

Study On The Nexus Between The Disabled Persons And Sdg No.4 (Quality Education) Via A Socio-Legal Lens: An Indian Perspective

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ABSTRACT

Right to Education has not been a recognised Fundamental Right since the inception of India as an independent country – it had to be initially interpreted from Article 21 of the Indian Constitution with the help of **Judicial Activism** and eventually subsequent to long years of evolution it resulted in its current form i.e. as the **Fundamental Right** vide Article 21-A since the year 2002.

The authors of this research paper have curated this paper in such a way to handhold the reader by their expression through its three broad parts – The **First Part** lays down the evolution of right to education in India and lays down the conceptual framework of SDG No.4 vis-à-vis India. The **Second Part** is purely India-centric as it analyses the legislative, judicial as well as executive dimensions of the relation of right to education for the disabled persons in India. The **Third Part** relates to the critical analysis of the current scenario, as well as some suggestions in the form of recommendations.

Social Sustainability and empathy is the key to the true accomplishment of the “**inclusive**” world for the disabled persons and thus, it has to be assured just as much for them in every aspect as for any other disadvantaged and vulnerable section of the society.

KEYWORDS: SDG No.4, Education, Disabled Persons, India, Socio-Legal Scenario

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CONCEPTUAL FRAMEWORK

INTRODUCTION:

Disability must not attract discrimination.

The struggle for equality for the disabled persons in all aspects has always been a contentious issue – one of the aspects that triggers the maximum debate is their ‘equal right to education’. Any country’s success can be judged by the accomplishment of basic human rights of all of its people, especially the vulnerable groups.

This paper is consciously titled “**Study on the nexus between the Disabled Persons and SDG No.4 (Quality Education) via a Socio-Legal Lens: An Indian Perspective**”. Every word of this carefully selected titled indicates towards the separate parts of the paper. The authors of this

research paper have curated this paper in such a way to handhold the reader by their expression through it three broad parts – The First Part lays down the evolution of right to education in India and lays down the conceptual framework of SDG No.4 vis-à-vis India. The Second Part is purely India-centric as it analyses the legislative, judicial as well as executive dimensions of the relation of right to education for the disabled persons in India. The Third Part relates to the analysis of the current scenario, as well as some suggestions in the form of recommendations.

The **objective of the study** revolves around:

- To trace the evolution of Right to Education in India;

- To understand the conceptual relevance of SDG No.4 vis-à-vis India;
- To understand the legislative, judicial and executive dimensions of the Right to Equality of the Disabled Persons in India;
- To analyse the ground reality and to make valuable recommendations.

This article has been curated primarily with the assistance of utilisation of secondary data like reports of the UN, World Bank, UNESCO, India’s Nation Reports, Surveys, Articles and Essays along with the Interview conducted of Ms. Sunita Bhagat Head Coordinator of the Janakpuri Branch (New Delhi, India) of the Handicap Children’s Rehabilitation Association (HCRA).

INTRODUCTION TO SDG NO.4

- Building on the results of the relayed baton of the Millennium Development Goals (the MDGs) with expiration in its target year i.e. 2015 – a new plan of action for futuristic development came into being on the September 25th of 2015 in the United Nations General Assembly’s Seventieth Session labelled as the Sustainable Development Goals (the SDGs) with the target
- **Goal No.4 has Ten Targets therein:**

year set as 2030 (United Nations General Assembly [UNGA], 2015). Commonly, these Sustainable Development Goals are referred to as “SDGs”, “Agenda of 2030” and “Global Goals” amidst other indications that have made the SDGs popular in theory as well as spirit.

- The cluster of these seventeen SDGs uphold the principles laid out in the Preamble to the UNGA Resolution that SDGs emanate from – the 5 P’s: People, Planet, Prosperity, Peace & Partnership (UNGA, 2015). The most unique and cardinal feature of these SDGs lies their mutuality and integration. The success of one is a stepping stone for the success of others. Thus, working on any and all of them ensures the upkeep of the principles in the preamble and holistic accomplishments all three arenas of development viz. social, economic and environmental.
- “Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all” is the goal that deals with the aspect of quality education – formally known as the Goal No.4 of the Sustainable Development Goals.

S.NO.	TARGET NUMBER	CONTENT OF THE TARGET
1.	4.1	Free Primary and Secondary Education
2.	4.2	Equal Access to Quality Pre-Primary Education
3.	4.3	Equal Access to Affordable, Technical, Vocational and Higher Education
4.	4.4	Increase the number of people with Relevant Skills and Financial Success
5.	4.5	Eliminate Discrimination in Education
6.	4.6	Universal Literacy and Numeracy
7.	4.7	Education for Sustainable Development and Global Citizenship
8.	4.a	Build and Upgrade Inclusive and Safe Schools
9.	4.b	Expand Higher Education Scholarships for Developing Countries
10.	4.c	Increase the Supply of Qualified Teachers in Developing Countries

Table 1: Targets of Goal No.4 of SDG (UNGA, 2015)

GIST OF EVOLUTION OF EDUCATION POLICY IN INDIA

- India has raised from the ashes of colonialism and when it found its independence, it was struggling to make ends meet i.e. basic necessities infamously known as “jksVh, diM+k, edku” (translation: food, clothing, shelter) in India. Ergo, it took a while for India to realize the essence of education was not only secondary but worthy enough to be upgraded as one of the Fundamental Rights under Part III of the Constitution of India.
- Education and the rights thereto formed part of the discussion right after the independence itself which led to the establishment of the University Education Commission of 1948 infamously known as the “Radhakrishnan Committee” as it was headed by Prof. (Dr.) S. Radhakrishnan. It was appointed to compile a report on improvements deemed fit for the Indian Universities keeping in mind the past, present and future circumstances. The report was submitted in 1949 with infamous recommendations related to Universities and their Faculties; Standards of Teachers & Teaching Styles; Uniformity in Professional Education, Research & Training; recommendations on evaluation pattern & examinations; education of women; welfare activities of students; Rural Colleges and Universities; and focus on moral and spiritual development to be part of the curricula.
- The Radhakrishnan Committee of 1948 was succeeded by another important Commission i.e. the Secondary Education Commission of 1952 famously known as the “Mudaliar Commission”. The Commission came together to report on the present status of the Secondary Education and suggest methods to improve its status in future in relation to all levels of education in the nation. It is a lengthy 311 pages’ report submitted in 1953 pointing out defects in the then current education system and suggesting detailed recommendations on subject list to teachers to curricula amongst others in its report.
- The next significant step in the timeline was the Report of the Education Commission 1964-66 also known as the “Kothari Education Commission”. This Commission reviewed all

aspects of education in India from school to higher education. It was a bulky report with various recommendations – it was this report that became the first to suggest that there should be free and compulsory education for all children between the ages of 6-14 years in our nation. It also suggested infrastructural development for all educational institutions, better training of teachers, suggested the three-language formula and aim of education to be a means to achieve social justice amongst others.

- One of the important consequences of the Kothari Commission is deemed to be the incoming of the National Policy on Education (1968) believed in propagating for the “radical reconstruction” of the educational system of India (Ministry of Human Resource Development [MHRD], 1968). It adopted the significant recommendations of the Kothari Commission and brought it to fruition by this Policy mandated by the Parliament of India. It was subsequently followed by the National Policy on Education (1986) – this 189 pages’ report is a comprehensive document which is in fact a compilation of recommendations of the 23 Task Forces formed to cover 23 different aspects (like, Women Education, Adult Education, Secondary Education, Higher Education, Minorities’ Education, Early Education of a Child, Rural Education etc.) (MHRD, 1986). A Committee was formed in 1990 to present the review of the widely accepted 1986 National Education Policy – it was headed by Ramamurti and thus gained popularity as the “Ramamurti Committee of 1990” on Review of the then existing Education System of 1986. It was this Committee that in 1990 became the first to propose the idea of assigning right to education the status of a fundamental right in India, the relevant excerpt is reproduced herein:

“6.1.3 In contrast, ‘Universal Declaration of Human Rights’ [UDHR] declares that all individuals irrespective of sex, caste and economic status, have the ‘Right to Education’. India rightly subscribed to this famous declaration. Now, time has come to recognize ‘Right to Education as one of the fundamental rights of the Indian citizen for which necessary amendments to the Constitution may have to be made and more importantly, conditions be

created in society such that this right would become available for all children of India.” (Ranamurti Committee, 1986, p. 119-120)

- Actively effective from April 2010 post the incoming of the Right of Children to Free and Compulsory Education Act (2009) popular as the “RTE Act” – the Right to Education was added to the Constitution via the 86th Constitutional Amendment in the year of 2002 as Article 21-A under Part III as one of the Fundamental Rights. According to Article 21-A of the Constitution of India: “Article 21-A. Right to Education – The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law determine.”
- This right ensures “free” (as in no liability to pay) and “compulsory” (as in admission + attendance + completion) for elementary education amongst various other incidental implications and norms developed for the successful accomplishment of the implementation of the aim of the right to education (MHRD, 2019).
- The most recent addition to this active evolution of the dimensions of right to education in India has been the National Education Policy (NEP) 2020 brought in amidst the testing times of COVID-19 by the Modi government and the NEP 2020 replaces the National Education Policy of 1986. NEP 2020 proposes various shifts from the existing educational system in India – it proposes a 5+3+3+4 structure to replace the 10+2; the scheme of language is retained and rather strengthens the regional/mother language; opening up to foreign universities for collaborations; flexibility in exit options; focus on internships, practical learning and overall holistic development amongst many other reforms were suggested – 2040 is the target year for full implementation (Chopra, 2020).

India vis-à-vis SDG No.4

- India has committed to the Sustainable Development Goals (SDGs) and the NITI Aayog (i.e. National Institution for Transforming India) is the main central body that conducts the SDG Mapping along with the governmental policies

and initiatives introduced to achieve the Goals of the SDGs and their targets therein.

- There are several examples categorised on the basis of different targets under the seventeen SDG(s) and thus, SDG No.4 has the same categorisation when analysed via SDG Mapping presented by the NITI Aayog. The most significant and recurring ones worth a mention are – Sarva Shiksha Abhiyan (Education for All); National Programme of Mid-Day Meal in Schools (MDM); the Umbrella Integrated Child Development Scheme (ICDS) via Anganwadi Services; Pradhan Mantri Kaushal Vikas Yojana (Skill Development Scheme); Vocational Training Centres; Hostels for Boys and Girls; Saakshar Bharat; National Service Scheme (NSS); Pandit Madan Mohan Malaviya National Mission on Teachers and Training; amongst various other general and specific schemes – executed by the ministries or departments of mainly Ministry of Human Resource Development (MHRD); Women and Child Development ministry (WCD); of Tribal Affairs; of Social Justice and Development; of Youth Affairs; of Minority Affairs and others (National Institution for Transforming India [NITI], 2018, p. 13-18).
- India has acknowledged via its evolution that literacy, numeracy and rudimentary education plays the pivotal role in socio-economically building and developing the nation (Pandey, 2018, p. 5). There are over 30 fully active and on-going schemes that have been initiated to boost education in India which in turn leads to the fulfilment of SDG No.4 (i.e. quality education) along with direct or indirect fulfilment of other SDG(s) as well.

INDIAN EDUCATION SECTOR VIS-À-VIS THE DISABLED PERSONS

INTRODUCTION TO “DISABLED PERSONS”

- Recognition of difference in the society is the first step to the recognition of rights of any different category in the society. The Indian legislation for the rights of disabled persons is drafted as inspired by the United Nations’ Convention on the same. Thus, the meaning of “**person with disability**” laid down as per the Indian Convention is:

“Section 2(s). ‘**person with 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;” according to the Rights of Persons with Disabilities Act 2016.

- The Schedule appended to the Act of 2016 lays down 21 categories (a non-exhaustive list as the Government reserves the powers to make amendments to the lists). The list includes blindness, dwarfism, autism, specific learning disabilities, speech disability, thalassemia, Parkinson’s disease and various others.

LEGISLATIVE FRAMEWORK ON NEEDS OF THE DISABLED PERSONS

CONSTITUTIONAL PROVISIONS

- Before exploring the special legislations in this regard – it is cardinal to bear in mind that the Indian Constitutional provisions shall apply to the Disabled Persons equivalent to how they are designed to apply to any other person in India, rather there are some special provisions in the Constitution itself which act as the fountain of mandate from which the other legislations take the source to emanate and branch out with specificities. According to the Constitution of India these provisions are **Article 14, 15, 16 (Equality and related dimensions), Article 21 (Right to Life), Article 21-A (Right to Education), Article 41 (Right to Work, Education and Opportunity)** – these bear direct linkage and all others bear interpretative linkages. Further, vide **Articles 243G read with Eleventh Schedule of C.O.I. (Entry No.26) and 243W read with Twelfth Schedule of C.O.I. (Entry No.9)** – the local authorities including especially the Panchayats are mandated to implement schemes in favour of the disabled persons as stated via respective entries.

LEGISLATIVE PROVISIONS

- More than a decade back (in 2006), **United Nations brought a Convention on the Rights of Persons with Disabilities** (i.e. UN-CRPD) which was considered to be 21st century’s very

first Human Rights Convention (UNGA, 2006). It was ratified by India in 2007 and a legislation was brought exactly a decade later when the abovementioned U.N. Convention on the same inspired the Indian Legislation which was brought in pursuance of such ratification, entitled – **The Rights of Persons with Disabilities Act, 2016**. This Act of 2016 replaced the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participations) Act of 1995.

- This Act of 2016 has 102 sections categorised in 17 sprawling chapters + a schedule appended. The provisions laid down in the entire Act shall be applicable to ensure the correct fruition of the provisions for real assistance of the disabled persons but one chapter that solely deals with their education is Chapter III (Section 16-18) of the Act which is based upon the accepted Model Law i.e. the United Nation’s Convention of 2006 on the same subject (Article 24 of the UN Convention of 2006 deals with the education aspect of Persons with Disabilities). According to S.16 of the Rights of Persons with Disabilities Act, the section lays down the duty that the educational institutions owe to the persons with disabilities – it includes making the campuses disabled person friendly; there is heavy emphasis on the “inclusive” education; duty to adopt every means, modes and language methods needed for appropriate communication for imparting better education; sports and other activities are to be equally guaranteed along with transport facilities among other duties of such institutions. According to S.17 of the Rights of Persons with Disabilities Act, the section talks about taking all necessary measures for the achievement of inclusive education – such as specially trained teachers; adequate institutions; provision of free education to children under the high support needs/ benchmark disabilities; provision of scholarships, books, study materials, necessary devices, etc. all free of cost (up till the 18 years of age) to ensure their rightful access to right to education. According to S.18 of the Rights of Persons with Disabilities Act, it gives assurance for adult education for promotion and protection of equal participation of disabled persons.

- Other legislations in India for the betterment of disabled persons are – According to the Rehabilitation Council of India Act 1992: the preamble to the act itself lays down the prime objective of the act i.e. the formation of the Rehabilitation Council of India for achieving two-fold purposes – (i) regulating the standards of training for personnel and professionals; (ii) maintenance of central Rehabilitation Register for the trained and practicing personnel and professionals (Hemlata, 2011, p. 215). The other active legislations with no direct linkage with education related rights of the disabled persons as indicated on the official website of **Department of Empowerment of Persons with Disabilities (Divyangjan)[this wing was effectively established in May, 2012 and renamed to its current name in December, 2014]** are the – The National Policy for Persons with Disabilities (2006); The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act (1999); Incheon Strategy and The Mental Health Act of 1987.

GOVERNMENT SCHEMES

- While all the schemes and policies formulated by the government in order to achieve SDG No.4 shall be applicable to the Persons of Disabilities but there are a certain specific schemes that have owe benefits directly and solely to the Persons with Disabilities and these are found to be fulfilling Targets 4.4, 4.5 and 4.A of the SDG No.4 for India. These specific schemes and policies are –
- National Policy for Persons with Disabilities (2006): Advocates for the full and effective integration of disabled persons in the mainstream society by the physical rehabilitation (includes early detection, counselling, devices, etc.); promotion of educational rights as well as economic rehabilitation. The policy promotes research in this field; advocates sports, cultural and other activities for the disabled; further advocates social security; promotion of NGO and CSO and most importantly the issuing process of the Disability Certificate among other pointers.
- Incheon: This is an international policy or strategy adopted post the meeting organised by

UNESCAP Secretariat on Review of Asia-Pacific's decade of PwD (Persons with Disabilities) i.e. 2013-2022. The discussion pertained to the agenda of making disability inclusive and friendly development for the entire nation.

- Assistance to Disabled Persons for purchase of Fitting Devices (ADIP): active since 1981 to provide devices, aids, equipment, corrective surgeries etc. needed by disabled persons. The Central Public Sector Enterprises (CPSEs) like – ALIMCO (Artificial Limbs Manufacturing Corporation of India); NHFDC (National Handicapped Finance and Development Corporation); and other NGOs and CSOs (Civil Society organisations) execute the schemes laid down by the government. In the year 2018-19, ALIMCO has assisted 83013 disabled persons via 147 ADIP camps (Ministry of Social Justice & Empowerment [MSJE], 2019, p. 35).
- Scheme for Implementation of Persons with Disabilities Act (SIPDA): this scheme mandates source of financial backing for the execution of the provisions of the central legislation on the right of disabled persons. Includes obstacle-free environment for integration to the mainstream society; programmes that foster skill development; under this scheme the flagship mega campaign titled “Accessible India Campaign” i.e. Sugamya Bharat Abhiyan (MSJE, 2019, p. 80) has also been launched to sensitise the masses, bring substantial infrastructural progress and develop a conducive environment for growth and development that does not leave behind the disabled persons. Along with this, many sporting events as well as awareness programmes etc. find their origination points from this particular scheme.
- Deendayal Disabled Rehabilitation Scheme (DDRS): Central Government Scheme to grant aids to NGOs including Special Schools for foster the aim of equal opportunities and education rights. There is a specific criterion that if fulfilled then leads to being eligible for grants under this scheme – like, being registered under Society Registration Act (1860) or vide Section 8 of the Companies Act (2013); must be in existence for at least 2 years;

registered with the NITI Aayog Portal, etc (MSJE, 2019, p. 82-86).

- **Scholarships for Disabled Students:** Education is free for children between 6-18 years of age in the category of students with benchmark disability i.e. need high support and assistance – the Act of 2016 itself mandates the same. There are various categories of scholarships for students with disabilities, the ones seen active till the last recorded report are – Pre-Matric Scholarship, currently 20,000 spots set aside for it annually (Grade 9th and 10th); Post-Matric Scholarship, currently 17,000+ spots set aside for it annually (Grade 10th to Graduation, Post-Graduation or even Diploma); Top Class

Education Scholarship, currently 300+ slots set aside for it annually; National Fellowship, currently 200 slots set aside for it annually (for masters and Ph.D in India); National Overseas Scholarship, currently 20+ slots set aside for it annually (Masters Degree and even available for Ph.D abroad); Free Coaching, currently 2000 slots set aside for it annually (for assistance in preparing for attempting competitive exams or taking on government sector jobs or other technical courses) – all these when brought together under the umbrella scheme are then entitled as the “Scholarships for Students with Disabilities” (MSJE, 2019, p. 89-94).

8.3.1.7 Numbers of beneficiaries and amount released in respect of above mentioned scholarship schemes are as under:

(Rs. in Lakh)

S. No.	Name of Scholarship Scheme	Year	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19 (As on 31.12.208)
1.	Pre -Matric Scholarship Scheme	No. of beneficiaries		-	2,368	7,927	1,2593	1,657
		Amount		-	160.02	553.57	906.93	120.35
2.	Post -Matric Scholarship Scheme	No. of beneficiaries		-	3,565	6,281	7,657	13,945
		Amount		-	321.39	981.98	1,491.55	3,297.26
3.	Top Class Scholarship Scheme	No. of beneficiaries		-	14	42	37	14
		Amount		-	23.85	86.07	66.83	25.88
4.	National Fellowship for PwDs	No. of beneficiaries	15	306	527	589	666	519
		Amount	8.64	1,324.52	1,996.68	1,925.63	3,024.48	1,730.24
5.	National Overseas Scholarship	No. of beneficiaries		-	-	2	3	5
		Amount		-	-	37.98	70.23	101.23
6.	Free Coaching Scheme	No. of beneficiaries	-	-	-	-	250	250
		Amount	-	-	-	-	87.22	99.66
	Total	Total beneficiaries	15	306	6,474	14,841	21,206	16,390
		Total Amount	8.64	1,324.52	2,501.94	3,584.52	5,647.24	5,374.62

Figure 1: Annual Report 2018-19 (MSJE, 2019, p. 97)

JUDICIAL APPROACH

- The Judiciary in India has always attempted its best to strike the correct balance between the rights of the disabled persons and the statutory provisions in order to meet the ends of the

justice. The cases of the disabled persons availing their varied rights have reached the doors of court in relation to many dimensions resulting in giving India some of its landmark precedents in regards to the rights of disabled persons – cases related to their right to take

competitive exams, & reservations or vacancies therein [National Federation of Blind v. Union Public Service Commission (1993); Mahesh Gupta & Others v. Yashwant Kumar Athiwar & Ors. (2007); Ravi Prakash Gupta v. UPSC & Ors. (2009)]; disabled persons' right to fly [Jeeja Ghosh & Anr. v. Union of India & Ors. (2016)]; the landmark judgment where it was held that "disability is a disability" and that you cannot differentiate or discriminate between two different disabilities [Deaf Employees Welfare Association v. Union of India & Ors. (2013)] amongst various others that have come to light over the years.

- Before the incoming of the Act of 2016 (Current Act) – in the era of the Act of 1995 (Old Act), the judiciary gave progressive judgments and cleared confusions which originated from supposed drafting errors where the judge had to decide whether Section 39 of the Old Act which referred to reservations for disabled persons was in relation to educational institutions or employment and services because of its placing and arrangement in the Act– the Courts in India via liberal interpretation in Kumari Rekha Tyagi v. Vice Chancellor (2001) enlarged the scope of Section 39 and stated that it shall be applicable on government aided employment services as well as educational institutions. This view as far as the enlargement in order to include in its ambit the seats of disabled persons in a government aided education institution were retained but the percentage of reservation was reversed and restricted back to as mentioned in the Old Act in The Deputy Secretary (Mart) Department of Health & Family Welfare v. Ms Sanchita Biswas & Ors.
- The ambit of cases becomes narrower when viewed through the lens of cases in relation to just education rights of the disabled persons but never restricted – there is plethora of cases where Indian Judiciary has left indelible marks by giving celebrated judgments but recently it has been criticised for its judgment in the case of Rajneesh Kumar Pandey v. Union of India (2016)– the apex court was criticised for its observation when it used terms like "impossible" to deem it fit for disabled students to be included in the general mainstream schools; this view is believed to be against the

new ideologies adopted for the education of the disabled persons. It has been considered a sudden and flawed departure (Singh & Bajaj, 2018) from the newly established social model of disability which is in fact perfectly in tune with the legislative intent of the Act of 2016 (Lokhotia, 2018) (the Current Act).

- The importance of accessibility including safe and sound infrastructure plays a very important role in imparting quality education to the disabled persons and the same was recently held in the cases of Disabled Right Group & Anr. v. Union of India & Ors. (2018) and Rajive Raturi v. Union of India (2018). The status of this case i.e. the National Federation of the Blind v. Karnataka Public Service Commission & Ors. is still pending but the petitioner has moved the court in order to oppose the arbitrary guidelines that are not in consonance with the Union Government's guidelines in aspects of – (i) Medical Examination (KPSC is requiring the candidates to submit another medical examination report which in the middle of ongoing pandemic COVID-19 is a hassle and is not required if the candidates already possess a certificate of disability); (ii) Compensatory Time (the Central Government guidelines mandated it to be 20 minutes for benchmark disabled candidates while KPSC has unreasonably reduced it to 10 minutes per candidate); (iii) Scribe (no board/panel of scribes established by KPSC as required by the central government guidelines) (Shaikh, 2020).

BRIEF COMPARATIVE STUDY

Interview with Ms. Sunita Bhagat

It is popularly regarded that a litmus paper test of the law lies in the determination of the answer of two broad questions –

- How much do the people directly affected by the law know about the law?
 - What is the ground reality in the prevalence of such law?
- To determine the same for the critical analysis, the authors conducted an interview with Ms. Sunita Bhagat, Head Coordinator of the Janakpuri Branch (New Delhi, India) of the

Handicap Children's Rehabilitation Association (HCRA).

- The picture painted in theory by the laws, legislations, policies and schemes mentioned above is not as rosy and efficient as it seems – Ms. Sunita Bhagat said while shedding light on the same. Ms. Sunita entered the field of Special Educator in 1997 and ergo, holds an extensive experience of 21 years – and in her opinion the government efforts are not nil per se, but a lot of schemes either remain on paper or get lost in the system and the benefits never percolate down to the disabled persons.
- To find how the rules play out in the **ground reality**, we asked Ma'am to give us a glimpse of what a **day at HCRA** looks like – Ms. Sunita explained that the students are admitted to HCRA after all medical history is recorded and certificate of disability is verified; according to the disability, they are divided into different categories and are allotted the category where they have the maximum chance of enhancement. She mentioned that have fixed the schedule of this Special School as close to the schedules of the regular schools – the day starts with a Prayer, then exercise, then class work, further moving to activities and for some enhanced groups even vocational activities (like handicrafts, mehendi art, etc.) are taught. She mentioned that there is also a provision of physiotherapy at the Centre itself and teachers are qualified thus, they use various innovative methods to teach the special kids.
- On being asked if she is aware of the laws that are active in the field – she answered that she knew only a few and none in detail, she went on to mention that in her opinion there is **lack of awareness of laws in not just the masses, but the special educators as well as the parents of such disabled children**. She recommends that laws related to every field should be a mandatory part of the syllabus when preparing to receive any professional degree in any arena.
- In relation to the government schemes and policies – Ms. Sunita stated that there is lack of awareness but she mentioned that under some **governmental aided grant mechanisms**, her students are granted Rs.2000-3000 monthly (mentioned the grant shifts between this range

depending upon the political shifts). She also shed light on the **camp**s that are organised either by collaboration with NGOs, private persons as part of philanthropy or by local authorities – she directs low-income group parents to such camps to avail devices, gadgets, machines and equipment, etc. which would otherwise be expensive for them to buy for the assistance of their disabled child.

COMPARISON WITH OTHER NATIONS

- **Canada** is a party to the UN-CRPD since 2010 but has had provisions for equal treatment and opportunity in the Canadian Charter of Rights and Freedoms as well as enshrines the basic principle of non-discrimination in their Canadian Human Rights Act. To accommodate the special learning kids' needs, they have also made necessary provisions in their Education Act (United Nations Educational, Scientific & Cultural Organization [UNESCO], 2013). In fact, Canada's inclination to the access of education to be accommodated as integration with mainstream schools rather than segregation approach is reflected in the case of Moore v. Her Majesty the Queen in Right of the Province of British Columbia (2012) (Council of Canadians with Disabilities [CCD], 2012) and moreover, strengthened the statutory commitment of Canada in this regard of such integrated accommodation for access to education.
- **Australia** is a party to the UN-CRPD since 2008 and it has reform agenda for schools to address learning needs of all; they have a Students with Disability Advisory Group that recommends suggestions in devising a separate curriculum for the special education students. Australia also has a Disability Discrimination Act (1992) along with the Disability standards for Education (2005) – these are standards for eligibility of education and training requirements of the professionals. (CCD, 2012)
- **France** is a party to the UN-CRPD since 2010 and it has included the rights of disabled students in its Education Code; other measures are built on the principles of accessibility and inclusivity. France also has a disability

helpline “Aide Handicap Ecole”; it has provision of personalised compensation packages; financial assistance disabled students’ parents, etc (CCD, 2012).

- **United States of America** became a party to the UN-CRPD in the year 2009 and along with including rights via legislative mentions or broad interpretations of equality – its judicial wing has helped in this regard even before such recognitions at the national and international level and it is significant by the means of the cases of Pennsylvania Association for Retarded Citizens vs. Commonwealth of Pennsylvania (1972) as well as Mills vs. D.C. Board of Education (1972) in which the complaint laid against the schools as they denied the access to education to disabled students and the judiciary held such act as against the principles of the rights and mandated that schools allow them access and educate them as well.

RECOMMENDATIONS:

The review of literature on the subject at hand is vast even when narrowed down to the aspect of only education vis-à-vis disabled persons’ rights – however, the analysis boils down to the following recommendations post the critical analysis –

- **Need for Awareness:** This recommendation is twin-fold it aims to convey – (i) duty of the government should run campaigns that result in promotions and awareness of the masses; (ii) duty of the citizens, schools, universities, NGOss, CSOs, administration etc. (all stakeholders) to be more alert and vigilant in order to firstly, receive the government initiatives’ benefits as well as secondly, act as an active watchdog if and when the government falters.
- **Need Quality in Schemes rather than Quantity:** On analysis of the review of literature, it is apparent that there are various policies and schemes initiated by many departments of various ministries but, often the quality gets lost in such diversification or scattered efforts. It shall be more fruitful if the

government designated a single authority the responsibility of enforcement and administration; and under the wings of the same authority, all schemes and policies merge rather than being scattered under the authorities of different ministries. The effort when scattered gets lost in disorganisation and results in malarkey – the solution however is to form an umbrella scheme so that the beneficiaries have clarity about all three aspects –

- (i) awareness;
- (ii) application process
- (iii) grievance and adjudication.

- **Balance out the debate between Special Education Schools and Integrated Education:** There is a prominent ongoing debate whether the Special Schools are better models of imparting education to the disabled student or the integrated approach. The judiciary has recently been seen to be divided on the same issue but criticised for their stance when they supported the special schools. Before a decision can be taken to conclude this debate, it is necessary to realise the available options – like, neighbourhood schools; special education schools; home-schooling. It is further recommended that it would be the correct interpretation of the prevalent legislations on this subject-matter to conclude that students with benchmark disabilities should be required to attend special education schools or given the option of home-schooling for fulfilling their educational rights; and students who do not fall under the category of the benchmark disabilities should be given an option either to pursue education via home-schooling or via regular/ neighbourhood schools in pursuance of the integrated approach.
- **Need for Sensitisation:** It is commonplace to deduce that disabled students face bullying and violence comparatively more than the regular students, the same stance is back by the UNESCO’s Report of 2016 (UNESCO, 2016). Thus, such social inequalities create a menace and they can only be done away with once the misinformed notions are shattered and substituted with informed concepts – in order to achieve the same, sensitisation is the best tool

to be adopted – moreover, the same shall yield maximum results in an integrated school setting. Ergo, the advocates of the integrated school approach support the same to achieve the goal of “inclusive education”. Empathy is the key.

- **Accessibility and Accommodation:** This is in relation to the physical aspects of accessibility i.e. to school/college/university buildings, ramps, signs, ways to libraries, toilets, corridors, lifts/ elevators etc. It is noted that here the glaring difference between urban and rural facilities is highlighted even more – as urban areas may have some of the facilities but such buildings of the rural areas have nil (UNESCO New Delhi Cluster Office, 2019). Such infrastructural needs are cardinal to the development of the disabled students.
- **Do away with discrimination amongst the Disabled Persons:** The administration itself discriminates between the disabled persons by awarding benefits according to percentage of disability. Often times, minor disabilities can be cured completely only if given proper and full care. The administration must amend the differences laid down as per income criteria, disability criteria etc. in the government schemes that results as barriers to their betterment.
- **Need for assistance sans the extreme wait:** Often times it is complained about that the administrative process of documentation and verification is unnecessarily lengthy. This results in the disabled being at more disadvantage as their applications get stuck in the maze of red tape resulting in longer waiting periods than necessary to avail services, fittings of devices, corrective surgeries or equipment, etc. necessary for their betterment.
- **Challenges in the Higher Education:** An omnipresent challenge with the education of the disabled students occurs at all stages i.e. enrolment, retention and completion – however, the most challenging is their retention and completion as they either drop-out, or do not continue after the primary school itself (Global Campaign for Education & Handicap

International, 2014) let alone reaching the stage of higher education.

- **Research and Development:** In the interview with Ms. Sunita Bhagat she recalled and stated that back in 1997 she got her Degree as a Specialist in Special Education majoring in Mental Retardation – she recalled that during her years of studying for the degree, they often had to rely for study material on foreign authors as there was no research and development of the same by Indian authors of its own. However, she acknowledges that the situation has now changed but she emphasised that the situation is still grim and the achievement of India in the field of research and development for disabled persons’ is still bleak.
- **Strong Database required:** A sound and organised administrative process goes a long way in the immaculate management of the schemes as well as their beneficiaries – an organised process is easy to track when comparing or drawing results and easy to access in order to process applications quicker and render services well within time to the ones in need. Thus, it is recommended that the government should chalk out a hierarchy of mechanism for the same and designating such responsibilities shall be accompanied with accountability – which has high chance of being an impetus to the formulation of a strong database of records compiled and preserved in one place related to all the disabled persons who are supposed beneficiaries under various schemes and initiatives.
- **Aim for Holistic Development:** In order to assure their full access to the education rights – they need to be cared for holistically i.e. health, economic status and education go hand-in-hand for them. Responsible authorities mandatorily need to make sure that they are timely provided any devices, equipment etc., required by them along with maintaining their health – all this shall ensure their capacity to access their right to education and make proper use of it to further their holistic development of their personalities.
- **Policy vs. Practice:** Safe to conclude post the review of literature that there is no lack of policies or schemes addressing this subject

matter in India – but they are scattered, mismanaged and fallen prey to the maze of system and are not yielding desired results because of poor or no execution.

- **Requirement of Relief during COVID-19:** The ongoing pandemic has only added to the woes of the differently-abled as it halts their appointments, transport, etc. The information does not reach them timely, the shutting down of schools and lockdown has impacted the poor disabled students the most as they relied on mid-day meal schemes for their food and dietary requirements. Services should be launched by government for their immediate assistance and grievance redressal along with formulation of policy to curb the problems before they blow out of proportion during any future calamities of pandemic like disruption to normalcy.

CONCLUSION

“How a society treats its disabled is the true measure of a civilization.”

Chen Guangcheng - Reports of the **World Bank** as latest as of 2020 mention that one billion people (i.e. 15% of the world’s population) fall under the category of disabled persons (The World Bank, 2020). In accordance with India’s Census of 2001 – **India** alone is home to 21 million disabled persons (Ministry of Home Affairs, 2001). Their experience of life is altered by the existence of the disability that they are either born with or acquire sometime in their lifetime – it alters their social, political, cultural and all incidental aspects of experiences of life.

Ms. Sunita Bhagat commented that the first step towards achieving substantial change is born out of our mind-set – society needs to drop its view of disability as some form of disease but rather just view it as a different condition inherent to some people. She was confident in stating that this view shall help us a society to see it as a meagre challenge that demands solution to its inclusivity rather than a hassle.

Social Sustainability is key to the true accomplishment of the “inclusive” world for the disabled persons and thus, it has to be assured just as much for them in every aspect as for any other disadvantaged and vulnerable section of the society.

Ms. Sunita Bhagat shared a success story that is

etched in her heart and thus, motivates her as a special educator to keep moving forward – she narrated that she had a student named Jaskaran whose mother was the only supporter of the boy and no one took him seriously in the family. Jaskaran had a learning disability and after 3 years of continuous efforts he was able to read and memorise two to three letter words – and he went on to then win a Special Kids Spelling Bee competition in Air Force Golden Jubilee School (New Delhi, India) and got transferred to a regular school for integrated teaching as well.

There are a few success stories that give hope for the future of the disabled students – the café named **“Echoes” in Satya Niketan (New Delhi, India)** is a South-Campus students’ favourite, the café is run and managed completely by differently-abled persons (as chefs, waiters, etc.). The café offers opportunity for the people to secure employment and proving that their amalgamation with the mainstream society is not as big an obstacle as it seems to be.

The **rudimentary jurisprudence is at play – society and law impact each other**. For some causes are pushed by the society which effectuate the law and some are introduced by the law to become inherent as a part of the society. The challenge faced in the case of disabled or differently abled students vis-à-vis education is that the law and authorities will have to guide as well as channelize this change. The reality may seem bleak right now but the community of special educators portray no qualms instead are rather hopeful for a positive change and successful emergence of India as a leader of guiding appropriate amalgamation **SDG No.4** of the Agenda 2030 in our contemporary realities.

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