Safe Guarding Human Rights & Violations in Marginalized & Excluded Sections of the Society

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**Abstract**

*The present book chapter is based on the theme “safe guarding human rights & violations in marginalized & excluded sections of the society”. Person with disabilities have often been marginalized on account of their disability Human rights recognize that everyone is equally entitled to live with dignity. They pertain equally to all people no matter their age, sex, race, nationality, or disability. Human rights apply equally to men and women with disabilities. They apply equally to people with all types of disabilities, including physical, psycho-social, and intellectual disabilities.*

*The present chapter discusses the Constitutional provisions, Acts & Rights for persons with disability in India. And also highlight the role of citizens in safe guarding human rights & violations in marginalized & excluded sections of the society*

**Key terms**: Safe guard, Human Rights & Marginalized sections

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**Introduction**

Human rights recognize that everyone is equally entitled to live with dignity. They pertain equally to all people no matter their age, sex, race, nationality, or disability. Human rights apply equally to men and women with disabilities. They apply equally to people with all types of disabilities, including physical, psycho-social, and intellectual disabilities. Person with disabilities have often been marginalized on account of their disability. A positive recognition of disability has become a part of the inescapable human diversity that enriches our life experience and our society (Corker 1999, et.al.). Thus, the concept of disability is articulated in terms of differences to be positively recognized rather than stigmatized and discriminated against. Every civilized society, therefore, must provide for adequate physical and financial resources for the education and rehabilitation of the disabled so that they can enjoy a life of freedom, self-respect and take part in social activities.

Human rights include civil, political, social, cultural, and economic rights, for example, the right to be free from discrimination, and the right to education.

**Bommai (1997)** indicated thatthe role of the government is very significant in the rehabilitation of retarded persons. The government has introduced several laws for facilitating the development of the persons with mental retardation. Unfortunately the follow-ups of these laws are very less. Most of the parents remain unaware of the existing of grants and schemes for the welfare of their mentally retarded children. Mental retardation occurs among children throughout the world. In its most severe from it is a source of great hardship to the parents as well as an economic and social burden on the community. The few services that exist are mostly in the cities and are accessed mainly by the middle and upper classes. Rehabilitation strategies focused largely on literacy and academic goals. An estimated 98% of rural and 95% of urban disabled have not accessed to services.

**Stone (2001)** expressed that, it is to be recognized that “while the application of the principle of distributive justice and its relationship to human rights inevitably raises contentions political issues even within given familiar domestic economy, it becomes still more challenging when considered in a more global context”.

Using a human rights framework as fundamental underpinning approach to disability need not undermine the validity of conceptualizing persons with disability’s rights and freedom in other ways that have proven significant for PwDs.

**Constitutional provisions for persons with disability in India**

India, being a democratic country, the constitutional and legislation play an important role in the life of every citizen, irrespective of his being able or disabled. The preamble of the constitution of India states, “we the people of India having solemnly resolved to constitute India into a Sovereign Democratic Republic and to serve all its citizens”.

* Justice, social economic and political;
* Liberty of thought, expression, belief, faith and worth;
* The preamble pledges “equality of status and opportunity to all the citizens of India”.

Article -14 of the constitution states “The state shall not deny to any person equality before the law or equal protection of the laws within the territory of India”. Article 15 (3) and (4) deal with special provision for women and children, and socially and educationally backward citizens respectively. Article 46 deals with special care in the area of education and economic interests of weaker sections of the people.

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**Some of the Constitutional Rights of the Disabled Persons**

* **Article 14** provided right to equality: the state shall not deny any person equality before the law of the equal protection of the law within the territory of India.
* **Article 15** prohibits discrimination on grounds of religion, race, caste, sex or place of birth. No citizen (including the disabled) shall on grounds of religion, race or place of birth be subjected to any discrimination.
* **Article 16** provides equality of opportunities in matter related to public employment. No citizen (including the disabled) shall on grounds of religion, race or place of birth, residence or any of them, be ineligible or discrimination against in respect of any employment or office.
* **Article 17** provides the abolition of unsociability. The enforcement of any disability arising out of “untouchables” shall be an offence punishable in accordance with the law.
* **Article 19** guarantees of certain rights regarding freedom of speech, etc.
* **Article 21** provides protection of rights and personal liberty. Every person (including the disabled) shall not be deprived of his life and personal liberty.
* **Article 23** provides for the prohibition of traffic in human beings (including the disabled) and forced labour of any kind and the same is made punishable in accordance with the law.
* **Article 24** prohibits employment of the children (including the disabled) below the age of 14 years to work in any factory or mine to be engaged in any hazardous employment including public and private sector.
* **Article 29** protects the interests of the minorities. No citizen (including the disabled) shall be denied admission into any educational institutions maintained by the states or receiving aid out of state funds grounds of religion, caste, race, language or any of these.
* **Article 32** grantees remedies for enforcement of rights conferred in part III of the Constitution. Any disabled person can move the Supreme Court to enforce his or her fundamental rights. The Acts were passed in order to create harmony between the disabled and the non-disabled classes (Kumar, 2004).

**The different Acts available in India are:**

* The Mental Health Act –1987
* Rehabilitation Council of India Act-1992
* The person with disabilities (equal opportunities, protection of rights and full participation) Act, 1995
* The National Trust for the welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities Act -1999.
* UNCRPD
* Rights of Persons with Disabilities Act, 2011- A Draft

Despite all these efforts situation of person with disabilities is gloomy. There is dire need for equal opportunities, protection of rights and full participation of the persons with disabilities to enable them to live with dignity and respect. Citizens can play a great role in safe guarding rights of persons with disabilities.

**Role of citizen in safe guarding rights of persons with disabilities.**

Protection of human right is not the responsibility of an individual; it is responsibility of the society for the protection of individuals.

Time has come to rouse public opinion on the issues of human right in order to ensure that concept of human right prevails and the existing constitutional and legal safeguard are sincerely enforced.

**In this regard the citizen of India may work in the following directions:**

* Human right unions should be strengthening throughout the country.
* Through the media of education, people (particularly illiterate & ignorant masses living in village) should be made aware of the Protection of Human right (Sharma and Misra, 2003).
* It should be made obligatory on the part of MLAs and MPs that they go to their respective constitutions before the beginning of the session, so that genuine problems of PWDs may be gathered and presented before the house.
* Government must ensure that law implementing agencies are working sincerely.
* Executive magistrate should not be given judicial powers because they act as tools of the government and police (Sharma and Misra, 2003)
* Advisory committees at national and all state level as well as local level are constituted to involve more and more PwD in the administration.
* The parents of persons with disabilities must remain well informed about administration of the state in this regard. Hence right to know should be strengthening.
* Like election commission, Human Rights commission should also be strengthen.
* To protect Human Rights, serious efforts should be made to end poverty, economic exploitation and educational deprivation.
* Courts must take special care for Human Rights and apex court should monitor the working of subordinate court.

Now we all should create human right atmosphere. Human rights enforcement is the responsibility which needs to be carried out with the assistance of all members of society and all government agencies and courts.

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