit property, whether mobile or immovable, to manage their finances, and to get bank loans, mortgages, and other forms of financial credit.”³⁷

Educational Right- All disabled people have the right to an education. All efforts must be made by the appropriate government and local governments to ensure that all educational institutions that they sponsor or recognise provide inclusive education to children with disabilities. Without bias, and provide equal access to sports and recreational activities for all.³⁸

The right to professional development and employment -: “The competent government must develop plans and programs, including the provision of low-interest loans, to facilitate and support employment of people with disabilities particularly for vocational training and self-employment.”³⁹

“No Government establishment shall discriminate against any person with disability in any matter relating to employment.”⁴⁰

Social security Rights – “Within the limits of its economic capacity and development, the appropriate government shall formulate (at least 25%) necessary schemes and programmes to safeguard and promote the right of persons with disabilities to an adequate standard of living,

allowing them to live independently or in the community.”⁴¹

Right to Culture and recreation- This Act ensures “promotion and protection of all persons with disabilities' rights to engage in cultural life and recreational activities on an equal footing with others.”⁴²

Right to Sporting activities:- As per the provision of provided under this Act “all the persons with disabilities have rights to actively participate in sports activities. In this regard, the sports authorities shall accord due recognition to the right of persons with disabilities to participate in sports and make appropriate measures for their involvement in their schemes and programmes for the promotion and development of sporting capabilities.”⁴³

Right to Reservation – “Every appropriate government shall appoint in every Government establishment not less than 4% of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities, of which 1% each shall be reserved for persons with benchmark disabilities, namely blindness and low vision.”⁴⁴

Rights of Disable persons under The Indian Constitution:

The Indian Constitution applies uniformly to all legal citizens of India, whether they are healthy or disabled in some way (physically or mentally). The disabled are guaranteed the

³⁷ Sec.13

³⁸ Sec. 16

³⁹ Sec. 19

⁴⁰ Sec. 20

⁴¹ Sec. 24

⁴² Sec.29

⁴³ Sec.30

⁴⁴ Sec.-34

following fundamental rights under the Constitution:-

1. "Article 15(1) - The State shall not discriminate against any citizen on the grounds only of religion, race, caste, sex, place of birth or any of them."⁴⁵

2. "Article 15(2) No citizen (including the disabled) shall be subjected to any disability, liability, restriction or condition on any of the above grounds in the matter of their access to shops, public restaurants, hotels and places of public entertainment or in the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of government funds or dedicated to the use of the general public."⁴⁶

3. "Every person including the disabled has his life and personal liberty guaranteed."⁴⁷

Part III of the Indian Constitution guarantees a set of six fundamental rights to all citizens, as well as a few rights to non-citizens. These Rights are following given under below:-

1. Equality of Opportunity (Art. 14 -18)
2. Freedom of Expression (Art.19 - 22)
3. The right to be free from exploitation (Art.23-24)
4. The Right to Religious Freedom (Art. 25 - 28)
5. Rights to Culture and Education (Art. 29 & 30)
6. The right to constitutional remedies. (Art. 32)

⁴⁵ The Constitution of India, 1949.

⁴⁶ *ibid*

III. CONCLUSION

We have the right to live our lives in our own way as human beings. Regardless of whether or not we have physical disabilities, we should help and support one another without limitation. Donating eyes after death for noble purpose supply eyesight to blinds who can see through the eyes of others is one step ahead. Blind youngsters and children with disabilities do not have adequate opportunities to demonstrate their talents. As individuals, we must work to improve society's perception of blind people and the treatment they receive from the society. Few suggestions to improve the standard of life of blind people are:

- Increase in the number of schools for visually impaired equipped with all facilities
- Eye donation camp on large scale
- Spreading awareness and education for donation of eyes
- Free eye care camps for treatment of curable blindness
- Distribution of Vitamin A enriched food package among children in schools at primary level.

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