

## A Critical Analysis of Legal Rights of Persons with Disabilities

By

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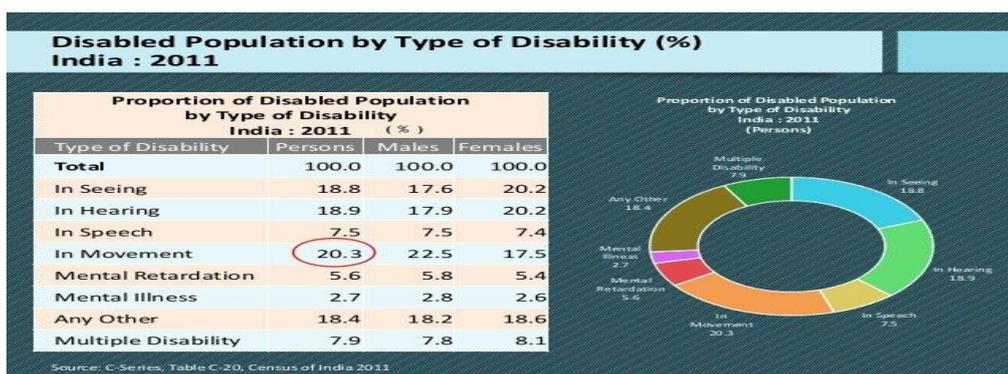
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### Abstract

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. The World Health Organization (WHO) describes barriers as being more than just physical obstacles. These include aspects such as physical environment that is not accessible, lack of relevant assistive technology (assistive, adaptive, and rehabilitative devices), negative attitudes of people towards disability, services, systems and policies that are either non-existent or that hinder the involvement of all people with a health condition in all areas of life. In this research paper, the researcher is specifically dealing with respect to the contemporary status of disabled people with present laws and policies in India relating to the rights of disabled people. The paper provides a systematic study on laws and policies for person with disabilities that have contributed towards the development of legal status of the disabled persons nationally. However, it is important to mention that merely forming the laws cannot solve the challenges that person with disability undergo but awareness on disability and inclusion of them in the society is the need of the hour. A comprehensive creative, technical and financial approach is required from all society to achieve the true aim of legal instruments for PwDs

### Introduction

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Disabilities is an umbrella term, covering impairments, activity limitations, and participation restrictions. An impairment is a problem in body function or structure; An activity limitation is a difficulty encountered by an individual in executing a task or action; A participation restriction is a problem experienced by an individual in involvement in life situations. As per Census 2011, in India, out of the total population of 121 crore, about 2.68 Cr persons are 'Disabled' (2.21% of the total population). Out of 2.68 crore, 1.5 crore are males and 1.18 crore are females, Majority (69%) of the disabled population resided in rural areas



Nearly everyone faces hardships and difficulties at one time or another. But for people with disabilities, barriers can be more frequent and have greater impact. The World Health Organization (WHO) describes barriers as being more than just physical obstacles. WHO definition of barriers is : Factors in a person's environment that, through their absence or presence, limit functioning and create disability. These include aspects such as: a physical environment that is not accessible, lack of relevant assistive technology (assistive, adaptive, and rehabilitative devices), negative attitudes of people towards disability, services, systems and policies that are either non-existent or that hinder the involvement of all people with a health condition in all areas of life.” Often there are multiple barriers that can make it extremely difficult or even impossible for people with disabilities to function. Here are the seven most common barriers. Often, more than one barrier occurs at a time: Attitudinal, Communication, Physical, Policy, Programmatic Social ,Transportation

## **Attitudinal Barriers**

Attitudinal barriers are the most basic and contribute to other barriers. For example, some people may not be aware that difficulties in getting to or into a place can limit a person with a disability from participating in everyday life and common daily activities. Examples of attitudinal barriers include: Stereotyping: People sometimes stereotype those with disabilities, assuming their quality of life is poor or that they are unhealthy because of their impairments. Stigma, prejudice, and discrimination: Within society, these attitudes may come from people's ideas related to disability—People may see disability as a personal tragedy, as something that needs to be cured or prevented, as a punishment for wrongdoing, or as an indication of the lack of ability to behave as expected in society. Today, society's understanding of disability is improving as we recognize “disability” as what occurs when a person's functional needs are not addressed in his or her physical and social environment. By not considering disability a personal deficit or shortcoming, and instead thinking of it as a social responsibility in which all people can be supported to live independent and full lives, it becomes easier to recognize and address challenges that all people—including those with disabilities—experience.

## **Communication Barriers**

Communication barriers are experienced by people who have disabilities that affect hearing, speaking, reading, writing, and or understanding, and who use different ways to communicate than people who do not have these disabilities. Examples of communication barriers include:

- Written health promotion messages with barriers that prevent people with vision impairments from receiving the message. These include
  - Use of small print or no large-print versions of material, and
  - No Braille or versions for people who use screen readers.
- Auditory health messages may be inaccessible to people with hearing impairments, including
  - Videos that do not include captioning, and
  - Oral communications without accompanying manual interpretation (such as, Sign Language).

## Physical Barriers

Physical barriers are structural obstacles in natural or manmade environments that prevent or block mobility (moving around in the environment) or access.

## Policy Barriers

Policy barriers are frequently related to a lack of awareness or enforcement of existing laws and regulations that require programs and activities be accessible to people with disabilities.

## Programmatic Barriers

Programmatic barriers limit the effective delivery of a public health or healthcare program for people with different types of impairments. Examples of programmatic barriers include:

- Inconvenient scheduling;
- Lack of accessible equipment (such as mammography screening equipment);
- Insufficient time set aside for medical examination and procedures;
- Little or no communication with patients or participants; and
- Provider's attitudes, knowledge, and understanding of people with disabilities.

## Social Barriers

Social barriers are related to the conditions in which people are born, grow, live, learn, work and age – or social determinants of health – that can contribute to decreased functioning among people with disabilities.

## Transportation Barriers

Transportation barriers are due to a lack of adequate transportation that interferes with a person's ability to be independent and to function in society. Examples of transportation barriers include:

- Lack of access to accessible or convenient transportation for people who are not able to drive because of vision or cognitive impairments, and
- Public transportation may be unavailable or at inconvenient distances or locations.

## Legal Instruments for Person with disabilities

Law, simply viewed, is a set of norms that regulate the behavior of individuals and the society as a whole. It is integral part of organization of any society. The existence of norms, howsoever rudimentary they might be, is a prerequisite for socio-political organization and peaceful co-existence of people. The power to make law may be called legislative power. Legislative power is vested primarily in the sovereign authority of a political community. The sovereign authority exercises legislative power through the institution of supreme legislature of a country. It depends upon the political structure of the country to lay down the procedures regarding making of the law. There are many purposes served by the law. Out of these, the main four are maintaining order, establishing standards, protecting liberties, and resolving

disputes. In addition to the Rights for Person with Disabilities Act 2016, there are three other legislations which are relevant to the rights of people with disabilities. These include the National Trust Act 2000, the Rehabilitation Council of India Act 1992, and the Mental Health Act 1987.

Many definitions of the concept of rights are found in the literature. Each of the following definitions may help us in understanding different facets of rights. According to Ernest Barker, "Rights are the external conditions necessary for the greatest possible development of the capacities of the personality." In the words of Bernard Bosanquet, "we have a right to the means that are necessary to the development of our lives in the direction of the highest good of the community of which we are a part". Leonard Hobhouse says "Rights are what we may expect from others and others from us, and all genuine rights are conditions of social welfare. Thus, the rights anyone may claim are partly those, which are essential to every man in order to be rational human person, and partly those, which are necessary for the fulfillment of the function that society expects from him. They are conditioned by, and correlative to, his social responsibilities". Wilde considers that "Rights are reasonable claims to freedom in the exercise of certain activities".

Though the subject of "Disability" figures in the State List in the Seventh Schedule of the Constitution, the Government of India has always been proactive in the disability sector. It is not only running eight National Institutes (NIs) dealing with various types on disabilities and twenty Composite Regional Centers (CRCs), which provide rehabilitation services to Persons with Disabilities (PwDs) and run courses for rehabilitation professional but also funds a large number of NGOs for similar services and also a National Handicapped Finance & Development Corporation (NHFDC) which provides loans at concession rates of interest to PwDs for self-employment. Besides, the Union Government is a party to (i) Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and the Pacific Region - adopted at Beijing in December, 1992, and (ii) The UN Convention on the Rights of Persons with Disabilities (UNCRPD), which came into effect in May, 2008.

The subject received attention in various States Governments in varying degrees. At the Central level also disability being one of the several responsibilities of the M/o SJ&E, and being looked after by just one bureau, has resulted in inadequate attention, as most of its time and energy is spent only on implementing Ministry's own schemes, meeting their expenditure and physical targets, and organize annual time-bound activities like the National Awards for empowerment of PwDs. In the above background, it was stated in the 11th Five Year Plan that "The 'Disability Division' of the Ministry of Social Justice & Empowerment will be strengthened by converting it into a separate Department, so that it can liaise effectively with all the other concerned Ministries/Departments and fulfill its responsibilities towards the disabled". Looking to the specialise nature of the subject on "Disability", the wide ranging work to be done in the light of the UNCRPD, and the inadequacy of existing implementation structure, the time came to upgrade the existing Disability Bureau in the M/o SJ&E. The decision to create a separate Department of Disability Affairs within the M/o SJ&E was taken up by the Government, in principle on 3rd January, 2012. This was also announced by the President before both Houses of Parliament on 12th March, 2012.

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 replaces the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

- "Person with disability" means a person with long term physical, mental, intellectual or sensory impairments which, in interaction with barriers, hinders his full and effective participation in society equally with others.
- "Person with benchmark disability" means a person with not less than 40% of a specified disability where specified disability has not been defined in measurable terms and includes a person with a disability where specified disability has been defined in measurable terms, as certified by the certifying authority.
- Disability has been defined based on an evolving and dynamic concept.
- Principles stated to be implemented for empowerment of persons with disabilities (PWD) are respect for the inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons. The principle reflects a paradigm shift in thinking about disability from a social welfare concern to a human rights issue.
- The types of disabilities have been increased from 7 to 21. The act added mental illness, autism, spectrum disorder, cerebral palsy, muscular dystrophy, chronic neurological conditions, speech and language disability, thalassemia, hemophilia, sickle cell disease, multiple disabilities including deaf blindness, acid attack victims and Parkinson's disease which were largely ignored in earlier act. In addition, the Government has been authorized to notify any other category of specified disability.

**Salient Features**  
**The Rights of Persons with Disabilities Bill 2016**

**Types of Disabilities have been increased from existing 7 to 21**

● Blindness	● Muscular Dystrophy
● Low-vision	● Acid Attack victim
● Leprosy Cured persons	● Parkinson's disease
● Locomotor Disability	● Multiple Sclerosis
● Dwarfism	● Thalassemia
● Intellectual Disability	● Hemophilia
● Mental Illness	● Sickle Cell disease
● Cerebral Palsy	● Autism Spectrum Disorder
● Specific Learning Disabilities	● Chronic Neurological conditions
● Speech and Language disability	● Multiple Disabilities including deaf blindness
● Hearing Impairment (deaf and hard of hearing)	



- It increases the quantum of reservation for people suffering from disabilities from 3% to 4% in government jobs and from 3% to 5% in higher education institutes.
- Every child with benchmark disability between the age group of 6 and 18 years shall have the right to free education. Government funded educational institutions as well as the government recognized institutions will have to provide inclusive education.
- Stress has been given to ensure accessibility in public buildings in a prescribed time frame along with Accessible India Campaign.
- The Chief Commissioner for Persons with Disabilities and the State Commissioners will act as regulatory bodies and Grievance Redressal agencies, monitoring implementation of the Act.
- A separate National and State Fund be created to provide financial support to persons with disabilities.
- The Bill provides for grant of guardianship by District Court under which there will be joint decision – making between the guardian and the persons with disabilities.
- Special Courts will be designated in each district to handle cases concerning violation of rights of PwDs.
- The New Act will bring our law in line with the United National Convention on the Rights of Persons with Disabilities (UNCRPD), to which India is a signatory.

Fundamental rights are the basic human rights enshrined in the Constitution of India which are guaranteed to all citizens (Including PwDs). They are applied without discrimination on the basis of race, religion, gender, etc. Significantly, fundamental rights are enforceable by the courts, subject to certain conditions.

Six basic fundamental rights

We have six basic fundamental rights in our constitution. The six basic rights are listed below

Right to Equality (Article 14-18)

Right to Freedom (Article 19-22)

Right against Exploitation (Article 23-24)

Right to Freedom of Religion (Article 25-28)

Cultural and Educational Rights (Article 29-30)

Right to Constitutional Remedies (Article 32)

The Fundamental Rights are both natural as well as legal. The original Constitution (1950) had seven Fundamental Rights. But after the passage of the 44th Amendment in 1978, there are now six Fundamental Rights. This Amendment deleted the seventh fundamental right, viz., right to property (Art. 31) from the list of Fundamental Rights. Articles 14 to 18 deal with different aspects of right to equality

Article 16 guarantees equality of opportunity for all citizens (including PwDs) in public employment and prohibits ineligibility of or discrimination against, a citizen in respect of employment or office under the state on grounds of religion, race, caste, descent, place of birth, residence or any of them. Government of India have reserved 3% of vacancies against identified posts in Group 'C' and Group 'D' for people with disabilities in Central Government Ministries, Public Sector Undertaking and Banks. The categories of handicapped persons benefited by this scheme are the Blind, the Deaf and the Orthopaedically handicapped with 1% reservation for each category. Reservation for persons with disabilities in Group 'A' or Group 'B' posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group 'A' posts or Group 'B' posts respectively, in the cadre. Separate rosters for Group 'A' posts and Group 'B' posts in the establishment shall be maintained. Various State and U.T. Governments also provide reservation in jobs for the

handicapped persons. There is no obligation on private sector to provide employment to the handicapped persons. However, many private sector employers now offer jobs to persons with disabilities realising that their employment is an economically viable proposition. To clear the backlog of vacancies of persons with disabilities, Special Recruitment Drives are undertaken by various departments from time to time. Identification of posts in all Groups in the Establishments of the Government of India and Public Sector Undertakings for persons with disabilities has been done.

The Constitution (Eighty-sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education to all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine. As per RPWD Act 2016, Duty of educational institutions include: The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to the children with disabilities and towards that end shall— (i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others; (ii) make building, campus and various facilities accessible; (iii) provide reasonable accommodation according to the individual's requirements; (iv) provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion; (v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication; (vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them; (vii) monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability; (viii) provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.

Specific measures to promote and facilitate inclusive education.—The appropriate Government and the local authorities shall take the following measures for the purpose namely:— (a) to conduct survey of school going children in every five years for identifying children with disabilities, ascertaining their special needs and the extent to which these are being met: Provided that the first survey shall be conducted within a period of two years from the date of commencement of this Act; (b) to establish adequate number of teacher training institutions; (c) to train and employ teachers, including teachers with disability who are qualified in sign language and Braille and also teachers who are trained in teaching children with intellectual disability; (d) to train professionals and staff to support inclusive education at all levels of school education; (e) to establish adequate number of resource centres to support educational institutions at all levels of school education; (f) to promote the use of appropriate augmentative and alternative modes including means and formats of communication, Braille and sign language to supplement the use of one's own speech to fulfil the daily communication needs of persons with speech, communication or language disabilities and enables them to participate and contribute to their community and society; (g) to provide books, other learning materials and appropriate assistive devices to students with benchmark disabilities free of cost up to the age of eighteen years; (h) to provide scholarships in appropriate cases to students with benchmark disability; (i) to make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities such as extra time for completion of examination paper, facility of scribe or amanuensis, exemption from second and third language courses; (j) to promote research to improve learning; and (k) any other measures, as may be required.

Adult education. —The appropriate Government and the local authorities shall take measures to promote, protect and ensure participation of persons with disabilities in adult education and continuing education programmes equally with others.

Income Tax Concessions: Section 80 DD: Section 80 DD provides for a deduction in respect of the expenditure incurred by an individual or Hindu Undivided Family resident in India on the medical treatment (including nursing) training and rehabilitation etc. of handicapped dependants. For officiating the increased cost of such maintenance, the limit of the deduction has been raised from Rs.12000/- to Rs.20000/-..Section 80 V: A new section 80V has been introduced to ensure that the parent in whose hands income of a permanently disabled minor has been clubbed under Section 64, is allowed to claim a deduction upto Rs.20000/- in terms of Section 80 V. Section 88B: This section provides for an additional rebate from the net tax payable by a resident individual who has attained the age of 65 years. It has been amended to increase the rebate from 10% to 20% in the cases where the gross total income does not exceed Rs.75000/- (as against a limit of Rs.50000/- specified earlier).

## **Rpwd Act 2016 Rights and Entitlement**

Equality and non-discrimination: persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

To utilize the capacity of persons with disabilities by providing appropriate environment.

No person with disability shall be discriminated on the ground of disability

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

To ensure reasonable accommodation for persons with disabilities.

Women and children with disabilities women and children with disabilities enjoy their rights equally with others.

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.”.

Community life: The persons with disabilities shall have the right to live in the community. to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.

The National Disaster Management Authority and the State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its disaster management activities as defined under clause

Home and family. No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.

Where the parents are unable to take care of a child with disability, the competent court shall place such child with his or her near relations, and failing that within the community in a family setting or in exceptional cases in shelter home run by the appropriate Government or non-governmental organisation, as may be required.

Reproductive rights: persons with disabilities have access to appropriate information regarding reproductive and family planning.

Accessibility in voting.—The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.

Access to justice persons with disabilities are able to exercise the right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability.

The National Legal Services Authority and the State Legal Services Authorities constituted under the Legal Services Authorities Act, 1987 (39 of 1987) shall make provisions including reasonable accommodation to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.

To ensure that all their public documents are in accessible formats; (b) ensure that the filing departments, registry or any other office of records are supplied with necessary equipment to enable filing, storing and referring to the documents and evidence in accessible formats;

Legal capacity: persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit. (On and from the date of commencement of this Act, every guardian appointed under any provision of any other law for the time being in force, for a person with disability shall be deemed to function as a limited guardian).

Any person with disability aggrieved by the decision of the designated authority appointing a legal guardian may prefer an appeal to such appellate authority, as may be notified by the State Government for the purpose.

## **Constitutional Frameworks for Disabled in India**

- Article 41 of the Directive Principles of State Policy (DPSP) states that State shall make effective provision for securing right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, within the limits of its economic capacity and development.
- The subject of 'relief of the disabled and unemployable' is specified in state list of the Seventh Schedule of the constitution.

## **Programmes/initiatives for Disabled in India**

### ***National Policy for Persons with Disabilities***

Recognizing that the Persons with Disabilities constitute a valuable human resource for the country and that a majority of such persons can lead a better quality of life if they have equal opportunities and effective access to rehabilitation measures, the Government, with a view to create an environment that provides such person's equal opportunities for protection of their rights and full participation in society, formulated and brought out the National Policy for Persons with Disabilities. The policy outlines specific measures and strategies for ensuring protection of rights of PwDs and their inclusion in the society.

### ***International Documents***

United Nations Convention on the Rights of Persons with Disabilities (Uncrpd), 2006:1. The Convention was adopted by UN General Assembly on December 13, 2006 and opened for signing by the State Parties on March 30, 2007. Adoption of the Convention has really imparted empowerment to Persons with Disabilities across the globe to demand their rights and make State, private and civil society agencies accountable for enjoying their rights. India is one of the few first countries which ratified the Convention. Consequent upon signing the Convention on March 30, 2007, India ratified the Convention on 01.10.2007. The Convention has come into force from May 3, 2008. The Convention places the following three important obligations on each State Party: -

- a) Implementation of the provisions of the Convention;
- b) Harmonization of the country laws with the Convention and
- c) Preparation of a Country Report.

Taking concrete measures for effective implementation of the Convention, all the concerned Central Ministries were requested to implement the provisions of the Convention as might be applicable to each of them. Similarly, all the Chief Ministers of States and Administrators of UTs were also requested to examine different provisions/obligations under the Convention as might relate to them and to take effective steps for their early implementation. The State Governments/UT Administrators were also asked to furnish a status report in this regard so that the same could be utilized towards preparing the Country Report. Rigorous monitoring and follow-up was being done in this regard so as to fulfil obligations of the Convention.

### ***Incheon Strategy:***

“To make the Right Real” for Persons with Disabilities in Asia and Pacific. The Ministers and representative of members and associate members of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) assembled at the High Level Inter Governmental meeting on the final review of the implementation of the Asian and Pacific Decade of Disabled Persons, 2003-2012 held at Incheon, Korea from 29th October – 2nd November, 2012 and adopted the Incheon Strategy “Make the Right Real” for Persons with Disabilities in Asia and the Pacific. The ESCAP in its 69th Session held from 25th April – 1st May, 2013 passed the resolution endorsing the Ministerial declaration and Incheon Strategy.

### ***Beijing Declaration***

The high-level inter-Governmental meeting on mid-point review of the Asia and Pacific Decade for Persons with Disabilities (2013-2022) in Beijing was held from 27th November to 1st December, 2017. After deliberations in the meeting, Beijing Declaration was adopted which outlines action plan for the State parties to achieve the targets of Incheon Strategy in the next five years.

### ***Deendayal Disabled Rehabilitation Scheme (DDRS)***

Central and State Governments, including Autonomous Bodies and Universities, to support activities. DDRCs are funded under Deendayal Disabled Rehabilitation Scheme (DDRS) from 2020-21 under which grants are released to State Governments and various other bodies, set up by the Central and State Governments, including Autonomous Bodies and Universities, to support various activities for the welfare of disabled. Objectives of setting up of DDRC Setting up of District Disability Rehabilitation Centres (DDRCs) which would provide rehabilitative support to persons with disabilities through (i) Survey & identification of persons with disabilities through camp approach; facilitation of disability certificate, bus passes and other concession/facilities for persons with disabilities; assisting in the issue of Unique Disability Identity Card (UDID) to divyangjan in the District; (ii) Awareness Generation for encouraging and enhancing prevention of disabilities, early detection and intervention as well as maintaining data of organizations working for the empowerment of persons with disabilities in the district etc.. (iii) Early Intervention and facilitating Insurance Schemes launched by the National Trust/Department for Divyangjan; (iv) Assessment of need of assistive devices, provision/fitment of assistive devices, follow up/repair of assistive devices, assisting the ADIP/ALMICO camps for distribution of aids and assistive devices in the district; (v) Therapeutic Services e.g. Physiotherapy, Occupational Therapy, Speech Therapy etc.; (vi) Referral and arrangement of surgical correction through Government & Charitable institutes; (vii) Arrangement of loans for self employment, through banks & other

financial institutions; (viii) Counseling of persons with disabilities, their parents & family members; (ix) Promotion of barrier free environment and to play an active role in the Accessible India campaign of the department; (x) To provide supportive and complimentary services to promote education, assisting students with disabilities for availing Scholarship Schemes of the Department, vocational training/ Skill Training of eligible Divangjan and employment for persons with disabilities through:- (a) Providing orientation training to teachers, community and families, (b) Providing training to persons with disabilities for early motivation and early stimulation for education, vocational training and employment. (c) Identifying suitable vocations for persons with disabilities, keeping in view local resources and designing and providing vocational training and identifying suitable jobs, so as to make them economically independent. (xi) Provide referral services for existing educational training, vocational institutions and to act as Outreach centre for the services provided by the National Institutes and Composite Regional Centres

### ***Accessible India Campaign:***

Department of Empowerment of Persons with Disabilities (DEPwD) launched Accessible India Campaign (Sugamya Bharat Abhiyan) as a nation-wide Campaign for achieving universal accessibility for Persons with Disabilities (PwDs) on December 3, 2015. It has three important verticals, namely - the Build Environment, the transportation sector and the ICT ecosystem.

#### **Part A: Built Environment Accessibility**

An accessible physical environment benefits everyone, not just persons with disabilities. Measures should be undertaken to eliminate obstacles and barriers to indoor and outdoor facilities including schools, medical facilities, and workplaces. Further these would include all public spaces such as roads, footpaths, parks and gardens etc.

#### ***Transportation System Accessibility***

Transportation is a vital component for independent living, and like others in society, PwDs rely on transportation facilities to move from one place to another. The term transportation covers a number of areas including air travel, buses, taxis, and trains.

#### **Part C: Information and Communication Eco-System Accessibility**

Access to information creates opportunities for everyone in society. People use information in many forms to make decisions about their daily lives. This can range from actions such as being able to read price tags, to physically enter a hall, to participate in an event, to read a pamphlet with healthcare information, to understand a train timetable, or to view webpages. No longer should societal barriers of infrastructure, and inaccessible formats stand in the way of obtaining and utilizing information in daily life. The targets set under the relate to websites, the audio-visual media and sign language interpreter.

During meetings with States on November 10 and 11, 2021, the DEPwD had “raised concerns about the slow pace of implementation of AIC and emphasized on the need of concrete changes in the ecosystem of public infrastructure to make it accessible for Divyangjan,” the minutes of the meeting read.

Deen Dayal Disabled Rehabilitation Scheme: Under the scheme financial assistance is provided to NGOs for providing various services to Persons with Disabilities, like special

schools, vocational training centres, community-based rehabilitation, pre-school and early intervention etc

Assistance to Disabled Persons for Purchase / fitting of Aids and Appliances (ADIP): The Scheme aims at helping the disabled persons by bringing suitable, durable, scientifically-manufactured, modern, standard aids and appliances within their reach.

## **National Fellowship for Students with Disabilities (Rgmf)**

The scheme aims to increase opportunities to students with disabilities for pursuing higher education. Under the Scheme, 200 Fellowships per year are granted to students with disability.

Schemes of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities.

National Action Plan for Skill Development of Persons with Disabilities (Under Scheme for Implementation of Persons with Disabilities Act (SIPDA))

The existing Skill Training Landscape for PwDs • National Skill Development Corporation (NSDC). • Vocational training courses offered by National Institutes of Department of Empowerment of Persons with Disabilities and its affiliate organisations like National Handicapped Finance and Development Corporation (NHFDC), National Trust etc. • Ministry of Labour and Employment supervising more than 20 Vocational Rehabilitation Centres for Handicapped (VRCHs), more than 10,000 ITIs and more than 1000 Employment Exchanges. • Technical and Vocational courses, being offered through Community colleges, IITs and Universities, affiliated with Ministry of Human Resources Development. • NGOs focusing on vocational training and skill development. • Private sector training organizations: Under the CSR initiative, many organizations have done exemplary work. • Public Sector Undertakings have also contributed substantially to vocational training of persons with disabilities. • National Rural Livelihood Mission of Ministry of Rural Development. • National Urban Livelihood Mission of Ministry of Urban Development. • Vocational training / livelihood programs of other Central Govt. Ministries and State Governments.

### ***Issues and Challenges:***

According to the Census 2011, about 1.34 crores persons with disabilities are in the employable age of 15 to 59 years. About 99 lakh persons with disabilities in the employable age group were non-workers or are marginal workers. • Persons with disabilities are among the poorest in the population. • Urgent need to scale up the skill training infrastructure in view of the huge demand- supply gap. • The training, being offered through various institutions / mechanisms is nonhomogenous, lacks quality and is low on employability. • Very low access of the present training infrastructure to the PwDs in rural areas. • Low level of involvement of private sector in the skill training of PwDs. • The skill training offered by various ministries / departments to the PwDs is fragmented or overlapping. There is an imminent need for: • Quality Vocational Training with high employability. • Homogenous training curriculum & methodology. • Use of latest technology in training, content generation and monitoring of training. • Synergistic participation of the Private Sector and NGOs in the training and placement process. • Targeted optimal use of CSR funds.

THE HINDU Dated 14 December 2022 As per the article (House panel flags 'casual approach' of government over setting up disability centres) It noted that just 55-60 DDRCs had been set up of the target of 269 and that the govt. had been unable to provide proper roadmaps with timelines for the rest .With just 55-60 District Disability Rehabilitation Centres (DDRC) made functional so far out of the targeted 269 in designated districts, the Parliamentary Standing Committee on Social Justice and Empowerment has said that it feels the Union Government is "somewhat casual" in its approach to complete this task. It sought that the government lay down a proper roadmap with timelines for the execution of the work needed to establish the DDRCs in every district of the country as targeted.

### ***Health***

A large number of disabilities are preventable, including those arising from medical issues during birth, maternal conditions, malnutrition, as well as accidents and injuries. However, the health sector especially in rural India has failed to react proactively to disability. Further there are lack of affordable access to proper health care, aids and appliances. Healthcare facilities and poorly trained health-workers in rehabilitation centres is another concern.

### ***Education***

The education system is not inclusive. Inclusion of children with mild to moderate disabilities in regular schools has remained a major challenge. There are various issues such as availability of special schools, access to schools, trained teachers, and availability of educational materials for the disabled. Further, reservations for the disabled in higher educational institutions has not been fulfilled in many instances

### **The Hindu: Beyond the Barriers of Disability**

The differently-abled community offers a vast potential that can be tapped with the right steps  
September 17, 2020 01:04 am: The stigma attached to persons with disabilities, compounded by a lack of understanding of their rights, makes it difficult for them to attain their valued "functionings", which Amartya Sen defined as capabilities deemed essential for human development. Furthermore, women and girls with disabilities are at a higher risk of experiencing sexual and other forms of gender-based violence. About 80% of the estimated one billion persons with disabilities worldwide live in developing countries. The International Labour Organization , using data from the latest national Census (2011), reports that 73.6% of persons living with disabilities in India are outside the labour force. Those with mental disabilities, women with disabilities and those in rural areas are the most neglected. As is the case with most crises, the COVID-19 pandemic has had its worst impact on marginalised communities. For instance, students with disabilities have found it extremely difficult to access remote learning through digital platforms. The UNESCO's 2019 State of the Education Report of India acknowledges that inclusive education is complex to implement and requires a fine understanding of the diverse needs of children and their families across different contexts. India has made considerable progress in terms of putting in place a robust legal framework and a range of programmes that have improved enrolment rates of children with disabilities in schools. However, further measures are needed to ensure quality education for every child to achieve the targets of Agenda 2030, and more specifically, the objectives of the Sustainable Development Goal 4.

### ***Employment***

Even though many disabled adults are capable of productive work, disabled adults have far lower employment rates than the general population. The situation is even worse in the private sector, where much less disabled are employed.

### ***Accessibility***

Physical accessibility in buildings, transportation, access to services etc still remain a major challenge.

### ***Discrimination/Social Exclusion***

Negative attitudes held by the families of the disabled, and often the disabled themselves, hinder disabled persons from taking an active part in the family, community or workforce. Differently-abled people face discrimination in everyday life. People suffering from mental illness or mental retardation face the worst stigma and are subject to severe social exclusion.

### ***Inadequate data and statistics***

The lack of rigorous and comparable data and statistics further hinders inclusion of persons with disabilities. The major issues with collection of data and measuring disability are: Difficult to define disability, Coverage: Different purposes require different disability data, Reluctance in reporting disability as disability is considered to be a stigma in many places/societies. Poor implementation of policies and schemes hinders the inclusion of disabled persons. Though various acts and schemes have been laid down with an aim to empower the disabled, their enforcement face many challenges.

### ***Prevention***

Preventive health programs need to be strengthened and all children need to be screened at a young age. Kerala has already started an early prevention programme. Comprehensive Newborn Screening (CNS) programme seeks early identification of deficits in infants and reduce the state's burden of disability.

NBS is a form of preventive health care in which babies are tested within the first days of their life to discover evidence of diseases for which the main symptoms may not yet be apparent. Screened conditions are varied; they may be genetic, endocrinologic, metabolic or hematologic.

Unlike treatment-based health care processes, newborn screening is population-based.

With more than 29 million pregnancies and birth rates amounting to as high as 25+ million annually, it is essential that the central and state governments act proactively to take stringent initiatives for NBS to be a part of the national program. This would encourage and advance the screening to help identify the affected babies.

Rashtriya Bal Swasthya Karyakram (RBSK) is a new initiative aiming at early identification and early intervention for children from birth to 18 years to cover 4 'D's viz. Defects at birth, Deficiencies, Diseases, Development delays including disability.

Child Health Screening and Early Intervention Services under RBSK envisages to cover 30 selected health conditions for Screening, early detection and free management. States and UTs may also include diseases namely hypothyroidism, Sickle cell anaemia and Beta Thalass-emia based on epidemiological situation and availability of testing and specialized support facilities within State and UTs.

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**Selected Health Conditions for Child Health Screening & Early Intervention Services**

<b>Defects at Birth</b>	<b>Deficiencies</b>
1. Neural tube defect	
2. Down's Syndrome	
3. Cleft Lip & Palate / Cleft palate alone	10. Anaemia especially Severe anaemia
4. Talipes (club foot)	11. Vitamin A deficiency (Bitot spot)
5. Developmental dysplasia of the hip	12. Vitamin D Deficiency, (Rickets)
6. Congenital cataract	13. Severe Acute Malnutrition
7. Congenital deafness	14. Goiter
8. Congenital heart diseases	
9. Retinopathy of Prematurity	
<b>Diseases of Childhood</b>	<b>Developmental delays and Disabilities</b>
15. Skin conditions (Scabies, fungal infection and Eczema)	21. Vision Impairment
16. Otitis Media	22. Hearing Impairment
17. Rheumatic heart disease	23. Neuro-motor Impairment
18. Reactive airway disease	24. Motor delay
19. Dental conditions	25. Cognitive delay
20. Convulsive disorders	26. Language delay
	27. Behavior disorder (Autism)
	28. Learning disorder
	29. Attention deficit hyperactivity disorder
30. Congenital Hypothyroidism, Sickle cell anemia, Beta thalassemia (Optional)	

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***Mechanisms for screening at Community & Facility level:***

Child screening under RBSK is at two levels community level and facility level. While facility based new born screening at public health facilities like PHCs / CHCs/ DH, will be by existing health manpower like Medical Officers, Staff Nurses & ANMs, the community level screening will be conducted by the Mobile health teams at Anganwadi Centres and Government and Government aided Schools.

**Screening at Anganwadi Centre**

All pre-school children below 6 years of age would be screened by Mobile Block Health teams for deficiencies, diseases, developmental delays including disability at the Anganwadi centre at least twice a year. Tool for screening for 0-6 years is supported by pictorial, job aids speci-fically for developmental delays. For developmental delays children would be screened using age specific tools specific and those suspected would be referred to DEIC for further management.

**Screening at Schools - Government and Government aided**

School children age 6 to 18 years would be screened by Mobile Health teams for deficiencies, diseases, developmental delays including disability, adolescent health at the local schools at least once a year. The too used is questionnaire (preferably translated to local or regional language) and clinical examination.

## Composition of Mobile Health Team

The mobile health team will consist of four members- two Doctors (AYUSH) one male and one female, at least with a bachelor degree from an approved institution, one ANM/Staff Nurse and one Pharmacist with proficiency in computer for data management

### *Awareness*

People with disabilities need to be better integrated into society by overcoming stigma. There should be awareness campaigns to educate and aware people about different kinds of disability. Success stories of people with disabilities can be showcased to inculcate positive attitude among people

### *Employment*

Disabled adults need to be empowered with employable skills. The private sector needs to be encouraged to employ them. Better measurement: The scale of disability in India needs to be better understood by improving the measurement of disability.

### *Education*

State-wise strategies on education for children with special needs need to be devised. There should be proper teacher training to address the needs of differently-abled children and facilitate their inclusion in regular schools. Further there should be more special schools and ensure educational material for differently-abled children

#### **Developing schools without barriers**

#### **Developing inclusive and accessible schools will help challenge perceptions about children with disabilities and actualise the zero-rejection policy in schools**

**THE HINDU : January 25, 2023 01:45 am | Updated January 26, 2023 10:22 am IST**

Ma'am, may I please go to the toilet?" or "Can I go play outside?" are usually innocuous requests by most schoolchildren. But for children with disability/disabilities (CWD), these are difficult tasks, due to the higher care needed to complete the actions. These actions become tougher in schools which do not have accessible spaces and other guiding infrastructure to get there safely. A [UNESCO 2019 report](#) mentioned that CWD comprise 1.7% of the total child population in India (Census 2011). As they are faced with physical, institutional, socioeconomic and communication barriers from an early age, more than 70% of five-year-olds with disabilities in India have never attended any educational institution, the report said. Many CWD also tend to drop out of school as they grow older.

To motivate all children to meaningfully participate in all indoor and outdoor activities without barriers or limitations, the school ecosystem has to be made safe, accessible, and reliable.

**Barriers to accessibility** Several barriers impede the participation of CWD in accessing educational opportunities such as inaccessible school buses; inaccessible facilities in schools (drinking water facilities, canteens and toilets); and inappropriate infrastructure in classrooms (uncomfortable seating, slippery flooring and low illumination). Misinformed attitudes and perceptions among parents, teachers, staff, and communities further influences the child's emotional development. The lack of teaching and learning practices that integrate inclusive technologies and digital equipment to engage the child, such as assistive devices, are additional challenges. At training programmes conducted by UN-Habitat India and IIT Kharagpur recently, school teachers and special educators said that accessible infrastructure within schools, such as ramps or tactile paths, are either in deficit or have not been constructed

utilising suitable materials. School management authorities added that if such provisions are maintained regularly and adequate funding is provided for the construction of new infrastructure, we would have accessible places. The cooperation, involvement, and sensitisation of parents and caregivers, teachers, school management authorities, and the local government departments are required so that all these barriers are actively addressed.

Access: Safety measures like road safety, safety in residential areas, public transport system etc, should be taken up. Further, it should be made legally binding to make buildings disabled-friendly.

**THE HINDU : Uncertainty over Accessible India Campaign deadline**

June 04, 2022 07:50 pm | Updated 09:43 pm IST - NEW DELHI

The campaign, which was launched on December 3, 2015, aimed at making a proportion of government buildings, transport and websites accessible for persons with disabilities (PwD) by deadlines in 2017, 2018 and 2019. However, the deadline was extended to March 2020 and then again to June 2022, according to replies by the Ministry in Parliament. The DEPwD had written to chief secretaries of all States and Union Territories recently asking about the progress made on the various targets and received a reply only from Tamil Nadu as of this week, the department official said. Tamil Nadu had asked for an extension of a year to complete the targets, the official added. Another reminder would be sent to the States soon and the replies would be presented before the board, the official said. Incidentally, the board, which is chaired by the Social Justice Minister and is required to meet once every six months by the Rights of Persons with Disabilities Act, 2016, has not had a meeting since November 2020. The official attributed the delay to the COVID-19 pandemic.

The deadline for making govt buildings, public transport, websites accessible for PwD was “June 2022”. According to a reply by the Ministry in the Rajya Sabha in February, 48.5% of State and UT government buildings had been made accessible, almost at the target of 50%. Progress on public transport was less, with only 8.73% of buses fully accessible as against the target of 25%. All 35 international airports were accessible and all A and B category railway stations too, the data showed. During meetings with States on November 10 and 11, 2021, the DEPwD had “raised concerns about the slow pace of implementation of AIC and emphasized on the need of concrete changes in the ecosystem of public infrastructure to make it accessible for Divyangjan,” the minutes of the meeting read.

**Cabinet approves signing of the MoU between the India and South Africa for cooperation in Disability Sector**

Posted On: 15 FEB 2023 3:48PM by PIB Delhi

The Union Cabinet, chaired by the Hon'ble Prime Minister Shri Narendra Modi, has approved signing of the Memorandum of Understanding (MoU) between the Government of India and the Government of Republic of South Africa for cooperation in Disability Sector. The bilateral Memorandum of Understanding will encourage cooperation between the Department of Empowerment of Persons with Disabilities, Government of the Republic of India and Government of South Africa through joint initiatives in the disability sector. It will strengthen bilateral ties between India and South Africa. Specific proposals for cooperation between the two countries, as mutually agreed upon, will be taken up for implementation during the period of validity of the Memorandum of Understanding. It envisages that Persons with Disabilities (PwDs) at large and ageing population in both countries who especially require modern, scientific, durable, cost effective aids and assistive devices will be benefitted from this MoU.

### ***Policy Interventions***

More budgetary allocation for welfare of the disabled. There should be a disability budgeting on line of gender budget. Proper implementation of schemes should be ensured. There should be proper monitoring mechanisms and accountability of public funds.

### **Conclusion**

The evolution of the disability rights movement (DRM) in India spans over four decades. Voices began demanding the rights of persons suffering from disabilities in the early 1970s. The various demands from groups and individuals were significantly scattered. The 1980s witnessed the consolidation of demands from various groups and their organization under a cross-disability umbrella, representing the interests of the disabled. Many NGOs started operating in the disability sector during this decade and this subsequently provided further momentum to the DRM. After a series of petitions and protests, the government passed the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (or PWD Act), which reserved three percent of government posts for those in the PWD category. The year 1995 became a benchmark year for the DRM, which stands for the beginning of a new era altogether, in which people suffering from disability found visibility in educational institutions and government services.

In the new millennium, the United Nations adopted the Convention on the Rights of Persons with Disabilities in 2006. India signed and ratified this convention in 2007. By then, there was a demand for an increase in the reservation for the PWD category by various groups working on disability issues. By 2012, the Union Government of India came up with a disability bill, and after some amendments in the original draft. The Rights of Persons with Disabilities Bill, In 2016 was passed by both houses of parliament . which guaranteed that disabled people in India had the same right to education, employment and accessibility as any other citizen of the country. We now have people with disabilities in schools, colleges and civil services because of this Act. India has not been able to accept people with disabilities as part of human diversity for all of our unity in claims to diversity. The answer to why this may persist is that people with disabilities have remained at the public discourse periphery. We mistakenly believe that disability is a homogeneous experience that affects only a few people. Disability is an experience that cuts across generations and affects at least 10-15% of the population. As our population grows older, this number also go up. Yet we don't see people with disabilities in our public life. Less than 50% of our government buildings are handicapped-friendly, as discovered by the Accessible India Campaign. Despite India's right to education law, out of India's 2.9 million disabled children, 990,000 children aged six fourteen are out of school, a report from UNESCO and UNICEF revealed. Therefore merely forming the laws for PwDs is not the answer for Inclusion of them in the society and living a dignified life like any other citizen . Its high time to recognise prevention is better then cure and intensive measures to be taken to combat prevent disability at prenatal, natal and post-natal phase. Awareness plays a great role for such purpose. Inclusion of CWSN in school education should be based on Universal design of learning to fulfil the goal of SDG 4 Which is about quality education and is among the 17 Sustainable Development Goals established by the United Nations in September 2015. The full title of SDG 4 is "Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all".

A comprehensive creative, technical and financial approach is required from all society to achieve the true aim of legal instrument for PwDs so rightly said by Bernard Bosanquet, "we

have a right to the means that are necessary to the development of our lives in the direction of the highest good of the community of which we are a part".

## **Bibliography**

- AIC : <https://disabilityaffairs.gov.in/content/page/accessible-india-campaign.php>  
Census 2011 <https://punarbhava.in/index.php/disability-register/census-2011-disability-data>  
CDC <https://www.cdc.gov/ncbddd/disabilityandhealth/disability-barriers.html>  
Constitution of India <https://legislative.gov.in/sites/default/files/COI...pdf>  
DDRC <https://disabilityaffairs.gov.in/content/page/district-disability-rehabilitation-centres-ddrc.php>  
Department of disability affairs <https://disabilityaffairs.gov.in/content/page/brief-history.php>  
<https://nhm.gov.in/message.php?id=no>  
TheHindu: <https://www.thehindu.com/opinion/op-ed/developing-schools-without-barriers/article66427806.ece>  
The Hindu <https://www.thehindu.com/news/national/uncertainty-over-accessible-india-campaign-deadline/article65493903.ece>  
<https://www.thehindu.com/news/national/govt-casual-about-setting-up-disability-centres-must-pursue-it-earnestly-parliamentary-panel/article66258743.ece>  
National health Mission [https://www.nhp.gov.in/national-mental-health-programme\\_pg](https://www.nhp.gov.in/national-mental-health-programme_pg)  
PIB <https://pib.gov.in/PressReleasePage.aspx?PRID=1899442>  
RPwD Act [https://legislative.gov.in/sites/default/files/A2016-49\\_1.pdf](https://legislative.gov.in/sites/default/files/A2016-49_1.pdf)  
SDG: <https://www.undp.org/sustainable-development-goals> SIPDA <https://disabilityaffairs.gov.in/content/page/sipda.php>  
The Diplomat <https://thediplomat.com/2016/12/the-history-of-indias-disability-rights-movement/>  
UNCRPD <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>  
UNICEF, <https://www.unicef.org/press-releases/nearly-240-million-children-disabilities-around-world-unicefs-most-comprehensive>



## **Biography of Author**

Dr. Vidhu Rajput is a Post Graduate in Psychology and Post Graduate in Special Education She has done her Botany (Hon.) From Delhi University, India. She is Doctorate in Inclusive Education. Dr. Vidhu Rajput has an experience of twenty four years in the field of Special Education and has up to date knowledge of the latest methods & advancements . She has touched lives of thousands of Children with special needs, adults with disabilities and parents of same. She has successfully provided assessments and programme plans for them under government Institutions and various NGOs . She has experience of expert faculty of seven years in different government National Institutes and NGOs in Neuro Psychology, ROA and Special Education . She is founder General Secretary of NGO Voluntary Action Group for

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Differently Abled Persons (VAGDAP) , New Delhi which she founded in the year 2006. Her compassion to serve the people has always associated her with various Charitable Organisations & NGO's, helping the weaker economic section and deprived to get the needful education and other related services from the year 1995. She has been associated with one of the prestigious project of Central govt for six years on Research and training based Internet and satellite project on Education, training and Empowerment of persons with disabilities under M/O Information and Technology, GOI and Rehabilitation Council of India M/O Social justice and empowerment, GOI. She has represented as an expert for Autism in South Asian Network conference organised by DGHS and govt of Bangladesh and Expert for National consultative workshop by M/O Health and family welfare. She was also appointed as an expert for upgrading of All India Institute for Speech and Hearing, AIISH, Mysore, India by M/O Health and family welfare. She is an Expert with Rehabilitation Council of India, M/O Social justice and empowerment, GOI, New Delhi for recognition of Institutes and universities at National level. She is associated with ICMR from the year 2011 as an expert for various workshops and research based projects on disability , rehabilitation and assistive technology .