

'Differently-Abled' Workforce Embracing Mainstream: the Dynamic Roles of Government, Law and Enterprises

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Abstract

With regard to differently-abled people in India, the present paper is relevant from the perspective of streamlining the process and that it cut across socio-economic and psychological dimension of persons with disabilities. The paper attempts to bridge the gap prevailing between the neglected and mainstream of the society. It aims to critically review the status quo of differently-abled persons at different levels of government, international agencies, legal machineries, and corporate entities in the context of India. Methodology was solely based on a literature review, supplemented with personal experience and observation. The researchers began the literature review process by exploring the past work in the context of government, legal machineries, international agencies, and corporate entities to learn their role as how it was performed in the upliftment of differently-abled workforce. The questions about the role of different stakeholders in the upliftment of differently-abled citizens were developed and further literature was searched for solution analysis. As findings, gaps were observed in the successful implementation of legal enactments, in turn protecting the rights of people with disabilities. Besides, the perceptual biases amongst the mainstream society were found to be a major obstruction in transitioning and uplifting the lopsided conditions of differently-abled persons to the threshold of mainstream society.

Keywords: Disability, *Divyangjan*, The Rights of Persons with Disabilities Act, 2016

1. Introduction

“Until the great mass of the people shall be filled with the sense of responsibility for each other’s welfare, social justice can never be attained”

– **Helen Keller**

The primary object of any legal framework is to ensure the desired code of conduct and governance for the smooth, efficient and sustainable living for all with an atmosphere of equality, dignity and rewards commensurate with the inputs in any form. Ensuring human rights to each and every one has always remained a dream for almost all nations. Like normal and others, persons with disabilities (*Divyangjan* in Hindi language) holds equal and / or more, ignoring selected area, ability, and capacity to perform and

remain in gainful employment and live an independent and self-sufficient life. There lies a great potential and a huge task need to be analysed and explored for the persons with disabilities. Company secretaries being the compliance officer and corporate governance professional and having nexus between the stakeholders and Board of Directors has an important role to play by enlightening the top-level management and educating the others to actively get involved in a goal of inclusive workplace. Employers should not perceive manpower investment for such persons with disabilities as an obligation, cost or burden but, as a source of benefit that can be availed by engaging loyal and effective employees who are having a different ability and skill that are somewhat unique and can be further nurtured for the win-win situation.

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2. Persons with Disabilities (*Divyangjan*) and an Effort to Nullify Socio-Economic Disadvantage

Since evolution of mankind and later the societal set up, in one or other form, the group of people, society has been governed through various tools in the form of customs, traditions, rituals, rules, regulations, law etc. The very basic object of law, legal set up is to ensure the desired code of conduct and governance for the smooth, efficient and sustainable living for all with an atmosphere of equality, dignity and rewards commensurate with the inputs in any form. Legal set up as perceived at the surface is not just the compliance but, having grasped the essence of such law, rules and regulations, to implement in letter and spirit and realise the vision behind such compulsion should be the backbone of the welfare state. Law is definitely an effective tool and way of ensuring social growth and development. After crossing the basic levels in a normal, descent life a stage comes to have an urge to grow and prosper together, something to give back and uplift the needy class and next generation to the higher levels. The United Nations convention in the year 2006, with respect to the rights of 'differently-abled' people, was instrumental in highlighting the subject of disability. The issue got prominence in the international human rights agenda leading to the nullification of the socio-economic disadvantage one suffers due to disability. Persons with disabilities (*Divyangjan*) comprises between 1/5th, 1/6th of the world's population.

Progress was witnessed when member nations gathered in Korea in 2012 to decide the future course of action. The purpose was to promote the mission of persons with disabilities from 2013 through 2022 as Asian and Pacific decade. The mission was well applauded by civil societies particularly the support was observed from the persons with disabilities. The involvement of institutional representatives exhibited a major impact and played a significant role between large enterprises. Such representatives have coordinated amongst large and leading business organizations from different industries (Incheon Strategy www.unescapdd.org, 2019).

3. Research Design

3.1 Problem Statement

The problem statement of the present paper is: To understand how societal forces, viz; government, legal machineries,

international agencies, and corporate entities play the role in the upliftment of differently-abled workforce, in turn, bringing and uniting them to the mainstreams of the society in the context of India as a nation.

3.2 Method, Relevance and Limitations

The research method of this paper was almost solely based on a literature review, supplemented with personal experience and observation. The researchers began the literature review process by exploring the past work in the context of government, legal machineries, international agencies, and corporate entities to learn their role as how it was performed in the upliftment of differently-abled workforce. Also, researchers had the opportunity to succinctly review the law: The Rights of Persons with Disabilities Act, 2016 (the RPDA). The intent was to understand how relevant the enacted law is in reducing the pain of differently-abled workforce in the country and the highlighted reformative measures for them.

3.3 Databases

The questions about the role of different stakeholders in the upliftment of differently-abled citizens were developed and further literature was searched for solution analysis. The researchers accessed the data bases to identify articles included Ingenta Connect Home, EBSCO Host, Education Resources Information Center (ERIC), PsycINFO, and Scholar Google. The databases were queried using the keywords: government, law, state, legal machineries, private entities, socio-economic changes, disability act etc.

4. Human Rights and the Shield of Law

Ensuring Human rights to each and everyone has always remained a dream for almost all countries and various components to human rights have been addressed in different ways by the concerned state. Disability has different connotations and definition attached to it. It has deeper impact on social and economic wellbeing, health care expenditure, emotional and psychological vulnerability, adverse impact on education, employment and earning opportunities. Like normal and others, Persons with disabilities (*Divyangjan*) holds equal and or more, ignoring selected area, ability and capacity to perform and remain in gainful employment and thrive in their self-sufficient life.

The Rights of Persons with Disabilities Bill, 2016 was passed by the Upper House (Rajya Sabha in Hindi) by the end of 2016 and received assent of the President of India on 27th December, 2016. The RPDA, 2016 replaced the Persons with Disability Act, 1995. The Act has been enacted under Article 253 of the Constitution read with item No. 13 of the Union List (WORD-1). The RPDA explicitly states that its purpose is to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto. It offers impact to the announcement on the full participation, uniformity and equality of the people with disabilities. Also, it accommodates their education, employment, training, and cultivates an ambiance free from any hindrance and offers all the more social security. In order to implement the act, it is essential to bring different parties with varied interests at the level of consensus. It calls for a collaborative attitude represented by the different stakeholders, viz; local entities, central departments, union territories or ministries.

5. Human Rights Agency, Government and Private Entities: Changing Roles

Over the years, the human rights movement has categorically moved the attention of policy makers. Earlier, the human rights movement was emphasizing on the mere progress of charitable services. However, in recent years, human rights movement strongly started safeguarding the fundamental right to self-respect and pride. Furthermore, given the changing environment, the perception towards disabled has changed and led to the belief that these individuals are blessed with a variety of abilities. Also, these individuals are highly capable and willing to showcase their potential and skills. As of now government establishment shall have four per cent reservation. Also, the reservation is for individuals with benchmark disabilities. Depending upon the notification of government, it could be applicable to private establishments as well. However, notification is yet to be issued in this regard.

Based on the limited ambit of economic capacity, the government and the local authorities shall ensure that the employer is provided incentives. The purpose is to motivate employers to recruit minimum five per cent individuals with disability as part of their strong and agile workforce. In addition, the government authority is expected to furnish information regarding the vacancies for individuals with

benchmark disability. These disabilities may have occurred in the workplace or about to occur in that unit or plant. In either case, the establishment would comply with such demands and assigned duties as may be notified by the government (American Indian Foundation, 2014). Strong initiatives will have a major and far going impact on nurturing and carving out best potentials amongst the differently able persons by engaging to the job, employment by giving opportunity to excel and live a dignified life. Nevertheless, many private sectors organizations have voluntarily demonstrated increasing trend in providing gainful employment to differently able persons. Corporate Social Responsibility (CSR) agenda has remained an important element of such initiative. Apart from direct contribution from such employees, corporate also gain from brand building, goodwill exhibited in employee and customer, a larger size of employees demonstrating loyalty, and declining attrition rate. Currently, there are examples in private organizations, having demonstrated lead in voluntarily implementing, also going beyond the Rights of Persons with Disabilities Act, 2016 viz. Café Coffee Day (Amalgamated Bean Coffee Trading Company Ltd.), Capgemini India Pvt. Ltd., Scope International Pvt. Ltd. v-shesh, Wipro to name a few (Social Statistics Division, 2016).

6. Implementation Challenge

Touching the lives of all for ensuring their well being is the basic rule of good governance and development. Targeted intervention is required for the upliftment of people in any disadvantaged position. As per the census 2011, the 'differently-abled' population of India is 2.21%. The concern for 'differently abled' persons is much evident in the National Policy for Persons with Disabilities framed in 2006. The importance for the differently abled persons reflects in the policy wherein people of such abilities are considered to be valuable human capital for the nation wherein it calls for equality for them in terms of opportunities for growth, and protection of human rights and inclusion in the mainstream society without any bias. Going forward, the government of India promoted further the mission and strengthened the policy-based framework for differently abled people. India, as a country attained the prominent milestone wherein the government signed the declaration in the year 2000 encompassing full involvement, encouragement and equal treatment of persons with

disabilities in the Asia Pacific Region. Also, India strongly supported the 'UN Convention on the rights of Persons with Disabilities' (2008). In Social Statistics Division, 2016, much emphasis is given on the Sustainable Development Goals developed in 2015. It pledges to protect the weaker and less empowered section of the society (Kaipa Prasad & Shenoy Meera, 2012).

The intention of the government is clear with the newly passed, The Rights of Persons with Disabilities Act, 2016. It clearly shows that the central government seriously considers the necessity of such a bill for the protection of the rights of differently-abled population in India. However, there could be challenges ahead. For instance, implementation would be quite different from formulation of policies and procedures - What football players plan in their dressing room is different from what is executed while playing football in the field. In the context of the present bill, the implementation is anticipated to be a herculean task. In a vast country like India, the implementation of various government policies, bills, schemes etc. in the past showcased that the impact anticipated out of the formulated concepts often remained insignificant. The reasons could be many, such as corruption, lack of accountability, lack of commitment, lack of involvement, poor alignment of incentives, improper monitoring, particularly at grassroots-level etc. Hence, it is natural that expectations of stakeholders would go up when it comes to implementing the newly passed bill of RPDA, 2016, effectively.

Another aspect of implementation of the bill could be the coordination between the authorities at the central and respective state levels. Differently stated, the relationship between central government and the state governments would play a significant role in driving the whole mission to uplift the differently-abled people in the mainstream of the society. Since India represents a nation with diversity in culture, traditional values, rituals, religions, belief systems and many more; managing any aspect of welfare and progress would become all the more challenging. Due to political imbalances, economic differences, cultural and social preferences, the alignment between central and state governments have been seen to be a matter of serious concern, especially in the context of implementation of bills, policies and schemes initiated and funded by the central government. The differences in the ideologies of political parties and geographical distances have also been affecting the process of implementation. Smaller states, for instance north-eastern region have been struggling to get timely funds and implementation of policies and establishment of

structures and procedures under different enacted bills by the central government.

6.1 Lack of Awareness-A Key Issue when it comes to Implementing a Policy or Bill

It has been observed that state governments have had no surface-level clarity about the real issues and concerns of different categories of people living in remote villages, towns and urbanised localities of the states. On the other hand, enacting bills at state or central level, offering attractive schemes to a particular community or category etc have been formulated without analysing the rudimentary environmental conditions, factors and intermediaries. Consequently, implementation of such drafted bills, popular schemes or exhaustive programmes otherwise remain effective on paper, but continue to be ineffective in real sense. Thus, it reflects in terms of identified gaps due to lack of action-oriented results, in turn leading to huge dissatisfaction of common people for no fault of theirs. Because of bureaucratic system and centralised authority, state governments unexpectedly fail in attaining the objectives to implement such well drafted bill. Adding to that, poor channels of promotions and campaigns have obstructed the purpose of generating mass awareness about such bills intended to help and uplift a particular category of people i.e.; differently baled.

6.2 Failure to Link Budget Expenditure to Meaningful Implementation of the RPDA, Bill 2016

As stated in an article published by popular English magazine, The Salelkar (2017), the central government consistently failed to link budget expenditure to meaningful implementation of the bill. The article takes stock of the situation of the previous bill: Scheme for Implementation of the Persons with Disabilities Act (SIPDA). Such a condition amplifies the situation. In all earnestness, the government failed to link budget expenditure to meaningful execution of the Bill. Even it failed to meet the international obligations in this regard. Essentially, the government is not even sure about the actual percentage of population with disabilities in India. As per the statistics from World Health Organization (WHO, 2011), the estimated fifteen percent of the population to be disabled. However, we see a straight contrast in the estimated

figures put by Indian census. According to the census, the figure is close to 2.1 per cent of the population only i.e., a 0.0039% of specific allocation of the budget is nothing but abysmal.

Change is inevitable. A change can be brought in by focusing on advocacy efforts. It should be focused across ministries. As a result, it would ensure that their service delivery design is all-encompassing in relation to improving the conditions of people with disabilities. Additionally, the responsibility falls on the shoulders of the respective state governments to take interest and do their best in improving the conditions of differently-abled by offering support and coordination with central government, and facilitating the execution and ensuring positive outcomes. Furthermore, the disaggregated data has been a major concern. Due to the differences of opinion, government agencies, private entities, civil societies and other volunteering bodies are operating in an environment of incomplete information about the actual numbers and ground realities of people with disabilities across the nation. Hence, it is the need of the hour to explore a way out to resolve the burgeoning issue on an urgent basis by estimating the actual numbers of differently abled in the country.

7. Implementation of the RPDA: A Sense of Hope, Change and Progress

While doing the review of the RPDA, it has been observed that sufficient academic work has been already carried out, and hence it is now the apt time to plunge into the execution of the RPDA and making essence of it a reality. Result oriented efforts are the need of an hour to bring persons with disability into the mainstream and save them from being marginalised. Paying attention by the Government to 'Disability' from the medical aspect to add sociological point of view with the help of legislation is a welcome move. Enactments, laws and constitutional frameworks have been offered by the Indian constitution which incorporates the need to protect the human rights, benefits, care and uplifted status in the society. However, contrarily, the people with disabilities, in reality, have been confronting a lot of social stigma, partiality, and negligence from the mainstream population on account of socio-

economic and psychological differences and unjustified reasons.

As stated by Kumar, (2017) disability itself is a challenge for the differently-abled people. However, the challenge intensifies all the more when disability gets compounded with discrimination. It is strongly felt that a great potential and a huge task need to be analysed and explored for the differently-abled people, particularly with respect to the rights and full participation within the society including education, employment, health and accessibility. Of course, government's engagement by putting into legislative forms is a welcome step but, the same should be with effective enforcement mechanism and not merely rhetoric.

At initial level, the work the person with disability can do and how one is accommodated with disabilities is a major challenge, and subsequently creating and nurturing a disability-friendly culture. A culture that accepts and extends support and cordial atmosphere to persons with disabilities is a further challenge ahead and there requires a leadership trait to improve the work culture and make aware about the benefits to the workforce working with persons with disabilities. Company secretaries, being the compliance officer and corporate governance professional and having nexus between the stakeholders and Board of Directors and HR department, thus being the heart of functional part in an organisation, has an important role to play by enlightening the top level management and educating others to actively get involved in a goal of inclusive workplace.

8. Recommendations and Conclusion

In a nutshell, employers should not perceive manpower investment for such persons with disabilities as an obligation, cost or burden. Contrarily, it should be embraced as a source of benefit that can be availed by engaging loyal and effective employees who are having a different ability and skill that are somewhat unique and can be further nurtured for the win-win situation.

There are hundreds of organisations in India which have achieved best results by voluntarily having been employed persons with disabilities. A more rigorous and constant training, efforts are required to inculcate the tendency and perception to see persons with disability as not only the differently able persons but *Divyangjan* in its true sense, and thereby making this planet earth a more joyful, advanced and blissful place to

live, celebrate and prosper together. It should further lead to the epitome of accomplishment wherein the philosophy of “*Vasudhaiva Kutumbakam*” [entire universe belongs to the same family] is strongly embedded in the thoughts and actions of decision makers from all walks of life represented by societies with a difference.

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