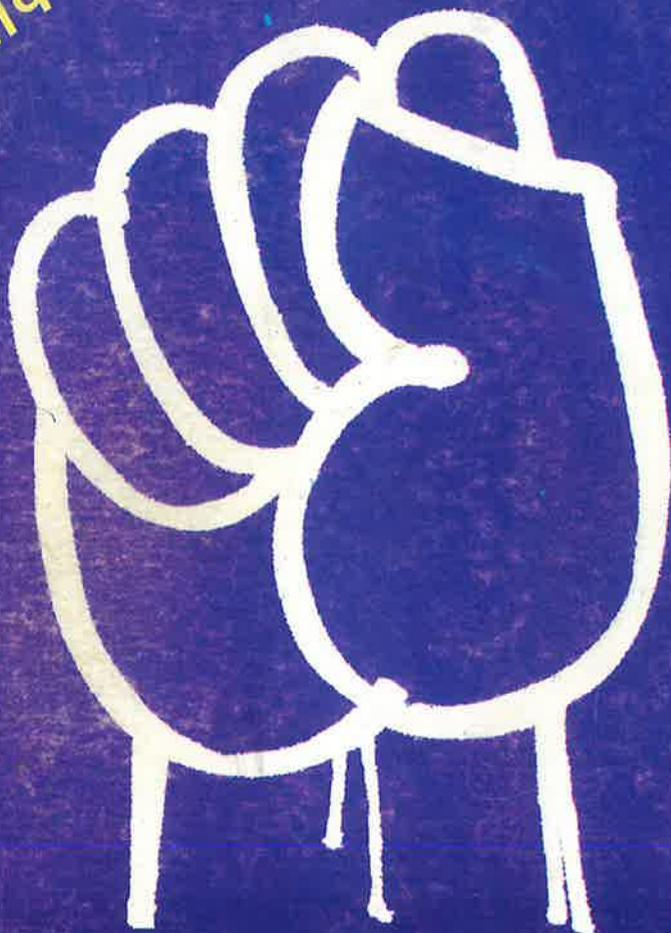


हम कामयाब होंगे। WE SHALL OVERCOME



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**SEMINAR ON "DEAF RIGHTS"  
UNDER THE U.N. CONVENTION  
ON THE RIGHTS OF PERSONS  
WITH DISABILITIES**



**at G.B. Pant Hospital Auditorium, New Delhi  
on 7th & 8th February - 2009**

Proceedings, papers presented & Recommendations Made

**ORGANISED BY :**

**DELHI ASSOCIATION OF THE DEAF**

Regd. Office : 92, Kamla Market, New Delhi-110002



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NATIONAL SPOKESPERSON, B J P



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NEW DELHI  
PHONE : 011-23070300  
FAX : 011-23070999  
E-mail rudypr@rediffmail.com

### MESSAGE

I congratulate the Association at having taken the initiative in creating awareness about UN convention on the Rights of Persons with Disabilities and what it holds for the neglected sections of our society, aptly called "Children of a Lesser God" the Deaf.

It is good the UN Convention under reference has specifically pointed out that the sign language that the deaf use is like any other spoken or written languages that sign language interpreters for the deaf are a pre-requisite and that the deaf are a linguistic minority having their own culture.

Since the Government of India has readily signed and ratified the UN Convention under reference, it is incumbent upon it to amend the persons with Disabilities (equal opportunity, protection of rights and full participation) Act 1995 suitably incorporating all the clauses of the UN Convention under reference at the earliest so that deaf people who have long been denied their rights may access these at last.

To the Members and office bearers, my advice is that they should now take up the challenge of creating awareness about the UN Convention under reference, put peer pressure and build public opinion in favour of an early amendment of persons with Disabilities Act 1995, so that all may benefit.

  
(Rajiv Pratap Rudy)

FORMER UNION MINISTER FOR  
COMMERCE & CIVIL AVIATION (INDEPENDENT CHARGE)



Dr. (Mrs) Shakuntala Dawesar  
G-27, Ansal Chambers I  
3, Bhikaji Cama Place  
New Delhi-110066

## MESSAGE

The activities of the Delhi Association of the Deaf are indeed laudable and I congratulate the Secretary, Mr. D.S. Chauhan and all the members for their efforts in organising seminars and programmes for creating awareness about hearing disabilities. I also congratulate you on the progress made in the building project at the Qutub Institutional Area.

The Association will soon be celebrating its Diamond Anniversary. This is an important milestone in the history of any organisation and speaks volumes about the vibrant leadership that the association enjoys.

I take this opportunity to convey my greetings and felicitations to all the members and them every success in achieving the goals and objectives they set for themselves in improving the lot of the hearing impaired.

**Dr. Shakuntala**

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## Executive President's Report



**Ramesh Gupta**

In the absence of Hon. Secretary, who has not been able to attend his duties due to domestic reasons, the responsibility for carrying on the day to day work, as also to look after the work relating to the Seminar and Bldg. Construction has fallen on me. I have done my best to discharge my duties to the best of my ability but delays have occurred due to factors beyond my control. Since these were unintentional, I pray to be excused.

When we decided to organise the Seminar on 'Deaf Rights', under the U.N. Convention on the Rights of the Persons with Disabilities, early in the year 2008, we never dreamt that it will get postponed, not once but twice and would be ultimately held in the next year i.e. 2009.

However, as the saying goes, better late than never, I am happy to say that the task taken up has been successfully completed, thanks to the all round support that we could get.

We had decided to organise the seminar purely to create awareness about the favourable clauses relating to the Deaf people in the said Convention. Our own only legislation on the theme, the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act 1995 has nothing specifically for the Deaf people, excepting the definition of deafness and so even if wanted, we could not have secured our rights through Court of Law because there was no section in the PWD Act referred to above, under which we could enforce our rights. Therefore, we had to suffer in silence.

The approval of the Convention on the Rights of the Persons with Disabilities by the General Assembly of the United Nation will always remain a land mark in the annual of disability related legislations. This entitles to the Persons with Disabilities, those facilities and concessions to which they are entitled to, but were still not within their reach. They had to plead, even beg but to no avail.

Now these very facilities and concessions denied to them over centuries, can be claimed, not as a largesse or charity, but as a matter of right and if still denied, the Government can be made to act favourably, under orders of a Court of Law.

The idea of Seminar came upon reading in a World Bank Report that nearly half of the persons with disabilities in India, are not even aware of the facilities and concessions, that are available to them and hence remain beyond their reach.

Fearing that the bulk of those unable to access their facilities and concessions, would definitely be the deaf people, who remain cut off from normal society because of their twin disabilities of hearing and speech important, decision to organise a Seminar was taken. In order that the deaf may get the full picture, it was decided that Seminar should enlighten them about their Fundamental Rights, rights under the Persons with Disabilities Act 1995, and which they can access free of charges medical facilities etc. Experts in the fields were approached to present papers. I am happy to state, that we received whole hearted co-operation from all quarters. This enabled us to organise the Seminar most successfully.

Since the most important part of the Seminar was discussions on the U.N. Convention on the Rights of Persons with Disabilities, special request was made to Dr. (Mrs.) Vaishna Narang, Professor of Linguistics and a sympathiser of the Deaf to present a paper, explaining its various Articles and sub-clauses, dwelling most on those relating to the deaf. She readily obliged and presented a paper, lucidly explaining the important, point there in.

She however cautioned not to expect too much, too soon, because, she added, India has, as yet, only signed and ratified the Convention under reference. This, she said, was so because, unless and until, the Government amends the Persons with Disabilities Act. 1995, in incorporating all the important clauses of U.N. Convention under reference or brings out a new Act on the basis of U.N. Convention, nothing will change.

Notable among those who presented papers were Shri Y.S.R. Reddy, Director National Human Rights Commission (on Fundamental Rights under Indian Constitution), Dr. S.S. Jaswal of Indian Law Institute Shri Ravi Bhushan, of Human Rights Law Network, Shri Sunil Batra, Advocate and Legal Luminary, and Dr. Vaishna Narang, Professor of Linguistics, Jawahar Lal Nehru University.

Deligates from Bihar, U.P., Kerala, Tamil Nadu, Jammu & Kashmir, Delhi participated and took an active part in the deliberations. Though all the State organisations of the Deaf had been extended invitation, some of them could not come.

Smt. Girja Vyas, Chairperson National Commission for Woman was the Chief Guest at the inaugural function. She was welcomed by Dr. Arun Kumar Agarwal, Dean, Maulana Azad Medical College, New Delhi, Chairman of Organiging Committee. She lauded the work done by the Association in several fields and for playings a pivotal role in awareness creation and wished Association all success in its endeavours.

Dr. (Smt.) Shakuntala Dawesar thanked the Chief Guest and other numerous participants for their kindness in attending the Seminar which she said was being organised without any support form the Government.

At the valedictory function, Shri Siddharth Luthra Sr. Advocate, High Court of Delhi was the Chief Guest. There were four sessions as under :

1. Fundamental Rights under the Constitution of India.
2. Avenues for accessing all comprehansive medicare for the deaf.
3. Rights under the U.N. Convention on the Rights of the Persons with Disabilities.

Well known authorities on the above themes delivered key note addresses, some of which are published in the Souvenir. It needs to be mentioned here that all the papers were most informative and presented in easy to understand and easy to interpret format in running sign language interpretation mode. Therefore, the message went home. All deaf participants could understand. They in turn will spread the word in their area. Our regret is that though we had invited most of the NGOs, institutions working in the field of Deaf welfare but due to their own compulsions many could not attend.

We are happy at having been able to do our bit in dissemination of useful information and

creating awareness, that too, without any assistance from the Government. This would not have been possible without the whole hearted support of Dr. Arun Kumar Agarwal, Dean Maulana Azad Medical College, New Delhi. He is not only one of the ablest ENT specialist, has restored the faculty of hearing to countless deaf persons, but bears a kind and responsive heart which makes it possible for him to aid and assist the deaf and their care givers in other numerous ways. We are grateful.

We are also most grateful to our patrons, the kind hearted and generous Advertisers who have been helping us during brief life sketch Ramesh Gupta the hour of our need. It was solely their invaluable financial support that the twice postponed Seminar could be held successfully.

And of course, we owe a debt of obligation to the various esteemed paper presenters who really made the richest contribution to the success of Seminar.

Finally, I can not but commend the sincere and selfless service and help provided by all of our Senior Members and Office bearers, particularly Shri Rajiv Goel our Honorary Treasurers, Shri Ravindra Mohan Gupta for designing an attractive cover, and Shri Gaurav Arora for attending to all office work. I thank them all.

### **Brief Life Sketch Shri Ramesh Gupta**

Born deaf Shri Gupta studied at Govt. Lady Noyce School for the Deaf, New Delhi upto Primary level but through his own efforts acquired good command over Hindi & English.

He has been working with a number of organisations engaged in deaf welfare work and had been associated with All India Sports Council of the Deaf as Vice Chairman of All India Sports Council of the Deaf and is now a days Executive President of Delhi Association of the Deaf and Honorary Treasure of The Badhir Cooperative Industrial (Production) Society Ltd. Hony Treasurer : All India Cricket Association of the Deaf.

He has been active in Deaf Welfare related work for more than forty year and is still going strong.

#### *We need your help in*

- Breaking Communication Barriers.
- Creation of Awareness about The Deaf.
- Dissemination of Positive aspects of the Deaf.
- Propagation and Popularisation of the Sign Language of the Deaf.
- Socio-Econic Rehabilitation of the Deaf.

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Making the World a Better Place for The Deaf*

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61st Session

Agenda Item 67 (b)

Resolution adopted by the General Assembly  
[Without reference to a Main Committee (A/61/611)]  
61/106 Convention on the Rights of Persons with  
Disabilities



**Deaf Education and Rights of the Deaf:**

### **The Indian Context**

**By Professor Dr. (Mrs.) Vaishna Narang**  
**Jawaharlal Nehru University**  
**New Delhi-110067**

***The author examines the issue of Deaf education and rights of the Deaf in India in view of the Resolution adopted by the General Assembly: 61/106 Convention on the Rights of Persons with Disabilities***

#### **Introduction**

The impact of hearing impairment on an individual is multifold. It is not limited to difficulties in interpersonal communication alone, but it can affect the individual in practically all aspects of his/ her life depending on the age of onset and the conditions under which HI takes place. The total impact can be devastating in terms of cognitive and intellectual growth and development, social and cultural development. It can also have serious implications for acclimatization in the society, beginning with home and family, if HI happens early in life and immediate linguistic and cultural support is not available/ provided. Even if HI strikes at a later age, if no medical, linguistic, cultural support is forthcoming, the impact can be visible in terms of socio-cultural, academic and vocational achievements and overall development of the individual. It's not just absence of or lack of communication with the environment as it is assumed by some, but it can seriously hamper the cognitive development of the individual. Case of Chelsea is well known. I have talked about the case of Chelsea in a number of talks and papers, and would like to refer to the same yet again in today's context. Chelsea is the name of the woman who was wrongly diagnosed as mentally retarded and lived the life of one until the age of 34, when by accident it was discovered that she was NOT mentally retarded; she was only DEAF. Study of Chelsea has opened our eyes to some simple facts, and has also raised a number of questions. The most important question in the present context is regarding the role of linguistic environment in early stages of development for proper cognitive development. We can not say the development of one is contingent upon the other, but the fact remains that the two, the linguistic development and the cognitive development, happen simultaneously and do have a catalytic effect on each other. Linguistic development can enhance and enrich, support the cognitive development in a number of ways just as the cognitive development does in the process of language development in little babies. In case of Chelsea who was born deaf, there was no language input in the early years, verbal language she could not hear and sign language was nonexistent in her environment. So if she appeared 'to show cognitive

deficit like a mentally retarded person, and audio tests may not have been conducted properly, she had to stay with the MR people which worsened her condition. The other important fact which is equally important is the fact that the language input if not through auditory channel, then through the visual medium has to be provided early in life otherwise the ability to master a system like language may be completely lost. Chelsea's hearing was partly restored and extensive language training was provided. But at the age of 34, way beyond the 'critical period' for acquisition of language, she could only master a few words or phrases as simple commands, but could not put together words to make even a simple sentence.

It is important to understand that in case of the HI (hearing impaired) the clinical and the cultural, the emotional and the social always go together. Different societies have handled Hearing Impairment differently, but generally speaking a greater degree of success can be seen in societies where there is a multipronged approach to this multifold, multidimensional impact of HI. The multipronged approach would imply / necessitate full cooperation (and participation) by different stakeholders in any state or non-governmental initiative.

The UN resolution,

*Resolution adopted by the General Assembly*

*[Without reference to a Main Committee (A/61/611)]*

*61/106 Convention on the Rights of Persons with*

*Disabilities* that we examine today shows that if the Deaf in this country are deprived of education and consequently placed on the margins of the society in every possible way, it is the whole system which has to take the blame and the responsibility.

**After Article 1, Purpose, Article 2, Definitions and**

**Article 3, General principles, Article 4, General**

obligations clearly states: (a) *To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention*

(b) *To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities.*

(c) *To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes, ....*

As we see in this paper, and in this discussion organized by the Delhi Association of the Deaf, today, we as a nation fail in all the four obligations mention above in case of persons with disabilities, especially so in case of the HI. One HI person not only qualifies, in fact scores a position in top five in the prestigious IAS examination but is denied the honor, and the job because of his hearing impairment. No legislation, no law helps him. As HI it was nearly double the effort to reach that level of education and training, and to achieve what just about five out of so many hundreds of thousands of people with no disability can achieve is really admirable. Instead of recognizing the fact that as HI he did not have easy access to education like others and yet he made it, he is denied a position

that he has earned and is rightfully his. (a), (b), and (c) above of Article 4, all of those become meaningless when you see this kind of discrimination against persons with disabilities.

Further, the same Article 4, General Obligations continues Saying:

(G) *To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost.*

(F) *To promote the training of professionals and staff working with persons with disabilities in the rights recognized in the present Convention so as to better provide the assistance and services guaranteed by those rights.*

In the context of HI what new technologies and aids are being developed to help the HI if I may ask? Apart from what is happening internationally in the area of audiology and cochlear implants which is neither applicable nor feasible across the spectrum, (young and old, rich and poor, prelingual and postlingual deaf, urban and rural etc) there is hardly anything being done which can be called development of assistive technologies for the deaf. How are we helping them first acquire language, which has to be sign language and then go over to reading and writing, and then go on to dev of s/w and tools and technology which can help them learn to speak.

Practically nothing is being done there. The authorities have neither the vision nor expertise to do that, or even apply what is available in other countries.

(f) above talks about 'training of professionals and staff....' The authorities are not surprised but shocked when they are told that there is a B.Ed (Deaf) which is meant to train teachers specially for the deaf students. I think the first and the foremost requirement of such a programme should be training in Sign Language of the region. Teachers in this programme should be trained bilingually, and should also be aware of the bilingual programmes for Deaf education. But this course does not even have a basic/ elementary/ introductory course on what is Sign Language. When some of these teachers join a school for the deaf, they are not even aware that there is something called Sign Language which they should know. They expect little children to learn to lipread, understand their lessons through gestures and body language which varies from one teacher to another, and when they fail to understand, they are beaten up. This is what we have actually witnessed in school after school, across the country.

Close to 250 million people in the world have moderate to severe HI in the world. In India, according to 2001 Census of India report, there are at least 1.62 million HI people, the number goes up if we include moderate HI as well. As per NSSO, 58th round conducted in 2002 the numbers are higher for the rural as compared to the urban; higher for males in rural India and higher for females in urban India. Urban and Rural data in different states compares like this:

High to Low HI: Urban

Orissa    Tamil Nadu    Andhra Pradesh    Himachal Pradesh    Rajasthan

High to low HI: Rural

Himachal Pradesh    Tamil Nadu    Orissa    Andhra Pradesh    Rajasthan

It is interesting to note that data from the five states compared shows Rajasthan having the lowest incidence of HI both in Rural and urban contexts while Tamil Nadu shows a higher incidence of HI both in rural and urban areas. In HP it appears to be a bigger problem in the rural parts of the state, than the urban areas whereas in Orissa it is more of an urban problem.

This is just to show how much is required and how little is being done.

Apart from Madan Vasishtha's work on Delhi, Bangalore, Bombay and Calcutta varieties of Sign Language and Melissa's work on Shillong Sign language and deaf education, there is hardly anything worth a name on Sign Language/s used in India, including these six states mentioned above.

Regarding the availability of the clinical and the cultural support, let's look at **Article 7: Children with disabilities** which says:

1. *States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children*
2. *In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.*
3. *States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.*

Little babies have a right to have access to language spoken in their home and family environment to begin with, and larger community and peer group subsequently. Denying them access to language is actually denying them freedom of expression as individuals at par with the others in the society. Going by 3 in Article 7 above the Hearing Impaired should be *'provided with disability and age-appropriate assistance to realize that right'*.

Examining the rights of the persons with disabilities in general and HI in particular, we find that some of the major issues and concerns are regarding:

- Availability of clinical and cultural support,
- Access to language for proper cognitive and emotional development
- Access to education, academic and vocational, .
- Socio-economic rehabilitation, speech therapy programmes.....
- Empowerment through education and alternative means of communication....

The government bodies and the babudom is not even aware of what is in the best interest of a deaf child, or what is meant by the linguistic rights of a deaf child, how do we expect them to provide the deaf child *'with disability and age-appropriate assistance to realize that right'* or even to create awareness amongst laypersons and society at large including parents and families of the deaf.

**Article 8** is on **Awareness-raising** which very explicitly states that the *'State Parties undertake to adopt immediate, effective and appropriate measures: (a) To raise awareness throughout the society..... (b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities... (c) To promote awareness of the capabilities and contributions of persons with disabilities'*.

Further in 2, Article 8 it says that the measures to this end include campaigns, fostering at all levels of education an attitude of respect,.... involving media, organizing awareness & training programmes.

**Article 9 Accessibility** also talks about access to public signage and to provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

(E) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public.

Article 21

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**Freedom of expression and opinion, and access to information** is absolutely clear, unambiguous, and in no uncertain terms emphasizes the use of Sign Language for the deaf. Also recognizing and promoting the use of SL, says:

(b) *Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;*

(c) *Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities*

(d) *Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities*

(e) *Recognizing and promoting the use of sign languages*

Various associations of the deaf in India, NGO's and different stakeholders have been demanding recognition of SL, and setting up SL Academy for the development and promotion of the language, promoting the use of SL in primary education till the child is ready for bilingual education and inclusive educational institutions. All these demands have fallen on deaf ears. The Government does not know, perhaps does not even care to know that a number of SL's across the world have been recognized by their respective governments, BSL, ASL, Dutch SL, Swedish SL and African SL... to name a few.

In the end, coming to Article 24, the most important in the present context, I would like to reproduce the following:

#### **Article 24 Education**

1. .... Right to Education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and directed to

(a) the full dev of human potential and sense of dignity and self worth....

(b)

(c)

2. In realizing this right, States Parties shall ensure that:

(d) Persons with disabilities receive that support required, within the general education system, to facilitate their effective education;

(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring

(b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

(c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deaf blind is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and /or Braille, and to

train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

It is unfortunate that we as a nation fail miserably in all those 1 to 5 of Article 24. Education is a basic human rights issue world over, and yet little that's done, a miniscule of the effort done is actually fruitful. It is not surprising at all that only.....% of deaf population are actually able to reach secondary education, and only about.....% are able to go for higher education.

There is no clear understanding in the babudom as to what is the best course for a deaf child. (inclusive - customized, monolingual - bilingual, bimodal, speech therapies, rehabilitation, etc.). As I said earlier in this paper some of the major issues and concerns are:

Availability of clinical and cultural support,

Access to language for proper cognitive and emotional development

Access to education, academic and vocational,

Socio-economic rehabilitation, speech therapy programmes.....

Empowerment through education and alternative means of communication....

Education is recognized as the basic human rights issue the world over; why should the HI be deprived of education and knowledge, and consequently a life of dignity and comfort.

By denying appropriate forms of language, we are also denying the deaf access to education.

A number of countries have given recognition to SL, where it is accepted as the first language/ native language of the deaf, and also as language of their identity and self respect, as a means of emotional and cognitive development.

As one step leads to another, SL serves as a means to education, at least primary education, and then as a means to bilingual, bimodal education, development of teaching and training materials for SL, dev of multimedia lexicons, grammars, and text books etc follows subsequently. As the needs and requirements of deaf education become more visible, use of popular media for information and entertainment, societal support, gradually dissolving prejudices and discriminatory practices, etc follows naturally. In India if we don't even take the first step, i.e. ensuring access to language, ensuring proper linguistic- cognitive- emotional development.

How do we propose to prepare the child for education, how do we expect a child who is way behind the others of his age to cope when it comes to formal education which is all imparted through speech/ language that they can not hear.

This document continues on issues as significant as education but as we can see language, access to language and education is the first step, what follows in Articles 26, 27, 28, 29...on rehabilitation, work and employment, participation in public and political life, participation in social and cultural life etc can only follow afterwards. I would like to conclude this paper reiterating my point that in case of the HI it is a multidimensional problem. Different societies have handled Hearing Impairment differently, but generally speaking a greater degree of success can be seen in societies where there is a multipronged approach to this multifold, multidimensional

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impact of HI. The multipronged approach would imply / necessitate full cooperation (and participation) by different stakeholders in any state or non-governmental initiative. The fact that the document we examine today, the resolution adopted by the Convention does take into account a number of different aspects of rights of the persons with disabilities, we need to impress upon the government to take the initiative, bring together the different stakeholders so as to ensure effective implementation.

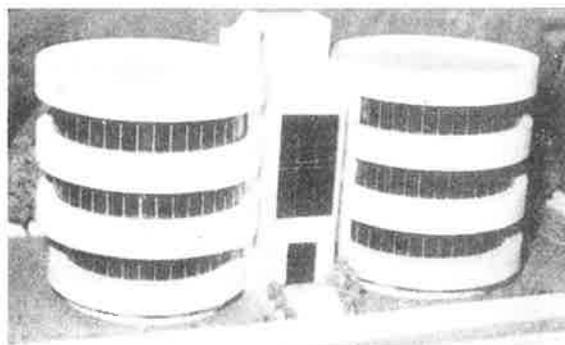
I would like to thank once again the Delhi Association of the Deaf for organizing this seminar and giving me an opportunity to participate in the discussion.

Professor Dr.(Mrs.) Vaishna Narang Jawaharlal

Nehru University

Dr. (Mrs.) Vaishna Narang, Professor of Linguistics, Jawahar Lal Nehru University, is one of those rare scholars who recognizes the importance of language in human life and is appalled at the total neglect that society at large and the Government in particular have shown towards the deaf and abdicated their responsibility to meet the basic fundamental right of the deaf to have a language of their own. On her part, she has been doing her best to have this basic need of the deaf met, for which Indian deaf community is beholden to her, and prays that more of her fraternity come forward to espouse the cause of the deaf and their sign language. (Editor).

**DELHI ASSOCIATION OF THE DEAF  
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Paper on "Right to education, ways and means for enabling the Deaf access it" at the Seminar on "Deaf rights under UN Convention on the Rights of persons with Disabilities" organised by the Delhi Association of the Deaf on 7-8 February 2009

Y.S.R. Murthy

The National Human Rights Commission has been deeply concerned about the rights of persons with disabilities ever since its establishment. It has taken many initiatives in the past 15 years with regard to redressing individual complaints of human right violations of persons with disabilities, law and policy reform, spreading awareness through publications, training programmes etc. Its role is that of a catalyst. The Commission identifies gaps in the implementation of Constitutional and legislative safeguards from human rights perspective and makes recommendations.

The lives of persons with disabilities can be transformed in a sustainable manner only through the route of education. With India signing and ratifying the UN Convention on the Rights of persons with disabilities, it has legal obligations flowing therefrom. These are in the nature of obligations to respect, protect and promote. In practical terms, these obligations could mean that.

- **Respect:** school authorities must not exclude a student with a disability from education on the basis of disability.
- **Protect:** the State must ensure that schools do not discriminate against a person with a disability in their education programmes.
- **Fulfil:** the State must ensure that free secondary education is progressively available to all, including persons with disabilities.

The 86<sup>th</sup> Constitutional Amendment Act, 2002, mandates that 'the state shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the state may, by law, determine'. In order to discuss the issues related to right to education, the National Human Rights Commission organized a two day "National Seminar on Right to Education" on 11<sup>th</sup> & 12<sup>th</sup> September. Based on it, the Commission made a number of recommendations. In particular, the Commission said.

1. Minimum standards for all aspects of quality of education, including infrastructure, curriculum, teachers training, education and other pedagogic dimensions must be prescribed in consultation with professional bodies.
2. Universal access to quality education has to be treated as nonnegotiable. Provision for free textbooks, uniforms and mid-day meal should be made universal.
3. The existing norm of teacher-pupil ratio of 1:40 in primary schools and 1:35 in upper-primary schools should be maintained throughout. However, as a long term goal, efforts should be made to reach a ratio of 1:20/25.

The Commission in light of monitoring role entrusted to it under the UN CRPD organized five regional workshops on Disability across the country in 2008. In this effort, the Commission reviewed the implementation of various schemes with Govt. representatives and the persons with disabilities and their representative organizations. Many national level and state level ngos working for deaf persons. I shall briefly outline some important recommendations.

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The quality of education needs improvement and in this context, training of teachers to teach PWDs assumes importance. Teacher training is extremely important. Special education component must be incorporated suitably in regular B.Ed and M.Ed courses.

- Sign language must be recognized as a language in every State.
- Discrimination against speech and hearing impaired in education must be addressed. There is a need for teachers trained in sign language.
- The implementation of not less than 3% reservation in education for Persons with Disabilities (PWDs) needs to be improved. As many children with disabilities are not able to complete school education, there is a need to strengthen school education system especially, secondary education for PWDs. Education for PWDs must go up to tertiary level.
- Children with hearing impairments have problems because of want of teachers trained in sign languages. Efforts must be made to address this gap as it affects employment of persons with hearing impairment.
- In order to effectively go about the task of providing education to the children with disabilities, there is a need to first profile the needy child population disability-wise and then dovetail the education programme as per their needs.
- Deep concern was expressed about very poor results achieved by special school in the region and the absence of sign language interpreters in many of them and non-filling of vacancies of special educators in all schools for several years. This is adversely affecting the right to education of children with disabilities. All States and UTs in the Southern Region must therefore take immediate steps to fill vacancies of special educators in all schools.
- All authorities must take steps to bridge the gap between the demand for special educators and their availability. As per some estimates, while the requirement of special educators is about five lakhs, approximately 25,000 are available. All authorities must therefore take necessary steps.
- One special teacher for a block is not in a position to provide quality support to children with disabilities. There is a need to post at least three special educators—one each in hearing impairment, visual impairment and mental retardation and as per local requirement.
- The need for incentives in terms of extra remuneration to special educators was strongly felt.
- The mismatch between education of PWDs and employability must be set right. The essence of education for PWDs gets lost if vocational training in the premises of special schools is not provided. Later Vocational Rehabilitation Centres can provide skill upgradation. Thus, there will be a continuum from special school to Vocational Rehabilitation Centres with regard to improving prospects of employment.

Current estimates suggest that the school enrolment rates of children with disabilities in developing countries are as low as 1 to 3 per cent; therefore, approximately 98 per cent of children with disabilities do not go to school and are illiterate. As long as such a large number of children with disabilities do not attend school, the millennium development goal of achieving universal primary education will remain elusive. However, research shows that children, including those with significant disabilities, who are included in regular education those with significant disabilities, who are included in regular education are more likely to finish school, go onto post-secondary education and training, get jobs, earn good incomes and become active members of their communities. The need to include persons with disabilities in the world's development mainstream is evident, particularly with

regard to the Millennium Development Goals. Without their participation, it will be impossible to halve the incidence of poverty and hunger by 2015, as envisioned in millennium development goal 1. Similarly, the right to free and universal primary education for every child (millennium development goal 2) will not be achieved as long as 98 per cent of children with disabilities in developing countries do not attend school.

The Convention covers many aspects of education at different stages of life (article 24). Its priority is to encourage children with disabilities to attend school at all levels (article 24 (2) (a)). The Convention asserts that the best way to do this is to focus on the best interests of the child (article 24 (2) (b)). The Convention also addresses the education needs of the large number of adults with disabilities who are uneducated or under-educated due to a lack of opportunity or access when they were children. It also recognizes the importance of learning over one's lifetime (article 24 (5)), including for those adults who acquire disabilities and, therefore, want or need further education to support their ability to work, including vocational training and university-degree programmes. There is a need to facilitate the learning of Braille and sign language so that children who are blind, deaf or deaf-blind can have access to education and can communicate.

The strength of India is having high percentage of young population. The challenge is with us to transform them into an asset. The Right to life guaranteed in the Constitution which has been judicially interpreted as right to life with dignity has no meaning without provision of education to persons with disabilities. Education is a matter of right and not a matter of concession. Right to Education is a Fundamental Right of every child including children with disabilities.



#### **Brief particulars of Mr. Y.S.R. Murthy**

Mr. Y.S.R. Murthy is presently working as Director (Research ) in the Policy Research, Projects and Programmes Division of the National Human Rights Commission of India. In this capacity, he looks after, among others, issues relating to public health, disability, rights of mentally ill persons, HIV/AIDS, international Human Rights Conventions, refugees, migrants and internally displaced persons and training programmes in Human Rights.

He has been working with the National Human Rights Commission for the past 12 years in different capacities. He holds a Masters Degree in Human Rights from the University of London and is a recipient of British Chevening Scholarship. He has published a number of articles and books on human rights, the most notable among them being 'Halsbury's Laws of India - Human Rights' and 'Human Rights Handbook'. He edited NHRC Newsletter 'Human Rights' for over three years between 1994-97 and NHRC Annual Journal on Human Rights for three years between 2002-2004.

## Plus Points of Persons with Disabilities Act

By Shri Sunil Batra  
Advocate

The Persons with Disabilities (Equal Opportunity, Protection of Rights & Full Participation) Act 1995 is a unique piece of legislation. It has proved to be a shield for the persons with disabilities. With it as a part of country's jurisprudence; they can now seek relief as a matter of right in accordance with its provisions. It has many plus points. To begin with, it has defined various disabilities for the first time and these definitions are now authoritative. Earlier, there used to be confusion, doubt and often erroneous classification of disabilities. This will not happen now. The only fact that irks is that definition of a number of disabilities have not been covered by it. But these will be included in the amended version of the Act later on.

The most significant aspect of the Act is that the fate of Persons with Disabilities have not been left at the mercy of middle level officers. A Central Co-ordinating Committee, headed by the Union Minister of Social Justice & Empowerment and comprising of most of the Secretaries of the Union Ministries, M.Ps and leading personalities from the disability sector, has been provided under the Act. This is the highest level policy planning body in so far as Persons with Disabilities are concerned. It meets at regular intervals, discusses matters of importance and takes decisions which it ensures are implemented.

Such top level committees are provided at State level also. Therefore, the Persons with Disabilities are now assured of regular review of their affairs at the highest level which in turn will ensure that they receive attention promptly and are acted up on. Adequate representation has been given in these bodies to Persons with Disabilities and their views, more often than not, carry weight.

Act ensures that within their economic capacity and development, appropriate governments and local bodies will take measures for prevention and early identification of disabilities and provide succor where ever necessary. Setting up of primary health centers, especially in rural areas, has also been mandated. Awareness creation campaigns to disseminate information on general health and sanitation have also been ensured. For this purpose, all the available media of mass communication shall be used.

The Act lays stress on proper education for the Persons with Disabilities. Governments will have to ensure that Persons with Disabilities will be able to access special, as well as inclusive free education in an appropriate environment and medium of instruction up to the age of 18 years. Provision for adult education, non-formal education, conducting of Part-Time Special classes etc has also been made. Persons with Disabilities will also be entitled to receive textbooks and equipment free of charges. They will receive scholarships, uniform etc. Modification in examination system, restructuring of curriculum, barrier free access, fora for redressal of grievance etc. form parts of the Act.

For employment of the Persons with Disabilities, the Act contains various provisions, the most important of these is provision of three percent reservation for them in all Government establishments, and public sector units, one percent each for visually impaired, on percent for hearing impaired and one percent for those with loco motor disability or cerebral palsy.

Posts suitable for the Persons with Disabilities, will be identified and to the extent possible will be filled up with persons with disabilities. Facilities for their training, relaxation of upper age limit, regulating employment, creation of non-handicapped environment, are some of the other notable features of the Act. The Act provides for provision of aids and appliance to persons with disabilities and framing by the Government schemes for preferential allotment of land at concessional rates for housing, setting up business, special recreation centers, special schools, research centers and factories by entrepreneurs with disabilities.

To ensure that the Persons with Disabilities are not discriminated against the Act provides for taking

special measures like adaptation of rail coaches, buses, vessels, aircrafts etc as also toilets there in, so that wheel chair born persons with disabilities can use them easily. Numerous other suggestions in this respect have also been made, which if implemented in letter and spirit, will make life easier for the Persons with Disabilities. The emphasis is on creation of barrier free environment. **Clause 47 of the Act ensures that no establishment shall dispense with or reduce in rank an employee who acquires disability during service, as also that no promotion shall be denied to a person merely on the ground of disability.**

The Act has also taken note of the fact that a lot has to be done in the matter of research and man-power development to improve the lot of the Persons with Disabilities. Therefore, it lays down that adequate measures will be taken to promote and sponsor research in prevention of disabilities, their rehabilitation including under community based rehabilitation, development of cost effective assistive devices including their psycho-social aspects, job identification, on site modification in offices and factories etc.

To achieve these ends, Act lays it down that Government shall provide financial assistance to universities, other institutions of learning, professional bodies, and non-Government organizations etc. for undertaking research on special education, rehabilitation and man-power development, lest, taking advantage of the disabilities and often ignorance and illiteracy of the Persons with Disabilities, vested interests exploit them by setting up establishments for their education, training, rehabilitation etc. garner funds, obtain grants and then misappropriate these, the Act has laid down strict norms for recognition of institutions for them (Persons with Disabilities).

Through these provisions of the Act, checks and controls on the institutions for Persons with Disabilities will be maintained and it shall be ensured that the funds generated for their benefit are properly utilized and are not misappropriated. Several other measures to ensure social security of the Persons with Disabilities are also there in this Act.

Thus, though the Act may not be all comprehensive, as a first attempt of its kind, it is a most welcome measure and though its implementation is tardy and it lacks teeth, it has already done a lot of good to the Persons with Disabilities. Of course, had the various NGOs working in the field of disability sector played a more pro-active role, its implementation could have been improved. Now that the Central Government has signed and ratified the UN Convention on the Right of the Persons With Disabilities, it is hoped that either this Act will be amended by including in it all the provisions of the UN Convention or bring out an all comprehensive Act on its lines so that the Persons with Disabilities in India may get their own Magna Carta.



#### Brief particulars of Shri Sunil Batra

**Advocate with difference, Shri Sunil Batra, is a person a well known and experienced, knowledgeable person. He bears a kind and responsive heart. For under-dog, he is proven champion and goes out of his way to help them. We should know. We have experienced his noble qualities of head and heart.**

**Well informed, and well studied person, he is working as an advocate successfully for several decades now, he is progressive in his out look and a professional of unimpeachable record. Shy and self-effacing, when it comes to telling any thing about him-self; he remains mum his deeds and works speak for them selves and need no orchestrated publicity.**

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## PROTECTION OF DISABLED PERSONS : AGENDA OF SOCIAL JUSTICE

Around 10 per cent of the world's population, live with disabilities. The Convention on the Rights of Persons with Disabilities and its Optional Protocol promotes and protects the human rights of persons with disabilities in civil, cultural, economic, political, and social life. However, all over the world, persons with disabilities continue to face barriers to their participation in society and are often forced to live on the margins of society. They are routinely denied basic rights such as to equal recognition before the law and legal capacity, freedom of expression and opinion, and the right to participate in political and public life. Many persons with disabilities are forced into institutions, a direct breach of the rights to freedom of movement and to live in the community.



Dr. S.S. Jaswal

Eighty per cent of persons with disabilities live in poor countries and there is a strong link between disability and poverty. In developing countries, 80 per cent to 90 per cent of persons with disabilities of working age are unemployed and in industrialized countries it is estimated to be between 50 per cent and 70 per cent. The rights to education and health are also routinely denied to these persons. According to the report of UNESCO ninety per cent of children with disabilities in developing countries do not attend school.

2008 is a significant year in the international human rights movement given the entry into force on 3 May for the Convention on the Rights of Persons with Disabilities and its Optional Protocol, legally binding instruments which set out the legal obligations of States to promote and protect the rights of persons with disabilities, as well as the 60th anniversary of the Universal Declaration of Human Rights (UDHR).

Article 25 of the Universal Declaration on Human Rights provides that each person has "the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control". Several articles in the Convention on the Rights of Persons with Disabilities expound on this right to security, including Article 10 on right to life and Article 14 on liberty and security of person.

\* LL.M, Ph.D, Asst. Research Professor, Indian Law Institute, Bhagwandass Road, New Delhi-110001.

<sup>1</sup>See, Universal Declaration on Human Rights, 1948, Article 25 (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

See, The Convention on the Rights of Persons with Disabilities, Article 10 - Right to life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

*Id.*, Article 14 - Liberty and security of the person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

Enjoy the right to liberty and security of person;

Article 28 is more specific in that it asks that States Parties take steps to safeguard and promote that realization of the right to an adequate standard of living and social protection, including ensuring "access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care". These instruments mark a clear reaffirmation that persons with disabilities have the right to full and equal enjoyment of their human rights. They also mark a clear reaffirmation of the principles of 'dignity and justice for all of us'.

Article 33 explains that States must set up national focal points governments in order to monitor

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Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

<sup>4</sup> *Id.*, Article 28 - Adequate standard of living and social protection. 1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;

To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;

To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;

To ensure access by persons with disabilities to public housing programmes;

To ensure equal access by persons with disabilities to retirement benefits and programmes.

<sup>5</sup> *Id.*, Article 33 - National implementation and monitoring:

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.

2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

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<sup>6</sup> *Id.*, Artic

implementation of the Convention's precepts. States must also set up independent monitoring mechanisms, which usually take the form of an independent national human rights institution.

The full participation of civil society, in particular persons with disabilities and their representative organizations, is essential in the national monitoring and implementation process. International monitoring is achieved via the Committee on the Rights of Persons with Disabilities and the Conference of States Parties. The first meeting of the Conference of States Parties was held on 31 October and 3 November 2008.

One of the fundamental obligations contained in the Convention is that national law should guarantee the enjoyment of the rights enumerated in the Convention. States Parties should thus consider the best ways of giving effect to the rights guaranteed by the Convention in domestic law. Implementing legislation should include the terms of the Convention or a specific reference to them, in order to indicate clearly that the laws should be interpreted in accordance with the letter and spirit of the Convention.

### Indian position

In India approximately 5 to 6% of the total population are disabled. To protect the rights of disabled people in India an Act called Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, was passed and was enacted in 1996.

The Constitution of India guarantees "the state shall offer relief and help to the disabled" (Entry 9 of List II of Seventh Schedule). Article 41 of the Constitution prescribes that "the State shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work, to education and to public assistance in cases of disablement".

While there is no universally agreed definition of disability, in India, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 (*hereinafter* the PWD Act) defines disability as one or more of the following: blindness, low vision, leprosy cured, hearing impairment, locomotor disability, mental retardation and mental illness. It says that to be considered disabled, a person must suffer from not less than 40 per cent of any disability, as certified by a medical authority. Keeping the above broad definition in mind, let us turn to the various relevant provisions.

The PWD Act was enacted in 1996, and is known to be one of the best and comprehensive among disability legislation in the countries of the region. However, it has been criticized for it suffering from indistinct terminology and lacks teeth for its full implementation with lack of adequate and proper monitoring mechanism.

The definition in Article 1<sup>6</sup> of the Convention on the Rights of Persons with Disabilities indicates the very first change that needs to be made to the definition. The PWD Act has strict

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<sup>6</sup> *Id.*, Article 1 - Purpose

specifications as to what counts as disability; however, the Convention includes all long-term physical, mental, intellectual or sensory impairments which may hinder their full and effective participation in society.

Another problem is with regards to Article 4(2)<sup>7</sup>, which says that the maximum possible resources should be utilized for the upliftment of the disabled. The caveat in the PWD Act that reforms should only be undertaken within the limits of a state's economic capacity nullifies the Acts potential for change.

Further, Articles 6<sup>8</sup> and 7<sup>9</sup> of the Convention specifically mentions women and children who face greater problems in terms of their disability and states that special provisions need to be made for them. The PWD Act is completely lacking in this respect and needs amendment in order to comply with the Convention.

Similarly, the provisions of access to justice, liberty and security etc. (as espoused in Articles 13<sup>10</sup> and 14<sup>11</sup>, respectively) do not find much mention in the PWD Act, which deals more with

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The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

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.

<sup>7</sup> *Id.*, Article 4 ( 2.) With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

<sup>8</sup> *Id.* Article 6 - Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

<sup>9</sup> *Id.*, Article 7 - Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

<sup>10</sup> *Id.*, Article 13 - Access to justice

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the procedural aspects of disability legislation- with rather elaborate details of the committees to be set up.

### Judicial Response

In *Javed Abidi v. Union of India*, the Supreme Court taking into consideration the true spirit and objective for which the Persons With Disabilities (...) Act, 1995 was enacted to create barrier free environment, to make special provisions for the integration of the persons with disabilities into the social mainstream apart from the protection of rights, provision of medical care, education, training, employment and rehabilitation which are some of the primary objectives of the Act. The Supreme Court bearing in mind the discomfort and harassment suffering by a person of locomotor disability would face while traveling by train particularly to far off places, issued direction to the Indian Airlines to grant concessions for passengers suffering from locomotor disability to the extent of 80 percent.

In *Chandan Kumar Banik v. State of West Bengal*; the Supreme Court has given the order to provide respite to mentally challenged inmates of a hospital in Hooghly district who were being kept chained by the hospital authority to control their unruly and violent behavior.

*National Federation of Blind v. Union Public Service Commission*, the Supreme Court held that the UPSC may be directed to allow blind person for appearing the examinations for Indian Administrative service.

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1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
  2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

<sup>11</sup> *Id.*, Article 14 - Liberty and security of the person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

Enjoy the right to liberty and security of person;

Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

AIR 1999 SC 512.

(1995) Supp (4) SCC 505.

AIR 1993 SC 1916.

In *Ramchandra Tandai v. State, the State of Orissa*<sup>15</sup>, the State of Orissa, refused to accord recognition and financial assistance to a school for the deaf and dumb in order to avoid unnecessary financial burden. The court has decided the case in favour of disabled Persons.

In *Government of NCT v. Bharat Lal Meena*<sup>16</sup>, the Delhi High Court held that people with disability can be appointed as physical teachers provided they have passed the qualifying examination and undergone the requisite training.

In *Uppala Venkat v. Divisional Railway Management (P) South Central Railway, Secundrabad and Others*<sup>17</sup> the Court held that, in case of total disability which renders a person unfit for any employment in the establishment, he has a right of protection under the relevant provisions of PWD. Under this Act, if a person is completely disabled, he should be provided with alternative employment and if such employment is not possible, he should be kept in supernumerary post till he attains the age of retirement.

### **Recommendations of Lok Sabha panel on the Ministry of Social Justice and Empowerment**<sup>18</sup>

Lok Sabha panel on the Ministry of Social Justice and Empowerment has recently recommended People suffering from illnesses like thalassaemia, fluorosis, cochlear implant should also be given facilities under the Persons with Disabilities (PWD), Act, 1995.

The House Estimates Committee on the Ministry of Social Justice and Empowerment in its 18<sup>th</sup> Report tabled, recommended that the PWD law, enacted to help participation of the people with disabilities in various activities of life, was applicable to only disabilities such as blindness, low vision, hearing impaired, leprosy, mental illness and loco-motor disability and others, while there were several more which needed to be included, The Committee wanted that other disabilities like thalassaemia, fluorosis, cochlear implant etc should also be covered by the PWD Act.

It has also recommended that the disabled should be given one National Identity Card which should be used by them for availing various travel concessions instead of carrying several passes for various modes of travel.

Among other things, the Committee took note of the sub-standard quality of modern assistive devices provided to the disabled and strongly recommended that an agency should be appointed to certify the products to maintain the standards.

Besides, it has also called for a review of the procedure for granting disability certificates, saying the existing procedure was very complicated and time-consuming.

<sup>15</sup> AIR 1994 Orissa 228.

<sup>16</sup> (2002) 100 DLT 157.

<sup>17</sup> 2004 Lab. 1C 298.

<sup>18</sup> <http://news.webindia123.com/news/articles/India/20081020/1083698.html>, visited on 30.1.09.

It has noted that there was lack of awareness about disabilities and implementation of the policy relating to the disabled. It wants the Ministry to devise a mechanism to effectively associate *Panchayatai Raj* institutions, local bodies and involve MPs and MLAs in the process of implementation of the National Policy for the disabled, 2006.

The Estimates Committee has also expressed deep concern on under utilization of funds by the Ministry. It has recommended for ensuring effective planning, implementation and monitoring of projects to make optimum use of allocation received annually.

### SUGGESTIONS

The international hard and soft laws have accorded human right status to PWD including their right to development and participation. The constitutional safeguard to PWD also reflect the conscience of legislature. PWD Act has also made a salutary impact in the realization of PWD right. Still some amendment, innovations and regulations are to be deliberated and drafted. To make existing laws and policies more PWD friendly following suggestions are to be incorporated further.

Since the preamble to PWD Act didn't mention the constitutional mandate other relevant provisions-such as Articles 14, 15 and 16 including 38 and 41 have escaped out of attention. As a consequence significant clauses of the Act are not enforceable against the state which is principal provider of services to PWD not as 'disability right' but 'human entitlement' as equal citizens of the country. Therefore human right to development of PWD should be fitted into the charter of equality viz., Articles 14, 15 and 16 of the Constitution. The prohibitions of grounds of discrimination stated under Articles 15 and 16 should also include disability as one of the grounds' so that action against the state be enforced. In order to regulate the employment of PWD effectively a scheduled is to be appended to the Act containing the list of industries where they can be absorbed in gainful employment. The preparation of such schedule is necessary to assess the feasibility and potentiality of PWD in various kinds of jobs. It will also ensure forceful implementation of the Act specially against defaulting employers.

Discrimination against PWD should be made a cognizable offence and special complaint cell in all police stations and dialing code are to be devised. NGO should be accorded statutory recognition in filing complaints and taking cognizance of offence. The commissioner's power to inspect and review should also be equally extended to public-spirited organization. The record of employment exchange and employer's return for employment of PWD should be made accessible to voluntary sectors.

The medical facilities to PWD should not be preventive rather anticipatory, regulatory and remedial. Medical personnel should be imparted special training to look after the need of PWD. The Medical Council of India should prepare special ethical guidelines in this regard. A health care card system is to be developed which can be easily accepted by best hospitals on priority basis. To prevent disability arising out of side effect of well-known drugs the

authorities created under Drug Act and Food Adulteration Act should be made more responsive through stringent enforcement and inspectorate. The quantum of compensation provided under *Workmen 's' Compensation Act, Employees State Insurance Act* and *Motor Vehicle Act* should be based compulsorily on multiplier theory.

To actualize the mandatory insurance scheme an Act similar to *Public Liability Insurance Act, 1991* should be drafted. A separate social security law should also be given a thought. Apart from it a national social assistance fund for PWD; is to be earmarked.

For effective realization of equal opportunity disability right and full participation a vibrant rehabilitation policy sounds quite imperative. The special need for PWD can be achieved by formulation of sustainable, cost effective, community oriented, infrastructure mechanism. Such a policy is justified on the ground of social cost benefit analysis. Earlier policies have undercored this aspect and incurred staggering economic and social cost without substantial improvement. To realize this objective rehabilitation board and national Commission for PWD should be created.

Legislation alone will not ensure that persons with disabilities can enjoy their human rights. States will need to formulate effective policies and programmes that will transform the provisions of the Convention into practices that will have a real impact on the lives of persons with disabilities. For persons with disabilities, as for all persons, the denial of one right can lead to the denial of other rights and opportunities throughout their lives.

Finally, there is a need to change the attitude of society towards disabled. Disabled people do not want our sympathy or pity but assistance and encouragement that they have equal place in the society with everyone else.

### BRIEF LIFE SKETCH

**Dr. S.S.Jaswal is working as Assistant Research Professor in the Indian Law Institute, a premier legal research institute of the country since March 2002. Area of interest is Constitutional Law and Human Rights Law. He is author of two books on Reservation Policy and Child Labour. Also have in his credit more that thirty-research article on wide range of subjects published in leading law journal. Incharge of Post Graduate Diploma Classes of the Indian Law Institute. In addition to legal research also taking LL.M classes in the Indian Law Institute as well as guiding Ph.D research Scholar in the ILL.**



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## Impact of the UNCRPD on PWD Act 1995

*Ravi Bhusan*

By means of the United National Convention on Disability we find an inclusive and comprehensive policy assuring equal rights to people with disabilities, however, as India already ratified it, it is evident that its domestic legislation is lacking and needs to be amended. International norms relating to disability are helpful for setting common principles for disability legislation. Those principles also need to be suitably reflected in policies and programmes designed for persons with disability that reach them and can effect positive changes in their personal & professional lives. The United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities and the World Program of Action both effectively shifted the focus of disability legislation all over the world from aiding the disabled person to adapting their surroundings to permit equal participation in the society.

On August 1997, in the consultation meeting for amendments of PWD act, 1995 the Minister for Social Justice and Empowerment Smt. Meira Kumar also said that we want a right based inclusive society where persons with disabilities should be equal partners in the development of our country. The Minister believed there was a demand from many stakeholders that the amendment of the Act may be taken up only after the UN Convention on the Rights for the Persons with Disabilities was finalized. India has signed the Convention on the very first day of its opening on 30th March, 2007 and now we are progressing very well to ratify the convention. She expressed hope that the stakeholders will consider all aspects and many other critical areas of UN Convention including the role of private sector while recommendation for the amendment in Persons with disabilities Act. She also suggested that while making recommendations, we should keep ground realities in view and we have to remember that basic purpose of the whole exercise is to empower the persons with disabilities specially those living in remote, inaccessible and rural areas.

In our country, there is no universally agreed definition of disability. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 defines disability as one or more of the following: blindness, low vision, leprosy cured, hearing impairment, locomotor disability, mental retardation and mental illness. The Act deals with seven disabilities and provides the legal basis of a rights based inclusive society wherein the Central and State governments have to play the lead role in making the rights actionable. The spectrum of activities that this Act enjoins is very broad and of multi-dimensional nature of rehabilitation. Inter-alia, the Act covers prevention and early detection of disabilities and aspects of rehabilitation like early intervention, education, employment and vocational training, reservation of jobs in the state sector, nondiscrimination, research and manpower development and development of barrier-free environment. The Ministry of Social Justice and Employment is the nodal Ministry in the Government of India for the implementation of the Act. It also says that to be considered disabled, a person have to suffer

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from not less than 40 per cent of any disability, as certified by a medical authority. Keeping the UNCRPD definition in mind, let us turn to the various relevant provisions in the persons with disability act 1995.

### Review of PWD Act:

The PWD Act was enacted in 1996, and is recognized to be one of the best and comprehensive among disability legislation in our country. Though, it has been criticized for it anguishes from indistinguishable vocabulary and lacks teeth for its full implementation with lack of ample and appropriate monitoring instrument.

The definition in Article 1 of the Convention indicates the very initial change that needs to be made to the definition. As mentioned above, the PWD act has strict specifications as to what counts as disability. However, the Convention includes all long-term physical, mental, intellectual or sensory impairments, which may hinder their full and effective participation in society. Another problem comes when you consider Article 4(2), which says that the maximum possible resources should be utilized for the upliftment of the disabled. The caveat in the PWD Act that reforms should only be undertaken within the limits of a state's economic capacity nullifies the Acts potential for change. Further, Articles 6 and 7 of the Convention specifically mentions women and children who face greater problems in terms of their disability and states that special provisions need to be made for them. The PWD Act is completely lacking in this respect and needs amendment in order to comply with the Convention. Further, the provisions of access to justice, liberty and security etc. (as espoused in Articles 13 and 14, respectively) do not find much mention in the PWD Act, which deals more with the procedural aspects of disability legislation- with rather elaborate details of the committees to be set up.

Article-5 of the convention prohibits all forms of discrimination on the basis of disability and requires State Parties to ensure that appropriate steps are taken to ensure that reasonable accommodation is provided. The convention through Article 27 enjoins upon State parties to take necessary steps to prohibit discrimination in matters regarding work and employment. This protraction against all forms of discrimination, apart from the ideal situation of attitudinal change in society, can also be achieved through the use of antidiscriminatory legislations. The concept of anti-discrimination as reflected in Article-27 of the convention has thus evolved from a stage where an employer is not allowed to discriminate between a person with a disability and any other person so long as the costs of employing either of them is the same and where in the recognition of the merit of persons with disability, an employer is required to employ him or her inspite of having to incur additional costs towards ensuring full participation by such an employee.

The UN Convention enjoins upon State-Parties to provide a range of entitlements to enable them to attain their full potential and to ensure the effective enjoyment of life. As regards article-24 emoins State-Parties to ensure that there is an inclusive education system at all levels and life long learning directed towards full development of their personality, talents,

creativity, mental and physical abilities to their fullest potential. Article-25 enjoins upon State-Parties to ensure that the persons with disabilities have access to the highest attainable standards of health, access to health services as close as possible to their own communities. access to flender sensitive and health related rehabilitation,

### **Conclusion**

The rights guaranteed under the UNCRPD are comprehensive and deal with all aspects of the life of persons with disability. If implemented in its right spirit, there will, indeed, be far reaching changes in the lives of not just persons with disabilities but also in the lives of other citizens of the country. However, it is now a question as to how Indian government interprets the provisions of the UNCRPD and how the issues of social justice, welfare and redistribution are addressed.

This indeed of a fair and comprehensive consultation & discussion process which will result in internalization by primary stakeholders of the progressive perspectives and paradigms that have informed and influenced the UNCRPD; such as, the perspective of non-discrimination and equality; of respect for inherent dignity and worth of persons with disabilities; of full membership of society; of social model of disability; of rights-based approach; of meaningful participation and inclusion of persons with disabilities, etc. Moreover, a fair and comprehensive process will also ensure ownership of the proposed amendments in the PD Act.

After the enactment of the Act. a number of initiatives have been taken to create an inclusive environment for persons with disabilities in all walks of life. There have been achievements in ensuring reservation to persons with disabilities in Government establishments, ensuring admission of children and students with disabilities in educational institutions, especially higher education institutions and creation of awareness about the need for an accessible physical environment.

### ***Brief Life Sketch Shri Ravi Bhushan***

Being himself a person with Disability, Shri Ravi Bhushan has dedicated his life in the service of his Fellow Suffers. he has placed his extensive knowledge and rich expertise at the disposal of the Person with Disabilities.

Currently, he is working in a responsible capacity with Human Rights Law Network at New Delhi.

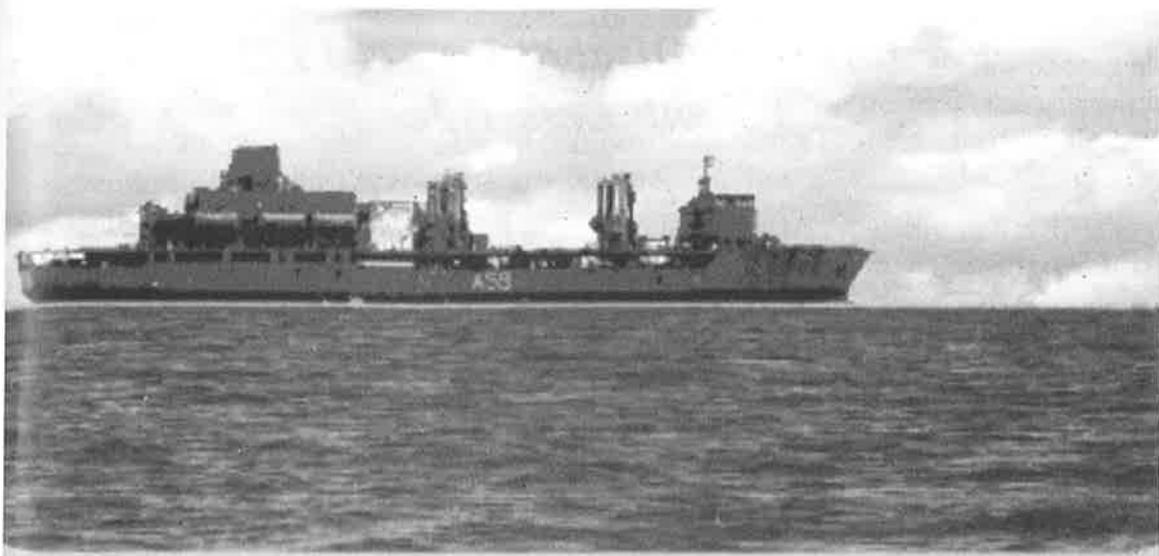
Still young, he will be able to make a rich contribution to the Welfare of the Persons with Disabilities during the coming years.

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OVER A CENTURY OF EXCELLENCE

## *Persons With Disabilities Act 1995 – A Tooth Less Tiger*

–Shri K.C. Issac, M.A., President,  
Kerala Association for the Deaf

Persons with Disabilities Act (Equal Opportunity, Protection of Rights & Full Participation) Act 1995 has been often likened to a Toothless Tiger which can roar, and scare the animals for some time but can not cause any harm. Similarly, though an Act, it is full of subject to this or subject to that hence a no firm decision is always possible.

Persons with Disabilities in India who had looked forward to their Magnacarta are naturally a disillusion lot. The worst among them are the Deaf people for whom, the PWD Act 1995 has nothing, saving the definition of deafness. Admittedly disabled persons have problems and difficulties which, are mostly common to all, hence it is not practical to provide the same facility or redress one by one for each of the recognized disabilities in the Act.

But as in the case of visually disabled, their specific if requirement of Braille has found space in the PWD Act, there by making enforceable through an order from a judicial authority. In the same way as Braille is specific to them, sign language the lingua-franca of the Deaf is specific to them. So are the interpreters for the Deaf. Both these find no mention in the Act, and hence, it is difficult for the Deaf people to have these issues decided in their favour by a court, and enforced legally.

One reason for the missing sign language and interpreter is that in the Drafting Committee for PWD Act 1995 visually disabled, nay other categories, barring mentally disabled and the Deaf were represented by persons who were themselves disabled, whereas the Deaf were represented by a hearing person, who may have not known the importance of sign language and interpreter in the lives of the Deaf people. Their cause thus suffered a set back for no fault of their own.

Incidentally, it may be stated here that the Indian disabled community owes, even this half hearted attempt of the Government to give some legal protection to them the to U.N. Actually the hands of Government were forced. The United Nations had been espousing the cause of the Disabled Persons with zeal. This is reflected in observation of 1981 as the Year of Persons with Disabilities and its subsequent extension in to Decade of Disabled Persons. Therefore, while other Member States of UN were doing their bit by extending legally enforceable rights to the Disabled Persons, India though a member of the UN and subscribing to its conventions and agreements, was dragging its feet. So it was the peer pressure which made the Government to buckle down and bring out a hastily drafted PWD Act 1995. But the Indian Disabled community took it with fortitude saying "Some thing is better then nothing"

## LOW PRIORITY

It is not a secret that cause of the Persons with Disabilities has got low priority in the matter of Government attention and care and the attitude among the men (and women) who matter has not changed a bit. It is either of charity or benevolence and more often than not they are looked down if not with contempt at least in condensation. This

attitude is reflected in the first attempt to give the Persons with Disability an Act. In it no firm commitment for implementing the rights being proposed to be bestowed upon the persons with Disabilities has been given.

More often than not, terms like "within the limits of their economic capacity". Endeavour to promote" etc have been used where ever specific developmental or rehabilitation act which may involve some out lay have been used freely. That may be fine but who is to judge about the economic capacity of the Government and how? It can readily be used as a subter fuse to deny aid and assistance there by the very purpose of Act becomes meaning less.

It is further evident that in keeping with the age old attitudes of charity and benevolence all the activities aimed at empowering the persons with Disabilities are termed as "welfare measures" and not as their rights due to them And the welfare or benevolent measures are supported by tax payers money.

A comparative study of assistance pattern of the Ministry of Social Justice and Empowerment will reveal that compared to the Deaf other persons with Disabilities, even on prorata basis have received less allocations. Schedule Castes got Rs.875 Crores by way only of Post Metric Scholarships while on the same count OBCs got Rs.150 Crores, but Deaf got hardly mentionable amount.

It is because of this low priority that in the matter of funds allocation also, the Persons with Disabilities got a raw deal. As the saying goes, it is the money that makes the mere go without adequate funds the whole gamut-education, training. Rehabilitation facilities etc. suffer. Therefore neither the good intentions nor the provisions in the PWD Act 1995, help the Persons with Disabilities much.

## POOR ENFORCEMENT

Measures in the PWD Act 1995, good or bad can affect lives only if these are implemented in letter and spirit. This is wanting. Take for example the provision for reservation of three percent of posts for the visually, orthopaedically and hearing disabled, with each having quota of one percent. This is there in the Act but what about its implementation? For the purpose of implementation, neither the ramps have been erected, nor any additional expenditure incurred on men or material.

The posts are there. There may be vacancies needing filling up of the post but these are allowed to remain vacant on one ground or the other. Even when there be ban on recruitment, this

does not apply if the post is filled up with a Disabled person, but even then post, especially reserved for the visually or hearing impaired person, is not filled up.

Of course posts for orthopaedically impaired persons do get filled up but in their cases also, there always remains a back log which is mostly carried forward and after some time this post gets deserved and filled up with normal person. Obvious behind it is a natural antipathy towards the persons with Disabilities, deep-seated distrust about their ability, and of course reluctance to work with Disabled person as an equal. After all, centuries old prejudices does not vanish with enactment of an Act which more often than not is disregarded, ignored, rather than implemented.

Filling of reserved posts aside, there is no dependable mechanism for head count. Practically no body knows how much posts are available for each of the three categories, how many of these are filled up and how many are available for filling up. This is due to absence of any reliable monitoring mechanism. Unlike in the cases of Scheduled Castes and Scheduled Tribes who have numbered rosters for each category of work force, for persons with Disabilities no such arrangements or orders to keep such a roster are there. Therefore, posts that could have been filled up with the reserved category remain vacant.

In the case of the Deaf there is an ironical situation. There may be post reserved for the Deaf but it is hard to find out a candidate meeting the qualifications prescribed for the post. This is due to the fact that there are hardly enough educational facilities for them, and those few that exist end up at secondary standard, which is the minimum qualification for the post of a fourth class Government employee. Moreover, fearing communication barriers, employers or officials prefer not to have a deaf worker. Thus, though well meant, the provision a for reservation of 3% posts for persons with Disabilities is largely a decoration piece and nothing more.

### **IMPLEMENTING AGENCIES**

If the PWD Act 1995 can be called toothless tiger, those at the helm of its implementation too do not have any teeth. The Chief Commissioner for Persons with Disabilities remains vacant for a period, some times even more than a year and if filled up, it is with a normal person who despite one's best intentions can never identify one self with the Disabled Persons, can never feel their pain, imagine their suffering or plight and mostly uses the post to advance ones own interests and image building.

The situation with regards to State Commissioners for Disabilities is no better.

Though the post of Chief Commissioner for Persons with Disabilities is vested with the same powers similar to that of a court under the civil procedure 1908 and also be a civil court for the purpose of section 195 and chapter XXVI of Code of Civil (Chapter XII-63) Criminal Procedure 1973, these are seldom, if at all exercised. The most that a Chief Commissioner for persons with Disabilities can do, in the matter of cases dealing with Government its Ministries and Departments is, even when the decision goes against any of these wings of the Government, is simply to advise them or to request them to do so and so. No directive is given even if it becomes necessary for an applicant after a number of visits and hearings (mostly one sided) is

handed out a decision pleading with the agency at fault which is a big let down.

The matters at State levels are no better. In a number of States, even 13 Years after coming into effect of PWD Act 1995, duties of State Commissioner for Persons with Disabilities are handled by an officer as an additional one, over and above the duties of one's own post. Therefore, Persons with Disabilities do not get individual attention, the attention that they deserve.

The Central Co-ordinate Committee and Central Executive constituted under the Act are given to the persons with disabilities as poor.... In the vast majority of the govt officials there, minority of Persons with Disabilities fails even to register its presence. Rightly, in each committee, there should be majority of people who are themselves disabled. The present practice even not to reconstitute these committee or to renominate the existing committee, time and again is an unhealthy practice. Rather than the govt nominating the members for these committees leading, well established NGO'S for disabled should be called to nominate a member. One term served another NGO'S representative invited, thus the process going on, when next nomination becomes one. Thus all NGO'S by turn will have an opportunity to contribute new views, new ideas and new directions.

### UN CONVENTION

With India signing and ratifying the UN Convention on the Rights of Persons with Disabilities a year ago and the Ministry of Social Justice and Empowerment having elicited views of the disability sector by organizing a two days seminar on 13 & 14 August'08 it is now time to put in place new Act or revised version of PWD Act 1995 by incorporating most of the provision of UN Convention under reference, so as make the PWD Act 1995 an ideal instrument for empowering the Persons with Disabilities.

The working of PWD Act 1995 has been observed for more than a decade, its plus and minus points identified, also the views of the stake-holders on the modification in this Act through inclusion of positive provisions of the UN Convention of the Right of Persons with Disabilities ascertained, there is an urgent need to give the Persons with Disabilities their long denied rights without any further delay. How ever, unless this new or revised PWD Act 1995 is implemented in letter and spirit, it will only add to the library books, to be left untouched in the almirah.

Implementation will need Governments initiative and sustained action and financial support there after. Creation of awareness will be the next in order. Without disseminating information, Far and wide, through all the available means of mass communication, not much can be gained. Therefore, utmost importance has to be given to reach out particularly in rural areas.

Finally, in tune with the Disability Sector's motto, nothing about us, without us, unless

Disabled Persons are involved in strength and numbers, head way would be difficult. And this can only be possible if these involved in policy planning and implementation, come to realize the vast potential of the community of Disabled, recognize it and use it, seek its support and more important, involvement in furthering the policies and programmers as may be incorporated in the revised PWD Act 1995 or a new Act replace it, no head way could be gained. Given the opportunity, community of Disabled will spare no effort to have all the clauses and sub-clauses of the new or revised PWD Act 1995 implemented smoothly and speedily.

Therefore I conclude with an appeal to give the Disabled opportunity & resources to do their best.

### ***Brief Life Sketch Shri K.C. Issac***

Holder of Master's Degree in Arts, Shri K.C. Issac is one of the very few who has scaled such a high in the academic fields.

Though well educated and qualified, he could have landed a well paying cushy job, he opted to work for the Welfare and upliftment of the Deaf by associating him self with Nambakkai Foundation, Palavoor, Kottababamm Distt. Tamilnadu, the country's one and only Agriculture based Training Centre for the Deaf, to serve which he has given the best years of his life well travelled well informed, he is a linguists having excellent knowledge of English, Malayalam, Tamil and Workable knowledge of several other southern regional languages.

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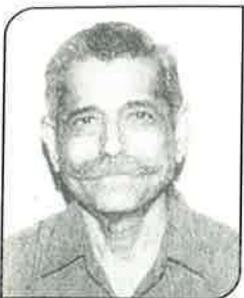
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## *'Invisible Minority' Brought in to the Focus.*

# **U.N convention on the Rights of Persons with Disability to Usher Era of Equality & Empowerment for the Long Neglected Section of Society.**



**D.S. Chauhan**

Perhaps not many know that Disabled Community has been called "Invisible Minority." Minority part is understandable because the able bodied outnumber them many times over. It is the 'invisible' term used that may fool many because, crawling, limping or led by a helper with a stick firmly grasped in the hand, or tick-ticktoking with a stick on the ground, gesticulating, moving their fingers in which ever way and making faces, some often soliciting, they are any thing but invisible.

But it is the treatment meted out to them that explains the invisibility part. Though before their eyes, people pass by ignore them, even with eyes wide open, do not see them and behave as if they just do not exist. At social level too, the situation is similar. They meet with the same treatment of neglect.

Object of pity and condensation for centuries, the world over attitudes do not change that easily. This has again been proved by the country's efforts at giving the Disabled Persons a square deal, by enacting Persons with Disabilities (Equal Opportunity, Protection of Rights & Full Participation) Act 1995 which failed to deliver the goods. Indeed, noticing its inadequacy, an amendment was proposed, and an amended draft was ready in but it lies gathering dust in some obscure almirah in the Ministry of Social Justice & Empowerment these past many years. So much the seriousness in the purpose of giving Disable Persons their dues.

### **PWD ACT 1995**

And now it is hoping against hope that the U.N. Convention on the Rights of Persons with Disabilities which is capable of ushering a new era in the lives of Persons with Disabilities does not meet with the same fate, that of PWD Act 1995.

In so far as PWD Act 1995 is concerned, apart from definition of deafness, there is no specific provision for them, not even about their own language, the sign language or for that matter, even for interpreter for the deaf, the vital link between the deaf and the hearing.

On the other hand, for the first time, U.N Convention of the Rights of the Persons with Disabilities treats them as an independent identity, not always to be clubbed with other disabilities, that too, without mention of their disability, deafness. Therefore, it will be most beneficial for the Deaf Community.

But before discussing the specific provisions for the Deaf in the U.N. Convention referred to above, a word of caution is necessary. The Convention is meaning less, unless its provisions for the Disabled Persons are included in the revised PWD Act 1995, in their totality. To ensure that these are included, Disabled Community especially of Deaf will community have to be vigilant, also put pressure on the Government to do so. At world level, International Organizations of Deaf had acted in unision and had won the co-operation and support of international organizations of other categories of Disabled. Therefore, in India too organizations of the Deaf will have to take a common stand and win support from other sections of disability sector.

### U.N. CONVENTION

The UN Convention on the Rights of Persons with Disabilities aim to "Promote and protect the rights and dignity of Persons with Disabilities and non-Discrimination, among others.

More specific in UN Convention Preamble it is stated that according to the Charter of the United Nations it recognizes "inherent dignity and worth and equal and unalienable rights of all members of human family as the foundation of freedom justice, and the peace in the world" and adds that every one is entitled to all the rights and freedoms set forth in the said Charter, without distinction of any kind. It re-affirms," the universality, indivisibility, interdependence and inter-relatedness of all human rights and fundamental freedoms and needs for persons with Disabilities to be guaranteed their full enjoyment without discrimination."

Prior to this Convention, U.N. had also espoused the cause of the persons with Disabilities. It had through, World Programme of Action concerning Disabled Persons, laid down Principles and Policy Guide-lines and set Standard Rules on Equalization of Opportunities for Persons with Disabilities, (which saw PWD Act 1995 enacted), celebration of the Year of Disabled in 1981 and subsequently, its extention in to Decade of Disability and so on.

Spread over 50 Articles and an Optional Protocol, it becomes effective when 20 or more (50 have already signed) Member State sign and ratify this convention. How ever, it is not binding upon the Member States to implement it in its totality. They are, however, expected to have their own Acts on the lines of this Convention in their own disability related legislations. But nothing is mandatory. It is upto the Member States of UN to act in the matter but puts peer pressure.

In an exhaustive preamble, it notes that despite attempts, Persons with Disabilities continue to suffer from discrimination, are unable to enjoy full human rights, and fundamental freedoms, are at greater risk of violence, injury, abuse, maltreatment or exploitation, with children and the women suffering the most.

## GENERAL PRINCIPLES

The General Principles of the Convention are:-

- (a) Respect for inherent dignity, individual autonomy, including the freedom to make own choice
- (b) Non-discrimination
- (c) full and effective participation and inclusion in society,
- (d) Respect for difference and acceptance of Persons with Disabilities of human diversity and humanity,
- (e) Equal Opportunity
- (f) Accessibility
- (g) Equality between men and woman and
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities. To ensure that these General Principles are acted upon, General Obligations for Member States have also been spelt out in clear terms and it is expected of the Member State signing and ratifying the Convention that they will enact law and take other measures to improve disability rights, also abolishing legislations, customs and practices, that discriminate against Persons with Disabilities.

There is as stated earlier, an Optional Convention. When the Rights of Persons with Disabilities are violated in any form, and after making all attempts within the country for remedy and having failed, even an individual will be able to appeal to the Committee at UN on the Rights of Persons with Disabilities, a unique feature in itself.

## INDIAN SITUATION

India signed this UN Convention on 1<sup>st</sup> Oct.07 and subsequently the Government also ratified in May 2008. But, as disclosed earlier, in itself it is not enough. The Government of India has to either amend the existing Persons with Disabilities Act 1995 by incorporating the provisions of UN Convention under reference or bring out a new Act on the basis of the Convention. Only then the provisions of UN Convention under reference will be acted upon. However, the Indian Government, in the absence of pressure from the Disability sector, is not over exerting itself on this issue. After organizing a two day National Conference of NGOs working in the field of Disability sector on 13<sup>th</sup> 14<sup>th</sup> Aug 08 to elicit views on this Convention, it has not taken any step to implement the provisions of the convention under reference or amend the PWD Act 1995.

In fact, off the record, a senior officer in the Ministry of Social Justice &

Empowerment had stated that it will take still a year or more for the amendment of the existing Act or to bring out a new Act, to enforce the provision of the Convention. With the last session of the present Parliament slated for Feb.09, it will now have to go to a new Parliament to be constituted after May 09 general elections. Thus there is still a long wait for the Indian Disabled people to enjoy the benefits and concessions which would be theirs once the amended or new version of PWD Act 95 comes in to force.

### **DEAF SPECIFIC PROVISIONS**

While provisions of all the 50 Articles of the Convention and 18 Articles of Optional Protocol are applicable to the Deaf people also. These are General Obligations of Member States of UN, Equality and Non-Discrimination, Awareness creation, Accessibility, Education, Health, Habitation & Rehabilitation, Work & Employment etc. some specific provisions, not to be found in the India, PWD Act 1995, for the Deaf have been incorporated in the UN Convention.

Some of these are being discussed briefly here in under.

In a major recognition of the stark reality, **while defining languages, specific mention has been made of sign language.**

In the Article 21 on Freedom of Expression and Opinion and Access to Information, it has been provided that persons with Disabilities will have freedom to seek, receive and impart information and ideas on equal basis with others and **through all forms of communications of their choice.**

Also it has been stated under a separate sub clause 21 (e) **Recognizing and Promoting Sign Language (For dissemination of information, expression of opinions etc).**

It will thus be seen that **unqualified emphasis has been placed both on recognition and promotion of sign language.** This is so because mere recognition of any language serves little or no purpose. It is through promotion that any language can take wings and spread far and wide.

Under Article 24 which relates to education, under 24(3), it has been laid down that it will be the duty of Member states of the UN to enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education to ensure this to happen, facilitate learning of Braille, alter native script, augumentive and alternative modes, means and format of communication and orientation and mobility and skills, peer support and mentoring.

While this provision is an all encompassing one, lest the deaf are overlooked, a sub clause 21 (3) (b) to the effect **that facilities for learning of sign language and the promotion of linguistic identity of the deaf community will be ensured, has been in comporated.**

Further sub-clause 24(3) (c) reproduced here in under should leave no doubt that deaf do need separate, specific provisions in the legislative efforts for getting a fair deaf.

**24(3) ( c) ensuring that education of persons, particularly the children, who are blind, deaf, deaf blind is delivered in the most appropriate languages and modes and means of communication on for the individual in environments which maximize academic and social development.**

The sub-clause 24-4 goes a step further to ensure that not only the language but the teachers teaching a particular language to a particular category of disabled must be qualified ones and **“lays down that in order to ensure realization of this right, State Parties shall take appropriate measures to employ teachers, inducing teachers with disabilities, who are qualified in sign language and/or Braille and to train professionals and staff who work at all levels of education.”** Such training shall incorporate disability awareness, and use of appropriate augemntive and alternative modes, means and formats of communications, educational techniques and material to suppor persons with Disabilities.

### ARTICLE 30-4

Since mere knowledge of language is not enough to lead satisfying life, participation in cultural life, recreation, leisure and sports are also necessary. This Article recognizes this fact and mandates the UN's Member States to ensure that the Persons with Disabilities are able to access these.

Here it has been recognized that mere clubbing of all the disabilities together is not enough, particularly the Deaf therefore a separate sub-clause 30(4) has been incorporated. **It provides for their entitlement, on equal basis with others to recognition and support of their specific cultural and linguistic identity including sign language and deaf culture.**

In conclusion, it can be said that it is for the first time that though a part of the Disabled community, because of their peculiar sensory disabilities which create communication barriers specific to them, Deaf have been singled out and special reference has been made to them where ever necessary.

Though not specifically so stated, the Deaf people have for all purpose and intention made out to a Miniscule Minority Community with in the Minority Community of the Persons with Disabilities. This is as well because, now the Deaf will be able to get attention in the manner and ways which are specific to them.

U.N. convention on the Rights of the Persons with Disabilities, which has brought into focus the Minority Community, long neglected so for has succeeded in putting the case of the Deaf in proper prospective. It is now up to the Deaf Community to unify, assert it self and claim their rights.

The era of pity charity and benevolence towards the Persons with Disabilities is now over, with the U.N Convention on the Rights of Persons with Disabilities finding universal support and acceptance. It is now left to the community of the Disabled to join hands and claim, what is their right

Amen.



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## *Persons With Disabilities Act 1995*

### **Poor Implementation Denies The Disabled Persons the Benefits that they would Have Otherwise Gained.**

—Shri Sanjay Rathi, FCA

Enactment of Persons with Disabilities (Equal Opportunity, Protection of Right & Full Participation) Act 1995 marks a watershed in the annals of social legislations. For the first time, the society's most vulnerable section, the Persons with Disabilities, long an object of charity, condensation and even studied neglect were bestowed with rights of their own and clothed in human dignity, equal to their able bodied peers.

Admittedly, it is not what it should have been considering that it was a first attempt and also the Persons with Disabilities or their represmta lives did not have much expectations and therefore, kept their demands lowered even at the cost of depriving a good number of facilities and concessions to which they would have been otherwise entitled to. For the official side also, it was like treading new grounds, hence took the line of least resistance.

The result was s shadow of legislation but as some of the realistic Disabled Rights Activists conceded, some thing is better than nothing and that progressively, more teeth could be given to this legislation. This they mis-judged as even thirteen years after its enactment. There has been no change in the Act. The only attempt made to amend the Act proved to be a spent force, for though the Review/Revision Committee did what was expected from it and submitted a well documented revised version, it has been gathering dust these last many years.

To revert to the main subject the PWD Act 1995, it does have good points and even in its present form it can do a lot to empower the Persons with Disabilities. Take for instance reservations for the Disabled Persons in Services. This has helped hundreds of Disabled Persons secure gainful employment and lead a dignified life. It is, of course, a fact that this has not have been as effective as for example the reservations provided for Scheduled Castes and Scheduled Tribes. But this is largely the result of administrative inefficiency, and to some extent the absence of requisite qualifications among the Persons with Disabilities.

The concept of reservation has been extend in other spheres like housing, educational and training institutions, allotment of LPG and Petrol Pumps, Kerosine agencies, Telephone booths and so on. Impact of these will be visible, slowly but surely. The rub is though a well meant measure, its scope considering millions of people with Disabilities is not even the proverbial drop in the ocean. Since the beneficiaries of the reservation scheme are scattered thinly over large areas, it has not even been able to creat visible islands of prosperity, hence escape notice.

### Deaf Untouched by these Schemes

In so far as Deaf people are concerned about whom we are deliberating in this Seminar, it is sad but true that they have mostly remained untouched by these reservation. Take for example reservations in Government and Public sector units at Centre as well as in the States. Theoretically, of the three percent post, one percent posts have to be filled by deaf. But as the saying goes there are many a slip between cup and the lips and deaf rarely, if at all access the reserved posts.

The reasons are not far to seek. Educational qualification for the lowest post of peon, in class IV category, is Matriculation or Secondary. Now consider how many High/Secondary Schools are there for the Deaf in the country enough to count up on one's finger tips. So access to High School level education is limited. That is not all. In these schools, language is one subject that is just does not receive any attention, even then some do manage to pass the High School examination, charitable person saying by rotating lessons while the realistics say by using unfair means. What ever be the reason, the result is that in most cases deaf do have High School passed certificate but not the knowledge that go with such a certificate. Since recruitment now a days is not done on the basis of mere certificate but upon passing tests conducted by would be employers, deaf fail to qualify and even these lowly posts go beyond their reach.

Not that authorities are not aware to this situation but as it serves their purpose of not burdening themselves with deaf workers they opt an easy way out and see to it that deaf just do not pass the recruitment test. There is an easy Solution special recruitment tests with papers set keeping in view poor linguistic skills of the Deaf but no body cares. That Deaf people are not unfit to hold posts has been established beyond doubt by the one and only special recruitment test conduct for the Deaf for LDCs post over a decade or is more age. Those who qualified were posted as LDCs and they without exception have done well and won promotion to the next higher post. But for reasons not known such special recruitment tests were never conducted there after and in the comparative tests they take with able bodied, they normally fail, their quota of reserved posts subsequently filled up with able bodied, on the grounds that deaf candidates are not available.

The same applies in the case of reservations made for allotment of LPG agencies, kerosene oil Depts. The norms for eligibility are such that not many deaf can qualify and are therefore, not even considered. Allotment of telephone booths at concessional rate is not even permitted on the operate telephone booth. Argument that they can avail help of other member of family are not considered.

Thus, the Deaf remain untouched by the various reservations granted to the persons with disabilities. The only alternative is to lower the reservation norms in the case of Deaf in the matter of educational qualifications because of their inherent disability to acquire linguistic skills in the absence of appropriate medium for instruction and that of financial stability in case of LPG and Kerosene Depot.

In the way of self employment by the Deaf there is a hurdle. National Handicapped Development Finance Corporation could help in this, as per the provisions of PWD Act 1995 if it could also fix separate eligibility norms for the Deaf. A realistic approach is the need of the hour and if the Deaf are unable to measure up to the stipulated norms, they are not to blame. They just do not have adequate educational training facilities, for which the Government, not the Deaf are responsible.

The PWD Act 1995 is well meant and among others has laid down norms for education, training, employment, affirmative action, research & development etc. Unhappily all the provisions are conditional and not definite, in that almost every clause begins by subject to, provided that, within the limits of economic capacity, etc. This results in to the fact that these can not be enforceable by a court of law as Government can always take shelter in the conditional commitment made in the Act and who and how is one to dispute such a claim by the Government.

### **Poor Implementation**

Though the Act has been in force for over 13 years now, it has yet to be implemented in its totality. Be it the matter of education, training, employment or even research and training nothing much has been done and status quo remains, to the great detriment of the Persons with Disabilities. For this situation Disability sector is responsible to a certain extent because it has failed to put pressure on the Government. Occasional out bursts of anger through demonstrations do not make any impact on the Government. The indifference on the part of official done and their prejudiced attitude does not help either.

Therefore, it is necessary that some solid and sustained, also united efforts on the part of Persons with Disabilities are called for. They have to put a united front. Unity is strength, this alas lacking as of now, in the ranks and files of the Disabled Persons.

Simultaneously, the officials will have to change their attitude to wards the Persons with Disability. Who are entitled to their rights and it is the duty of the officialdom to put in place an appropriate stream line service delivery mechanizing, which can answer all or at least most of the needs of Persons with Disability.

The PWD Act also provides for check and controls on the institutions working for the Persons with Disabilities, where there is always a possibility for exploitation. But as in other provision in the Act, implementation leaves much to be desired. Therefore, it is necessary that implementation is got stream lined and attitudinal changes brought about in the officialdom.

### **Deaf A Neglected Lot**

All said and done, the PWD Act may be of help to Persons with Disabilities, as a whole but sadly, Deaf people have remained name less and even their basic needs of sign

language which is their mother tongue and their sign language interpreters, their link with the hearing world do not find any mention at all in it. This has been a big let down for the Deaf, who expected at least that their basic needs will be taken care of instead what thus get is what ever they can angle out from the provisions made for the Persons with Disabilities as a whole.

This is surprising because there was a representative of a national organization of the Deaf was a Member of the Drafting Committee of the Act under reference The least that could have been done was to have stated the obvious that is the twin needs of the Deaf people, sign language and sign language interpreters which are specific to them and not covered by any of the provisions of the PWD Act 1995.

Obviously, no heed had been paid to the needs of the Deaf who continue to be a neglected lot and qualify to be called Children of a lesser God. In the revised version, it is to be added here with sorrow, that these basic needs were again ignored not with standing the presence of the representative of the afore said national organization of the Deaf. It was the alertness of Delhi Association of the Deaf which acted ever after the revised draft was finalized and got these above two and several other provisions specific to the Deaf incorporated. It is an other matter that the revised version was fated to be still born. Now with UN convention on the Rights of the Persons with Disabilities, it has again to be revised.

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<b>DELHI ASSOCIATION OF THE DEAF (Regd.)</b> 92 KAMLA MARKET, NEW DELHI-110 002		
<b>FACT-SHEET</b>		
ESTABLISHED:	AS DEAF & DUMB ASSOCIATION, DELHI	OCT.4, 1950
RENAMED:	DELHI ASSOCIATION OF THE DEAF ( On Merger of New Delhi Deaf & Dumb Club and Deaf & Dumb Association, Delhi )	1977
FOUNDER:	(1) ALL INDIA FEDERATION OF THE DEAF	1955
	(2) ALL INDIA SPORTS COUNCIL OF THE DEAF	1962
VITAL STATISTICS:		
LIFE MEMBERS	More than 1450	
ANNUAL BUDGET	About Rs.7,00,000/-	
FULL TIME PAID WORKERS:	THREE	
REHABILITATION VENTURES:	ONE (One Shop 'MOOK PREETI' at Yashwanth Place, New Delhi)	
OTHER ACTIVITIES:	SPORTS & GAMES, RECREATION, EDUCATIONAL TOURS, HOLIDAY CAMPS, PICNICS & FUNCTIONS, CULTURAL ACTIVITIES, EDUCATION & TRAINING, LIBRARY & READING ROOM, REHABILITATIONAL ASSISTANCE, COUNSELLING & GUIDANCE, SOCIO-ECONOMIC REHABILITATION, INTERACTION WITH GOVERNMENT, LOCAL BODIES, STATE ORGANISATIONS, TRAINING IN INFORMATION TECHNOLOGY ETC.	
STATUS:	Recognised and financially assisted by State (Delhi) and Central Governments.	
IMPORTANT PAST PRESIDENTS:	Shri I.K. Gujral, Ex. Prime Minister of India, Mr (Dr.) Late Sushila Nayyar, Ex. Union Minister, Late Shri Hari Krishna Shastri, Ex. Union Minister, Late Shri Dr. S.P.N. Puri, Smt. Sheila Dikshit, Chief Minister, Delhi, Shri Ashok Gehlot, Ex. Chief Minister, Rajasthan	
NEW PROJECT:	Rs.100 lac RESEARCH & REHABILITATION CENTRE FOR THE DEAF. Land allotted by Delhi Development Authority and construction has commenced. When functional, will provide facilities to 100 students for Degree level education, advanced training in electronics, information technology and produce video taped lessons. Design & publish text books for deaf etc.	
MANAGEMENT:	The Association has a dedicated and distinguished management. Association's Chairman, Shri Rajiv Pratap Rudy, Ex. Minister of State, is a youthful statesman. Others on the Executive Committee are well-educated deaf who have dedicated their lives to the uplift of the deaf people.	

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# **U.N. Convention on the Rights of Persons With Disabilities takes Care of the Needs of All The Categories of the Persons With Disabilities**

**—Shri J.C. Gupta**

U.N. Convention on the Rights of the Persons With Disabilities has an all encompassing feature. This was to be expected for experts from legal, legislative, Human Resources Development, and Statemen had pondered over the issues involved before arriving at universally acceptable terms and contents of the Convention so as to make this Convention acceptable to the Disability Sector, the stake holders in this case. They were also actively involved in the deliberations, their views sought, considered carefully and then finally found a place in the Convention, there by making it one of most momentous event in the field of regeneration.

Since most facets of the problems faced by the Persons With Disabilities are the same and approach also same, remedial measures to address these are more or less, the same, while giving shape to the Convention, the operative parts have been drafted and listed in such a manner that these can be applied to most of the categories of Disabilities, without naming these again and again. However, where there was a need to specify a particular disability whose need was specific to it alone- like Braille for Visually Challenged and Sign Language for the Hearing Impaired, mention there of has been made, where ever necessary, in the Convention's Articles.

Since the Convention has some thing for every category of disability sector, it will benefit all equally and when their Rights are enforced in letter and spirit, all of them will benefit similarly. In other words, it addresses to the needs of all categories of Persons With Disabilities. This was to be expected, for U.N had been giving thought to the issue of Persons With Disabilities since long. The first visible attempt in this direction was observation of the year 1981 as the 'Year of Disabled Persons'. This brought the issue of Persons with Disabilities centre stage and the impact, also results achieved were so encouraging that from 'Year of Disabled', it was extended to 'Decade of Disabled Persons'. All along, on the side lines of political high debates and dealings, the question of disability continued to receive attention and ultimately resulted in adoption of the U.N Convention on the Rights of Persons With Disabilities on 24<sup>th</sup> January 2007.

Since it is only a Convention, Member States of the U.N are free to adopt and enforce it in their respective countries in the shape of their own Disability related laws. But it being a social issue and disability being a universal phenomenon, over a period, it gets adopted by most of the U.N Member countries. With the signing by as little as 20 countries it becomes an official U.N documents with more countries signing and rectifying it, it becomes a defacto law unto it self. But unless the Member States model their own country's laws on the lines of this Convention, it is of no consequence in that country.

India was among the first to sign and ratify the Convention but is dragging its feet, so far as its implementation is concerned. Implementation requires' amendment of Persons With Disabilities (Equal Opportunity, Protection of Rights & Full Participation) Act 1995 by incorporating the various provisions of this Convention or its replacement by a new Act on its lines. Until this is done, Disabled Persons in the country will not be able to access the numerous good provisions of the Convention.

However, as has been stated earlier, Convention has some thing good for every category of disability. PWD Act 1995 can be said to be a tepid version of the Convention, which is to be understood because that was framed 13 years earlier when the social awakening was less.

### The U.N. Convention

It is spread over 50 Articles beginning with preamble and ending with Authentic Texts, it covers a lot of ground. Its objective is summed up in these words- "to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all Persons With Disabilities and to promote respect for their inherent dignity."

After setting down General Principles which include among other-non-discrimination, Full participation, Equality of Opportunity and Accessibility etc., its Article 4 lists General Obligations for the Member States of the U.N. This is a short of Charter of Demands which the Member States are expected to meet.

From the list of General Obligations (Article 4) it will be seen that all the categories of Persons With Disabilities are to benefit. These include "promote full realization of all human rights and freedoms, adopt appropriate legislative and administrative measures to ensure implementation of rights recognized by the Convention, ensure protection and promotion of human rights of Persons With Disabilities in all policies and programmes of the government, eliminate all forms of discrimination, undertake, promote disability related research, free access to related information and training of professionals and staff working with Persons With Disabilities The need to maximize economic, social and cultural rights of Persons With Disabilities, by providing adequate funds, is also a State obligation, so also is development and implementation of legislations and policies to implement the Convention.

Article 5 is devoted to equality and non-discrimination on the basis of disability and to this end governments have to guarantee equal and effective legal protection against any form of discrimination.

Articles 6 and 7 deal with the women and children with Disabilities and make it obligatory on the part of the government to safe-guard their interests and protect their rights.

Convention recognizes the immense power of awareness and has devoted a lengthy Article 8 which urges for effective and immediate measures aimed at awareness creation about the potential and ability of the Persons With Disabilities as also to combat against prejudices that persists about the Disabled Persons.

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Accessibility to physical environment, transportation, information and communications, including their technology and systems, services including electronic, emergency services schools, housing, medical facilities etc have to be provided to the Persons With Disabilities. Not only these, signage in Braille, guides, professional Sign Language interpreters have been made part of accessibility and will have to be provided under the provisions of this Convention.

Care has also be taken to include in the Convention provision for Right to life and protection for the Disabled Persons in situations created by armed conflicts, natural disasters, etc. The Convention calls up on all U.N Member States to ensure that Persons With Disabilities are treated equal before the law in the matters of owning property, self control over own finances, inheritance etc.

Some of the unique features are: government's responsibility for effective access to justice whether as witnesses, legal proceedings, investigative preliminary stage and training police and prison staff to the needs of the Persons With Disabilities, as also to ensure that they enjoy the right to liberty and security of person.

Protection of personal integrity, liberty of movement, right of living independently and being included in the community are covered by separate Articles of the Convention. These, as also all the earlier provisions, are applicable for all categories of Persons With Disabilities and all will benefit equally.

In the Article on Freedom of Expression and Opinion and Access to information are included freedom to seek, receive and impart information and ideas on equal basis with others and through all forms of communications including Braille and Sign Language, recognition, promotion and use of which has been specifically mentioned.

Since Persons With Disabilities often get mis-treated even in their own homes and are denied even their share of inheritance, Convention lays down certain specific provisions which the States have to adhere to ensure the rights of Persons With Disabilities. These include marriages, raising own family, disabled children not to be separated from their parents against their wishes and so on.

The Articles on Education (24) Health (25) and Work & Employment (27) are the outstanding features of the Convention and if implemented in letter and spirit, these may prove a boon for the Persons With Disabilities and make their lives enjoyable and meaningful. In the Article on Education, while the emphasis is naturally on inclusive mode of education, it has also been laid down that "education of persons, in particular of children who are blind, deaf, deaf-blind is delivered in the most appropriate/languages and modes and means of communications and in environments which maximize their academic and social development."

It has also been made mandatory on the States to employ teachers including teachers with disabilities who are qualified in Sign language and or Braille and to train professionals and staff who work at all levels of education. That is not all . Provisions for tertiary education

vocational training, adult education and life long learning have to be made without discrimination and on equal basis with others.

Issue of health for the Persons With Disabilities has received good attention States have to provide "highest attainable standards of health without discrimination, ensure access to same range, quality, and standard of health care as provided to other people". Health services should include early identification, and intervention, and such other services designed to minimize and prevent further disabilities among children and older persons, and be provided as near as possible, to their homes.

Health professionals have also to be sensitized about the specific needs of the Persons With Disabilities.

Under Article 27, Convention has recognized the right of the Persons With Disabilities to work on an equal basis with others, in a work environment that is open, inclusive and accessible to them. Discrimination in the matter of employment is to be prohibited. They are entitled to exercise their labour trade union rights, access to general technical and vocational guidance programmes, placement services and vocational and continuing training.

Career advancement opportunities for self employment, and entrepreneurship, provision of accommodation at work place, job retention, return to work and placement in Private and Public sectors are some of the other facilities that have been accorded to the Persons With Disabilities under the Article (28).

This follows an Article on adequate standard of living and social protection, for Persons with Disabilities and their families. This includes adequate food, clothing, housing, potable water and continuous improvement of living conditions for the Persons With disabilities and such of them who with their families are living in situations of poverty are entitled to assistance from the State.

Convention gives the Persons With disabilities right to participate in political and public life. To enable them to enjoy these facilities states have to create environment conducive to their exercising these rights.

The Article 30 on Participation in cultural life, recreation leisure and sport lays down that like normal people, Disabled Persons are also entitled to have an access to these activities so as to make the lives of Persons With Disabilities, enjoyable and meaningful. It is made incumbent upon the state members to ensure that in these fields also Persons With Disabilities are not discriminated against.

To bring the point home, leisure activities have been mentioned in detail. Article 30 (U) lays down that Persons With Disabilities shall be entitled to, on an equal basis with others to recognition and support of their specific cultural and linguistic identity, including Sign Language and deaf culture.

Except that Convention can not make the Persons With Disabilities physically fit by removing their diverse disabilities, it has every thing which can make their lives enjoyable, by

removing stigma of oppression, social neglect, indignity associated with disability and empowering them through education, skills, expertise and gainful employment. Also making them as self-supporting, independent integrated part of normal society.

Therefore, the earlier the PWD Act 1995 is either amended in the terms of this U.N Convention or enacts a new Act incorporating all its provisions of U.N. Convention under referene; the sooner the better. This will need to creat awareness, enlist the support of community and its acceptance, the onus there of now lies with the Disability sector. In the words of Swami Vivekanand, it has to "awake, arise and rest not till the goal is attained."

### **Brief Life Sketch Shri J.C. Gupta**

Working now as an Assistant Director, Shri J.C. Gupta is a person with rich experience in education, training and rehabilitation of the Deaf People.

Totally motivated and committed to the cause of the Deaf, he is one of the rare breed of teachers, administrators who take their work seriously and give to if their very best and achieve good results.

He has an excellent knowledge of sign language which helps him to establish rapport with his deaf student trainees and win their respect and confidence

#### ***Our Grateful thanks***

***to***

- Mr. Richard — For his generous and regular financial help.
- Mrs. Girija Vyas, Chairperson, National Commission for Woman — For sparing so much of her precious time to be our Chief Guest and expressing her empathy for our cause.
- Dr. Arun Kumar Agarwal, Dean Maulana Azad Medical College, New Delhi — For his ever readiness to help and assist us, also in advancing the cause of the deaf in several different fields.

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Dr (Mrs) Girija  
Women, Chi  
Shakuntala D



Dr (Mrs



## SNIPPETS OF THE SEMINAR



Dr (Mrs) Girija Vyas, Chairperson National Commission of Women, Chief Guest, being welcomed by Dr (Mrs) Shakuntala Dawesar and others.



Chief Guest inaugurating Seminar by lighting the lamp



Dr (Mrs) Shakuntala Dawesar lighting the lamp.



Dr A.K. Agarwal Dean, Maulana Azad Medical College, New Delhi (MAMC) & Chairman Organising Committee lighting the lamp.



Chief Guest Delivering her address.

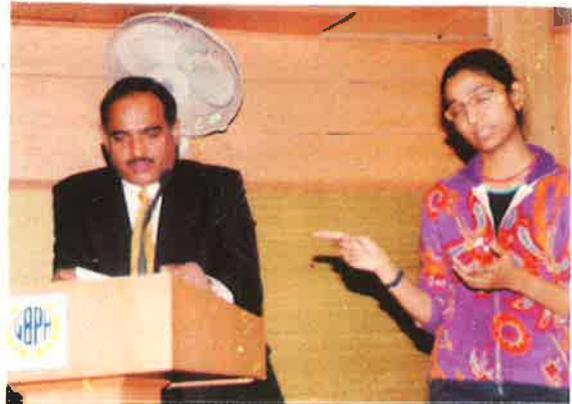


Dr (Mrs) Shakuntala Dawesar proposing vote of thanks

Interpretion by Miss Shruti Gupta



Dr A.K. Agarwal, Chairman Organising Committee welcome address.



Shri Y.S.R. Murthy, Director, National Human Rights Commission (NHRC) presenting his paper.



Shri Shakeel Ahmed, Dy. Secretary, University Grants Commission presenting his paper.



Dr S.S. Jaswal, Asst Research Professor, the Indian Law Institute presenting his paper.



Dr Ravi Shankar Bhushan, Sr. Member of Human Rights Law Network presenting his report.



A view of audience.

Interpretation by Miss Shruti Gupta



Chief Guest being seen off by DAD office bearers



Shri Siddharth Luthra, Sr. Advocate High Court of Delhi, Chief Guest at Valedictory Function being welcomed.



Shri Siddharth Luthra, delivering key-note address.



Dr (Mrs) Vaishna Narang, Professor of Linguistic, Jawahar Lal Nehru University, New Delhi presenting her paper.



Out station participants with Shri Siddhart Luthra



Shri K.C. Gupta, Asst. Director, NIHH, North Zone presented a mounento.



Shri Sunil Batra, Advocate, DAD Legal Advisor presenting paper.



Shri K.C. Issac, M.A., President Kerala Association of the Deaf speaking on need of Deaf Unity



Shri E.K. Jamal Ali, President, Tamil Nadu State Federation of the Deaf giving call to fight for our rights



Shri G. Jai Shankar, General Secretary, Krishnagiri Distt, Deaf Association Tamil Nadu, Expressing his views.



Shri D.S. Chauhan, Hony. Secretary, DAD being honoured by President and members of Tamil Nadu State Federation



Members of the Organizing Committee & Executive Committee.

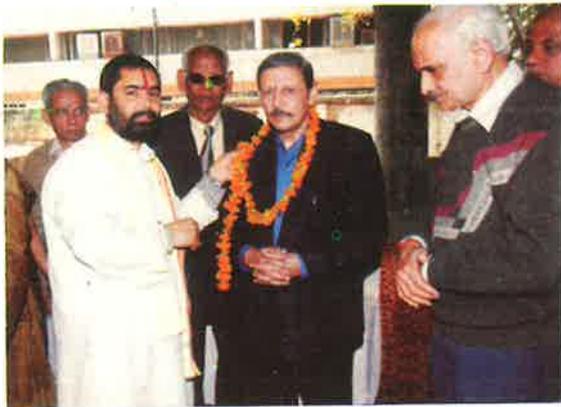
## Association Resumes Construction of Building for it's Research & Rehabilitation Centre for the Deaf.



Shri Shiv Bansal, Hony. Architect & Contractor Shri Onkar Singh with the members of Delhi Association of the Deaf.



Panditji garlanding Shri D.S. Chauhan, Hony Secretary DAD.



Shri Shiv Bansal garlanded by Panditji.



Shri Onkar Singh, Contractor being garlanded by Panditji.



Havan in progress.



Another view of Havan being performed and members Participating in it



"AHUTI" being offered.



Panditji enchanting shlokas



Havan Kundi being worshipped by Shri D.S. Chauhan.



Shri Shiv Bansal performing "Aarti"



Shri Ravindra Mohan Gupta, Senior Member performing "Aarti"

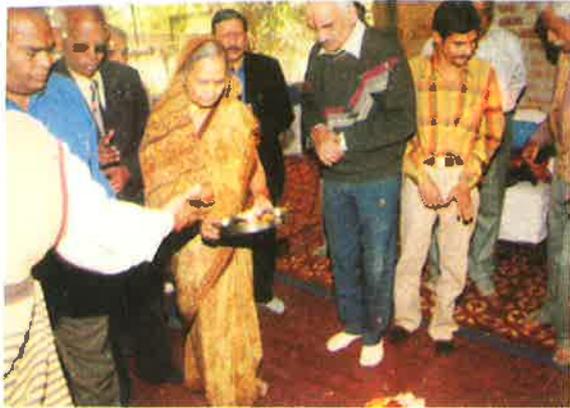


Shri Kamal Mehra, Senior Member performing "Aarti"

# Panditji tying the sacred thread after havan is over.



**Aarti being performed by Mrs Pushpa Gupta  
(wife of Ramesh M. Gupta)**



**Aarti by Shri Onkar Singh**



**Panditji applying the Holy Tilak**



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## Apply Concept of Deaf Rights to Deaf Sports

"In accordance with the provisions of the 'UN Convention on the Rights of Persons with Disabilities' which emphasizes the need for promotion of games and sports among the Persons with Disabilities, it is important and highly relevant to improve, increase and promote deaf cricket along with other sports and games among the persons with disabilities".

By Ravindra Mohan Gupta  
Hony General Secretary  
All India Cricket Association of the Deaf

We are beholden to Shri D.S. Chauha, Hony Secretary, Delhi Association of the Deaf (DAD) who has drawn our attention and explained relevance of the UN Convention on the Rights of Persons with Disabilities and the commendable work that he has been doing to create awareness about it in Government, NGOs, Public & Private Sector etc. This has also benefited us, the deaf community and we have become aware of our rights. This has and will have a positive impact on our lives.

Yes, we have come to realize all this and because of it, we had approached the Board of Control for Cricket in India (BCCI), for affiliation and had written 2-3 letters drawing their attention to the provisions of the UN Convention on the Rights of Persons with Disabilities but we have drawn a blank. So much about the consideration given to the rights of the deaf.

It is good that BCCI has become the richest cricket organisation in the world; we are proud of it. We had hoped that with God giving BCCI means, it will use its huge resources for the community, including the deaf and the disabled, especially in popularisation and promotion of cricket among the heather to fore neglected section of our society. But this is not happening.

Only if BCCI espouses the cause being advocated by us, it will become a noble body, unparalleled in the world.

Having approached BCCI, and failed, we are now taking up the matter with the International Cricket Council (ICC) with suggestions that it should persuade its affiliated units in different countries to promote cricket among the deaf and other categories of the Persons with Disabilities by helping them with resources, facilities, funds and man-power so that all of these too get facilities equal to those available to the normal persons.

And sooner this is done the better for the 3<sup>rd</sup> Deaf Cricket World Cup 2009-10 is to be held soon, and the New Zealand Cricket Association of the Deaf, which was to host this, has now expressed its inability to do so, unless the participating countries foot their own bills. This will be difficult as the Cricket Association of the Deaf in other countries also lack resources and may not participate which will be a pity. Therefore, the Governments and Cricket Associations of the Hearing the World over should come forward and help the deaf and persons of other categories of disabilities to access their right for equality in sports and games.

In this context, it is pertinent to state that our All India Cricket Association of the Deaf had successfully hosted and organised the 2<sup>nd</sup> Deaf Cricket World Cup at Lucknow without Government help and had also won the Cup, because people accepted that Deaf too have a right to play Cricket and had helped generously, but it will not be possible to go to the people again and again, more so as most of us are suffering from the impact of melt down.

As for the players meeting their own expenses, it is just not possible. Therefore this has placed us at All India Cricket Association of the Deaf in a difficult situation for we too lack resources and are in no position to meet the expenses involved on our own.

We have written to Chairman of Deaf Cricket International Federation and General Secretary of New Zealand Cricket Association of the Deaf, also to the Government of New Zealand to come to aid and help organising 3<sup>rd</sup> Deaf Cricket World Cup successfully form 27<sup>th</sup> Dec. 09 to 7<sup>th</sup> Jan 2010 at New Zealand. We have drawn their attention to the provisions of the UN Convention on the Rights of the Persons with Disabilities, and are hopeful that the Government of New Zealand, Chairman, Deaf Cricket International Federation will rise to

occasion and with their help the 3<sup>rd</sup> Deaf Cricket World Cup will be organized successfully and in time. We have since received with thanks positive response from ICC and look forward for the encouraging results.

Helther-to-fore neglected the disabled people, including the deaf, have at long last received attention at the highest level, the United Nations Organisation. A couple of years ago, in a historic decision, the UN passed the Convention on the Rights of Persons with Disabilities. In it specific rights of the disabled, including the deaf have also been spelled out in clear terms.

Among others, it has asserted that, like other disabled, deaf have a right to recreation, sports and games and it is the duty of a country's Government to ensure that these people are not discriminated against in any manner. But for the deaf discrimination persists, and must be ended.

For example, the BCCI, the monopoly holder on cricket does not care for deaf cricket. It is not responding to the appeals of our All India Cricket Association of the Deaf for affiliation. It may be stated here, that cricket is the favourite game of the deaf in which they have excelled. One of the deaf cricketers won the coveted Arjuna Award for his superb performance on the field.

Our Association enjoys support of Deaf Cricket Association of 18 States which are affiliated to it. Our Association has been regularly organizing State/National level Cricket Tests. It also hosted the 2<sup>nd</sup> Deaf Cricket World Cup in the year 2005. It was successfully held at Lucknow thanks to the unprecedented help extended to us by Dr. Kashmir Singh, President of our Association and India was the winner.

It may be of interest to know that Deaf Cricket International Federation, the parallel of International Cricket Council, has recognised us and has also accorded affiliation to us. Thus, though the Deaf Cricket Associations and International body of Cricket Organisations have accepted our status of a National Organisation of Deaf Cricket, BCCI however, continues to turn a deaf ear to our appeals for affiliation. So also does, the Ministry of Youth Affairs and Sports.

There is some urgency in our obtaining affiliation with BCCI as 3<sup>rd</sup> Deaf Cricket World Cup is to be organised from 27<sup>th</sup> December, 2009 to 7<sup>th</sup> January, 2010. New Zealand, which was to host the 3<sup>rd</sup> Deaf Cricket Cup 2009 has expressed its inability to do so because of financial crunch, and agreed to host, provided the participants share the expenditure involved.

We are willing to send our team to New Zealand at no cost to the hosts but this is not possible unless our status as an affiliate of BCCI are recognised by Ministry of Youth Affairs & Sports and our bonafieds are established. If this happens, we become eligible for help from both, as well as from public at large.

The matter, therefore, is urgent and needs immediate attention and a favourable decision. Please support us to achieve our twin objectives as given in the preceding para.

### Life Synopsis of Shri Ravindra Mohan Gupta



He is a person deaf since birth with focused vision, an artist of great promise, he is a workaholic who is constantly on his toes. He is known for the brilliant and outstanding mural works that he has put up at several place in Delhi and other cities along with his works of ceramic art. His works are greatly admired. He has been attending to all the diverse professional and business activities on his own. This has in some degree cramped his style and output. Holder of a First Class with first division, in National Diploma in art from reputed College of Art, University of Delhi, he is equally at home in Commercial as well as Fine Arts.

He has been engaged in the deaf welfare & sports activities and is related with various local deaf associations and is actively involved in programmes related to Deaf Unity and Deaf

Rights. He is Hony General Secretary of All India Cricket Association of the Deaf.

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**Recommendations of the National Seminar on "Deaf Rights under the UN Convention on the Rights of Persons with Disabilities" organized by the Delhi Association of the Deaf on 7th & 8th February, 2009 at G.B.Pant Hospital, Auditorium, New Delhi.**

### Preliminary

Introducing the objective of organizing the Seminar, the organizers explained that in the Persons with Disabilities (Equal Opportunity, Protection of Rights & Full Participation) Act 1995, except for definition of deafness, there is nothing specific for the Deaf in it. Most of the provisions, which are applicable to all the categories of Persons with Disabilities (PWD), are no doubt applicable to the Deaf people also but they do need some specific provisions of their own in the Act without which these can not be enforced through a Court of Law.

In contrast, the Convention on the "Rights of The Persons with Disabilities" has certain clauses and sub clauses in its various Articles which are specific to the Deaf and, therefore, when enacted become enforceable through a Court of Law. This is the vital difference in the two.

As the Seminar was attended both by hearing and the Deaf, for the benefit of the later, the Seminar was divided in to four sessions with the first session dealing with the basic Fundamental Rights guaranteed by the Constitution of India.

The second session was devoted to accessing, identification, intervention; curative as well as surgical intervention in the Deafness related issues. Speakers, professors from Maulana Azad Medical College, gave related information lucidly, capable of being understood by the Deaf people. The hearing persons also gained an insight in the above mentioned aspect of deafness.

On the second day, in the third session, Legal Luminaries explained the merits and demerits vis-a-vis Deaf people in the PWD Act. It was very informative.

The fourth and last session covered the various aspects of the U.N. Convention on the Rights of the Persons with Disabilities, closely examining and explaining the benefits that would accrue to the Deaf people. Panelists led by Dr.(Mrs.)Vaishna Narang, Professor of Linguistics, Jawahar Lal Nehru University, threw light on the clauses of the Convention beneficial for the Deaf people.

Simultaneous Sign Language Interpretation was arranged with the help of expert interpreters, with whose help the question answer part of each session was very interesting as numerous searching questions were posed and answered in very lively manner.

The following recommendations were being made on the basis of U.N Convention under reference.

## **Recommendations**

### Right to Early Identification

Every child has an inherent right to early identification for deafness.

To this end the Governments at Centre and the States must ensure that adequate, scientific arrangements are made at panchayat level, all over the country, either free of cost or at highly subsidized, affordable rates.

Government should dovetail the immunization programmes like pulse polio, held across the country at regular intervals with the early identification of deafness in a child.

### Right to Early Intervention

Since an early intervention can minimize the impact of deafness, every child is entitled to the earliest possible intervention, both in the matter of taping existing residual hearing through audio-logical and in speech development through proper education suitable for a child of tender age, born Deaf.

For both these interventions, there are two options:

### Audio-logical Intervention

It is often argued that mechanical sound input does not always suit a tender aged Deaf child who becomes uncomfortable and finds it difficult to tolerate it. Therefore, some say that the issue should be settled keeping in view the deaf child's response to the audio-logical intervention.

The opposite side bats for audio-logical intervention on the plea that child would soon become accustomed to it and that it is the best way for speech development and development of linguistic skills.

After debate, taking pros and cons in consideration, the Seminar recommends that depending up on the favourable or unfavourable reaction from the child to audio-logical intervention, the matter may be decided upon the response of the deaf child.

Parental objections, which would be numerous, should be politely over come through persuasion.

In so far as speech development is concerned, there also being two classes of thoughts, the Seminar recommends that Government, in keeping with interests of the Deaf Child, as also to appease the parents who may also be holding different views, both the methods viz oral as well as visual, must be provided during the period of early intervention in an appropriate environment conducive to the child's physical and mental development with the provision that final decision in the matter would be taken keeping in view the ability and aptitude of the child.

It has, however, to be kept in mind that a child born deaf begins to understand signs early in life, as being unable to hear, Deaf child can not learn the spoken language. Instead, he/she focuses on the signs and gestures which he/she keenly follows and starts to understand and use these. That is why sign language has been called the mother tongue of those born Deaf.

### Right to Education

Right to education is a Fundamental Right and Deaf are no exception. In fact, they need the education the most because without formal education, they can not learn any language, not even their mother tongue.

Sadly, Education of the Deaf has been made a matter of experimentation and the Deaf used as guinea pigs. There are several classes of thought, each sticking to its guns. In addition to the oral and visual modes, there are others, total communication, use of signs and other modes of communication, also Indian Signing System.

Seminar, taking all these in consideration, recommends that the State must narrow down these several options in to two Oral and Visual and arrange for the education of the Deaf children accordingly, in an appropriate environment.

As per the U.N. Convention under reference, sign language is like any other spoken, written languages and therefore, must be recognized, promoted and propogated. The direct impact there of will be the Governments at States and Centre will have to abide by this direction.

That being so, sign language must be made the first option for using as medium for instruction for the deaf.

Since oral system too has its merits, it also can not be ignored.

Therefore, the Seminar recommends that special school for the Deaf, based on sign language, should be allowed to co-exist with the special schools using oral method of instruction.

However, the choice for one or the other alternative must be left to the ability, aptitude and inclination of the deaf child. Weightage can be given; to the views of parents of the Deaf child.

Mode and medium of instruction thus settled, the other requirements for infrastructures and man power have to be tackled.

To this purpose Seminar recommends constructing, opening and running special schools for the Deaf in large numbers.

There should be adequate numbers of special schools based on sign language as well as oral system of education.

The Government must create facilities for man power development on a larger scale so that the growing need for teachers of the Deaf and associated service providers can be met.

Education to the Deaf must be provided free, also text books and study kit along with uniform must be provided free of charges.

Vocational training in modern and sophisticated technologies must be given to the deaf, instructor for the Deaf must be trained at Government expenses and posted in the special schools for the Deaf.

In addition to free education, books, education kits, uniforms, Deaf students must be given scholarships as well.

Since the deaf are thinly scattered over vast rural areas, the State and Central Governments must open a special school for the deaf, each using visual as well oral systems of education, at a central village and deaf from other neighboring villages brought to these schools on vehicles provided and maintained by the Government, complete with a driver and conductor.

A nominal fare, if it becomes necessary, may be charged.

The Governments must open Secondary, Senior Secondary Schools for the Deaf at least one in each of the major town in the State.

There must be one college of graduation level, for the Deaf in each State preferably located in the State Capital, which must be up graded as demand increases for higher level education.

Integration of the Deaf children in mainstream educational institutions should be attempted after the child has acquired linguistic skills equivalent to that of a hearing child of V standard, and for the first year, extra care to be given to the deaf child transferred to integrated school.

### **Man Power Development**

In order that the long neglected education of the Deaf takes wings, adequate man power will have to be trained and made available. To this end, State and Central Government will open a large number of Training Institutes for Teachers of the Deaf.

Rehabilitation Council of India will, with the help of NCERT or on its own develop new curriculum, syllabus, course material and make these available to the Training Institutes for Teachers of the Deaf.

It will also ensure that quality of training remains of a high standard through regular inspection, checks and controls.

Accreditation will only be granted to such of the Training Institutes for the Teachers of the Deaf which have attached well equipped and well staffed with trained teachers of the Deaf and accreditation will be periodically reviewed.

Teachers of the Deaf will have to learn right type of indigenously developed Indian Sign Language and use it when ever and where ever required.

RCI shall ensure and also lay down the norms for teachers for the Deaf and ensure that in graduation and post graduation level training courses for teachers of Deaf (special educators) sign language will be an integrated part of training.

The States and the Central Governments shall ensure that the teachers of the of the Deaf are paid attractive salaries, given adequate opportunity for career advancement, housing, proper work environment, financial aid for their children's education in the schools for hearing children, better retirement benefits, institute special awards exclusively for the teachers of the Deaf, special increments for good performance and dedication to their work and other benefits that are available to the teachers of hearing children, like 2 years extension in service period and so on.

Only then, this profession will attract the best talent to the advantage of the Deaf students.

In recruitment to the post of teachers for the Deaf, preference will be given to those who are either parents of the Deaf or the members of their families.

Government shall incorporate compulsory paper on special education for all B.Ed, M.Ed Course for regular teachers also.

### Sign Language

The U.N Convention on the Rights of the Persons with Disabilities has equated sign language with other language: and State & Central Governments will have to do so, that is recognize sign language as any other language used in the country.

U.N. Convention clearly states in Article 21(e) and calls up on its Member States to "Recognize and Promote Sign Language for dissemination of information, expression of opinion etc." Therefore, Governments at the State and Central level must fall in line and recognize and promote indigenous sign language.

But there is a rub. That is, what currently goes under the name of Indian Sign Language and is used for Training interpreters for the Deaf is actually a part of thesis of a foreigner for her Ph.D degree obtained from Germany, it is learnt.

As will be confirmed by the Member Secretary RCI, this sign language was approved for training the interpreters for the Deaf sight unseen by the Experts Group, merely on the assurance of the then Director of NIHH.

Therefore, there is an urgent need to give India a sign language which reflects country's culture, philosophy, diversity, customs and practices, habits and behaviours etc and is capable of being understood equally all over the country and capable of meeting their Domestic, Educational, Training, Professional, Cultural, Religion, Recreational etc needs.

The Seminar, therefore, recommends that this need for such a language be met expeditiously.

In this context, it is worth mention that Delhi Association of the Deaf which the writer had the honour to represent and was a Member of the Working Group constituted by the Planning Commission, on Empowerment of the Disabled during the XI Five Year Plan Period, had submitted a detailed Project Report for setting up an Indian Sign Language Academy to which the entire gamut of sign language related work could be transferred.

This proposal was unanimously approved first by the Sub Group on Review of Policies & Programmes of the Government, then by the entire Working Group and recommend an initial out lay of Rs.8 Crores for its implementation. Similar Project under the name " Sign Language Training & Research Centre finds a place in the Vision Statement for XI Five Year Plan of the Planning Commission, even though it has not even been conceptualised.

Therefore, the Seminar strongly recommends whether as Indian Sign Language Academy or as Sign Language Training and Research Centre, it must be established during the XI Plan period, made functional and the entire sign language related work be taken away from NIHH and given to the newly created Sign Language Training and Research Centre or Indian Sign Language Academy.

This done, a well chalked out programme decided in consultation with the stake holders, the Deaf, should be taken up for promotion and propagation of Indian Sign Language.

U.N. Convention's Article 21(3)(b) clearly lays down that facilities for learning of sign language and the promotion of linguistic identity of the deaf community will be ensured. It is now the duty of the Government which has signed and ratified the convention to ensure that this provision of the UN Convention is implemented in letter and spirit.

Sign Language finds a mention at several places in the UN Convention under reference. This shows that great importance is attached to it. In fact, this is the basic need of the Deaf people and therefore, the Seminar recommends that it be met speedily and effectively.

### Right to Access

Seminar welcomed the efforts of the Government in creating barrier free environment, though miniscule, but lamented that these efforts were restricted to removal of physical barriers only. The sensory barriers, being invisible, have not been given even the least attention.

That this should be so, when while the physical barriers separate human beings from physical objects, the sensory barriers separate persons from persons. These invisible barriers may have fatal results, as in the case of a deaf suffering from life threatening disease, is unable to express himself and can not tell the attending doctor about his ailment.

Therefore, the Seminar recommends that the sensory or invisible barriers should also be removed to provide access to services and attention that may be needed by the Deaf by making services of interpreters for the Deaf available at least in hospitals, law courts, police stations and at all places where public dealing is involved.

To bridge the chasm between the deaf and service providers, Seminar recommends that qualified and trained interpreters of the Deaf should be posted at Government expenses, where ever their services are needed.

Signage, in national as well as regional languages must be provided where ever necessary particularly at Railway Stations, Bus Terminus, Airports etc.

### Right to Training

The Deaf need pre-employment training in trades and crafts and have a right to access training facilities, as per the provisions of PWD Act, also UN Convention on the Rights of Persons with Disabilities.

Therefore, the Seminar recommends creation of adequate training facilities for the Deaf, that too on a large scale and as soon as possible, because the existing facilities comprising of just three training centers for the adult Deaf in the whole of India are woefully inadequate.

Government should apart from setting up on its own training facilities for the Deaf must assist NGOs to create additional training capacity.

The training to the Deaf should be free, during training period, the Deaf trainees should receive stipend, also kits for use during practicals.

Training should be in modern, sophisticated technologies.

Instructors in the training centre should be well versed in sign language.

After completing training with in the training centre, they should be given on the job training in good establishments.

Three percent seats should be reserved in all ITIs, one percent in I.I.T. and Polytechnical institutes, for the deaf.

During training period, visits of trainees to various industrial centres should be organised on regular basis to familiarize them to the industrial environment.

Training Centres should have an environment conducive to learning and experimentation with new technologies.

### Right to Work

Like others, Deaf are also entitled to access the Right to Work, which is also a fundamental right.

The Vocational Rehabilitation Centres for the Physically Handicapped and Special Employment Exchanges for Physically Handicapped can play a pivotal role in implementing the Right to Work and so need to be strengthened further.

NGOs can also help in this regard and therefore, these too need to be involved in this work.

All poverty elevations programmes should give equal opportunities to the Deaf also for working on projects undertaken by them.

Where ever possible, cottage and home industries be started to create work opportunities for the Deaf.

Rural areas and agriculture have tremendous potential for work and these should be taped in meaningful manner.

Those deaf engaged in hereditary trades should be exposed to the latest development that have taken place in their respective field by organizing for them site visits.

Village Panchayats and Block level establishments should be made responsible for ensuring that Deaf work at their profession in rural areas without let or hindrance.

### **Employment**

Though one percent reservation is available in Government and Public Sector Units for the Deaf but these largely remain unfilled for want of deaf with the designated qualifications.

Private sector, barring small establishments, generally do not employ the Deaf because of communication barriers.

To remedy this situation, the Seminar recommends,

Special recruitment tests should be held exclusively for the Deaf for selection as LDCs in which papers are set keeping in view the poor linguistic skills, and answers evaluated keeping in view the same fact-viz poor linguistic skills.

Before appearing for competitive tests, facilities for pre-test coaching should be provided to the deaf, free of charges.

At interviews, services of interpreters must be provided at the cost of the party calling deaf for interview.

Under the Apprentice Act, Deaf should be given training and after apprenticeship period, placed on the regular roll.

The list of posts identified for placement of the Deaf should be reviewed periodically and new categories added where ever necessary resulting either from introduction of new equipment or new training courses for the Deaf.

Posts reserved for the Deaf should not be dereserved but carried on till suitable candidate qualifies for it.

Vacancy and posting rosters must be maintained on the lines of those for S.C/S.T.

By liberalizing loan norms by NHDFC, making procedure borrower friendly self employment or employment through co-operative societies must be encouraged and assisted.

Deaf should also get their share of jobs in various rural development, poverty removal programmes of the Central and State Governments.

Reported and recorded by

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Delhi Association of the Deaf

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