

Disability Rights and Law

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Models of Disability

- The **social model of disability** says that disability is caused by the way society is organised, rather than by a person's impairment or difference. It looks at ways of removing barriers that restrict life choices for disabled people. When barriers are removed, disabled people can be independent and equal in society, with choice and control over their own lives.
- Disabled people developed the social model of disability because the traditional medical model did not explain their personal experience of disability or help to develop more inclusive ways of living.
- An impairment is defined as long-term limitation of a person's physical, mental or sensory function.

- The **medical model of disability** says people are disabled by their impairments or differences.
- Under the medical model, these impairments or differences should be 'fixed' or changed by medical and other treatments, even when the impairment or difference does not cause pain or illness.
- The medical model looks at what is 'wrong' with the person, not what the person needs. It creates low expectations and leads to people losing independence, choice and control in their own lives

Incapacity laws

- A quick scan of national laws shows the overwhelming discrimination of all persons with disabilities on grounds of legal incapacity in over 150 laws. For example, the words, 'physical and mental defect', 'incapacity', 'physical and mental infirmity', 'deaf mute', 'blind', 'contagious leprosy', 'leprosy cured', 'epilepsy' are found pervasively in the laws in the context of legal incapacity. More general categories of 'incapable due to serious illness', 'found unfit to act by a competent court', etc. are also found. Like the M.H.A., many of these laws have their origins in the colonial period.

Legal Provisions

General legal provisions relating to the disabled can be found in

- The Constitution
- Education Laws
- Health Laws
- Family Laws
- Succession laws
- Labour Laws
- Judicial Procedures
- Income Tax Laws
- Targeted Legislation

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- ☐ Income Tax Laws
- ☐ Targeted Legislation

- The Person with Disabilities Act, 1995
- The Mental Health Act, 1987
- The Rehabilitation Council of India, 1992
- The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities Act, 1999
- Declaration On The Rights Of Mentally Retarded Persons

Provisions under the Constitution

Under the Constitution the disabled have been guaranteed the following fundamental rights:

- The Constitution secures to the citizens including the disabled, a right of justice, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and for the promotion of fraternity.
- Article 15(1) enjoins on the Government not to discriminate against any citizen of India (including disabled) on the ground of religion, race, caste, sex or place of birth.
- Article 15 (2) States that no citizen (including the disabled) shall be subjected to any disability, liability, restriction or condition on any of the above grounds in the matter of their access to shops, public restaurants, hotels and places of public entertainment or in the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of government funds or dedicated to the use of the general public.
- Women and children and those belonging to any socially and educationally backward classes or the Scheduled Castes & Tribes can be given the benefit of special laws or special provisions made by the State.

- There shall be equality of opportunity for all citizens (including the disabled) in matters relating to employment or appointment to any office under the State.
- No person including the disabled irrespective of his belonging can be treated as an untouchable. It would be an offence punishable in accordance with law as provided by Article 17 of the Constitution.
- Every person including the disabled has his life and liberty guaranteed under Article 21 of the Constitution.
- There can be no traffic in human beings (including the disabled), and beggar and other forms of forced labour is prohibited and the same is made punishable in accordance with law (Article 23).

- Article 24 prohibits employment of children (including the disabled) below the age of 14 years to work in any factory or mine or to be engaged in any other hazardous employment. Even a private contractor acting for the Government cannot engage children below 14 years of age in such employment.
- Article 25 guarantees to every citizen (including the disabled) the right to freedom of religion. Every disabled person (like the non-disabled) has the freedom of conscience to practice and propagate his religion subject to proper order, morality and health.
- No disabled person can be compelled to pay any taxes for the promotion and maintenance of any particular religion or religious group.
- No Disabled person will be deprived of the right to the language, script or culture which he has or to which he belongs.

- Every disabled person can move the Supreme Court of India to enforce his fundamental rights and the rights to move the Supreme Court is itself guaranteed by Article 32.
- No disabled person owning property (like the non-disabled) can be deprived of his property except by authority of law though right to property is not a fundamental right. Any unauthorized deprivation of property can be challenged by suit and for relief by way of damages.
- Every disabled person (like the non-disabled) on attainment of 18 years of age becomes eligible for inclusion of his name in the general electoral roll for the territorial constituency to which he belongs.



Recent Developments

**Rights of Persons with Disabilities
Act, 2016**

Rights of Persons with Disabilities Bill, 2016

- The number of disabilities officially recognised have increased from seven to 21
- The law has provisions to protect those with intellectual and psycho-social disabilities and even acid-attack survivors.
- The Rights of Persons with Disabilities Bill 2014, which was introduced in Rajya Sabha in 2014, was cleared Thursday with 119 amendments moved by union Minister for Social Justice and Empowerment Thawar Chand Gehlot. The legislation, drafted to make Indian laws compliant with the UN Convention on Rights of Persons with Disabilities, will replace the Persons with Disabilities Act 1995.

What Disabilities?

- The 1995 Act recognised 7 disabilities — blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation and mental illness. The 2014 Bill expanded the definition of disability to cover 19 conditions, including cerebral palsy, haemophilia, multiple sclerosis, autism and thalassaemia among others. The Bill also allowed the central government to notify any other condition as a disability.
- The number of disabilities listed rises from seven in the 1995 Act through 19 in the 2014 bill to 21 after the amendments.

Disability has been defined based on an evolving and dynamic concept.

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

Definitions of Terms

- (c) “barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society
- (h) “discrimination” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation

- (r) “person with benchmark disability” means a person with not less than forty per cent of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority
- (s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others
- (za) “rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychological environmental or social function levels

Chapter II - Rights and Entitlements: Equality and non-discrimination

- 3. (1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.
- (2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.
- (3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.
- (4) No person shall be deprived of his or her personal liberty only on the ground of disability.
- (5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.

Protection from abuse, violence and exploitation.

- 7. (1) The appropriate Government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation and to prevent the same, shall—
 - (a) take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents;
 - (b) take steps for avoiding such incidents and prescribe the procedure for its reporting;
 - (c) take steps to rescue, protect and rehabilitate victims of such incidents; and
 - (d) create awareness and make available information among the public

(.....)

Protection from cruelty and inhuman treatment

- 6. (1) The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.
- (2) No person with disability shall be a subject of any research without,—
 - (i) his or her free means and formats of communication; and
 - (ii) prior permission of a Committee for Research on Disability constituted in the prescribed manner for the purpose by the appropriate Government in which not less than half of the Members shall themselves be either persons with disabilities or Members of the registered organisation as defined under clause (z) of section 2.

Non- discrimination wrt Employment

- 20. (1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:
Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.
- (2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.
- (3) No promotion shall be denied to a person merely on the ground of disability.
- (4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Legal Capacity and Guardianship

- Section 14
- The Act provides for grant of guardianship by District Court under which there will be joint decision – making between the guardian and the persons with disabilities.
- To be read in conjunction with the National Trusts Act, 1999.

Provides for creation of schemes

- 19. (1) The appropriate Government shall formulate schemes and programmes including provision of loans at concessional rates to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment.

(2) The schemes and programmes referred to in sub-section (1) shall provide for—

- (a) inclusion of person with disability in all mainstream formal and non-formal vocational and skill training schemes and programmes;
- (b) to ensure that a person with disability has adequate support and facilities to avail specific training;
- (c) exclusive skill training programmes for persons with disabilities with active links with the market, for those with developmental, intellectual, multiple disabilities and autism;
- (d) loans at concessional rates including that of microcredit;
- (e) marketing the products made by persons with disabilities; and
- (f) maintenance of disaggregated data on the progress made in the skill training and self-employment, including persons with disabilities.

- 24. (1) The appropriate Government shall within the limit of its **economic capacity** and development formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live independently or in the community:
Provided that the quantum of assistance to the persons with disabilities under such schemes and programmes shall be at least twenty-five per cent. higher than the similar schemes applicable to others.

(...)

Special schemes and development programmes.

- 37. The appropriate Government and the local authorities shall, by notification, make schemes in favour of persons with benchmark disabilities, to provide,—
 - (a) five per cent. reservation in allotment of agricultural land and housing in all relevant schemes and development programmes, with appropriate priority to women with benchmark disabilities;
 - (b) five per cent. reservation in all poverty alleviation and various developmental schemes with priority to women with benchmark disabilities;
 - (c) five per cent. reservation in allotment of land on concessional rate, where such land is to be used for the purpose of promoting housing, shelter, setting up of occupation, business, enterprise, recreation centres and production centres.

Emphasis on accessibility

- For strengthening the Prime Minister's Accessible India Campaign, stress has been given to ensure accessibility in public buildings (both Government and private) in a prescribed time-frame.
- The Disabilities Act, 2016 sets the government a two-year deadline to ensure persons with disability get barrier-free access in all kinds of physical infrastructure and transport systems.

- **12. (1)** The appropriate Government shall ensure that persons with disabilities are able to exercise the right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability.
- (2) The appropriate Government shall take steps to put in place suitable support measures for persons with disabilities specially those living outside family and those disabled requiring high support for exercising legal rights.
- (3) The National Legal Services Authority and the State Legal Services Authorities constituted under the Legal Services Authorities Act, 1987 shall make provisions including reasonable accommodation to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.
- (4) The appropriate Government shall take steps to—
 - (a) ensure that all their public documents are in accessible formats;
 - (b) ensure that the filing departments, registry or any other office of records are supplied with necessary equipment to enable filing, storing and referring to the documents and evidence in accessible formats; and
 - (c) make available all necessary facilities and equipment to facilitate recording of testimonies, arguments or opinion given by persons with disabilities in their preferred language and means of communication.

National Validity of Certificate

- The law is bringing in much-needed change. The RPwD Bill provides that henceforth such certificates “will be valid across the country”. This has been a long standing demand of the National Platform for Rights of Disabled (NPRD), a cross-disability network.

Reservation

- 32. (1) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than five per cent. Seats for persons **with benchmark disabilities**.
(2) The persons with benchmark disabilities shall be given an upper age relaxation of five years for admission in institutions of higher education.

- 34. (1) Every appropriate Government shall appoint in every Government establishment,
not less than four per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent. each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent. for persons with benchmark disabilities under clauses (d) and (e), namely:—
- (a) blindness and low vision;
- (b) deaf and hard of hearing;
- (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;
- (d) autism, intellectual disability, specific learning disability and mental illness;
- (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:
Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time:

Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.

Incentives to employers in private sector.

- 35. The appropriate Government and the local authorities shall, within the limit of their economic capacity and development, provide incentives to employer in private sector to ensure that at least five per cent. of their work force is composed of persons with benchmark disability.

Education, Skill Development

□ Section 15-19

Monitoring and Implementation

- Broad based Central & State Advisory Boards on Disability are to be set up to serve as apex policy making bodies at the Central and State level.
- Office of Chief Commissioner of Persons with Disabilities has been strengthened who will now be assisted by 2 Commissioners and an Advisory Committee comprising of not more than 11 members drawn from experts in various disabilities.
- Similarly, the office of State Commissioners of Disabilities has been strengthened who will be assisted by an Advisory Committee comprising of not more than 5 members drawn from experts in various disabilities.

- The Chief Commissioner for Persons with Disabilities and the State Commissioners will act as regulatory bodies and Grievance Redressal agencies and also monitor implementation of the Act.
- District level committees will be constituted by the State Governments to address local concerns of PwDs. Details of their constitution and the functions of such committees would be prescribed by the State Governments in the rules.
- Creation of National and State Fund will be created to provide financial support to the persons with disabilities. The existing National Fund for Persons with Disabilities and the Trust Fund for Empowerment of Persons with Disabilities will be subsumed with the National Fund.

Participation in sports and culture

□ Section 29, 30

Shortcomings of the 2016 law

- A medical definition of “benchmark disabilities” is still used, i.e. has retained the 40% requirement – only to whom reservation, special concessions, incentives and free education apply. (Chapter VI)



- **Section 3(3):** No person with disability shall be discriminated on the ground of disability, *unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.*

- **No reservation in private sector**

Even in *National Federation for the Blind vs Union of India and Others*, the Supreme Court, relying on an earlier version of the draft RPD bill, observed that the legislature should ensure 5 per cent representation of persons with disabilities in both the public and private sectors.

- **For reservation in jobs:** once proposed to be enhanced from 3 per cent (1995 Act) to 5 per cent (2014), has now been restricted to 4 per cent.

Gehlot assured clauses will be inserted when rules are framed to ensure the discrimination clause is not misused. But Why is there a hesitation to address this concern regarding discrimination in the parent act itself?

- **Provision for a Chief Commissioner of Disabilities instead of National Commission proposed in 2014:** The chief commissioner has only recommending powers and there is no provision to ensure he or she too is a disabled person. “Every commission — minorities, women, SCs or STs — has a chairperson from the same category,” said disability rights activist Dr Satendra Singh.
- **Fine, no imprisonment:** Another amendment drops imprisonment (two months to six years) for violation. There is only a fine: Rs 10,000 to Rs 5 lakh.

Exercise: Specific Mention of Women and children with disabilities in the 2016 Act

□ 4. (1) The appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others.

(2) The appropriate Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability.

□ 24. Social security.

(3) The schemes under sub-section (1) shall provide for,—

(b) facilities for persons including children with disabilities who have no family or have been abandoned, or are without shelter or livelihood;

(d) support to women with disability for livelihood and for upbringing of their children;

□ 25 Healthcare.

(2) The appropriate Government and the local authorities shall take measures and make schemes or programmes to promote healthcare and prevent the occurrence of disabilities and for the said purpose shall—

(f) take measures for pre-natal, perinatal and post-natal care of mother and child;

(k) sexual and reproductive healthcare especially for women with disability.

□ 37. Special schemes and development programmes.

The appropriate Government and the local authorities shall, by notification, make schemes in favour of persons with benchmark disabilities, to provide,—

- (a) five per cent. reservation in allotment of agricultural land and housing in all relevant schemes and development programmes, with appropriate priority to women with benchmark disabilities

Repeal and Savings

- 102. (1) The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995 is hereby repealed.
(2) Notwithstanding the repeal of the said Act, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Persons With **Disabilities** (Equal Opportunities, Protection of Rights and Full Participation) **Act**, 1995.

Main Provisions of the Act:

- Prevention and Early Detection of Disabilities
- Education
- Employment
- Non-Discrimination
- Research and Manpower Development
- Affirmative Action
- Social Security
- Grievance Redressal

Disabilities covered:

- ❑ Blindness,
- ❑ low vision,
- ❑ leprosy cured,
- ❑ hearing impairment,
- ❑ locomotor disability,
- ❑ mental retardation and
- ❑ mental illness

Disability Certificate

- The most basic document that a disabled person should possess in order to avail certain benefits and concessions. The State Medical Boards established under the State governments can issue a disability certificate to any person with more than 40% disability. The concerned person can visit the nearest hospital and will be issued the certificate after the checkup and determination of percentage of disability. The certificate is valid for five years and can be renewed if the disability is temporary and valid for the entire lifetime in case of permanent disability.

Train and Bus Concession

- Persons with disability are entitled to certain concession in the amount of train tickets bought at the railway counter or online. A photo ID card is required for availing this benefit. The disabled person has to approach the nearest Divisional Railway Manager Office with all the required documents (list provided on the website of The Indian Railways) and a passport size photo. The person will then be issued the photo ID card through which he could avail concessions on train tickets without any hassels.
- In some states, such persons can also avail bus ticket concession under State government bus service by showing the disability certificate to the conductor.

Disability Pension

- People who are above 18 years of age, suffering with more than 80% disability and are living below the poverty line are entitled to the disability pension under the Indira Gandhi National Disability Pension Scheme. Various NGOs are dedicated to this cause i.e. they help such persons with disabilities to get their disability pension.

Legal Guardianship Certificate

- Persons with certain disabilities like cerebral palsy, mental retardation etc are in a special situation and would not be able to take important legal decisions once they become adults.
- Hence a Legal Guardianship Certificate is issued to such disabled person which makes another person his legal guardian who thereby is entitled to take all legal decisions on behalf of the disabled person even after he becomes an adult i.e. completes 18 years of age.

- However, the process to procure certification is extremely difficult and time-consuming.
- Moreover, authorities do not accept the certificate from one state in another. For example, the blind cricket team from West Bengal realised they would not get concessional bus fares in Karnataka.

Exercise: Shortcomings of the 1995 Act

Shortcomings of the 1995 Act

- ❑ Medical model of disability followed
- ❑ Lacks any kind of penal provisions
- ❑ Hence, no pressure for compliance with any of these affirmative action programs and much needs to be done.
- ❑ Lacks deadlines for implementation
- ❑ The term 'within the limits of their economic capacity and development' is used as a defense to negate the right granted by the statute.
- ❑ Few powers given to Chief Commissioner and Commissioners for Persons with Disabilities

- Research under the PDA is inadequate. Research is hardly done and reports are never submitted.
- An estimated 6-7% of India's population suffer from some kind of mental illness, while 1-2% have an acute condition.

The Mental Health Act, 1987

- *"Quite often, psychiatrists prefer to talk about a mental disorder, rather than a mental illness or disease, which is because psychiatric diagnoses are social constructs. ... psychiatrists have blown life into a social construct that is nothing but a variation of normal behavior and have given this construct a name, as if it existed in nature and could attack people."*
- Dr. Peter C. Gøtzsche, a physician specializing in internal medicine, and professor of Clinical Research Design and Analysis at the University of Copenhagen, in his book *Deadly Psychiatry and Organized Denial*

- Medical model followed through and through.
- Penal law: There is the debate, whether the Mental Health Act 1987 (M.H.A.) is at all a disability rights legislation.

M.H.A. is about deprivation of right to liberty, and not about ensuring right to care. Mentally ill people are the only set of people who pay as a 'consumer' to get involuntarily arrested and committed. This historical perversion in law is not adequately appreciated.

Traditionally for 200 years, some persons seen as being of 'unsound' mind before law have been subjects of the civil services, the judiciary and prisons department, through the Indian Lunatic Asylums Act, 1858; and the Indian Lunacy Act, (I.L.A.) 1912.

- These Acts included the categories of the 'insanes' and the 'idiots'. 'Unsound' mind was a legal category which allowed the courts to determine level of safeguards and protections the State needed to provide for society and included a broad social category of people. This notion became strongly medicalised when the I.L.A. 1912 was changed to the Mental Health Act (M.H.A.) in 1987, following advocacy by the Indian Psychiatric Society, post Independence, without dismantling the penal structure.
- The 'mental / intellectual / multiple disabilities' group (known as 'idiots' in the Lunacy Act), with strong advocacy from parents' groups, shifted to the jurisdiction of the Ministry of Social Justice and Empowerment (M.S.J.E.), which was formulating its own disability rights legislations i.e., the Persons with Disabilities Act, 1995 and the National Trust Act, 1999. But despite the fact that the Disability Act of 1995 categorically mentioned mental illness as a disability, people with psychosocial disabilities have continued to remain in penal / medical control within the M.H.A.

Mental Healthcare Act, 2017

- ❑ Replaces the Mental Health Act 1987
- ❑ Decriminalising attempt to commit suicide
- ❑ Bans use of electric shock therapy for treating children with mental illness
- ❑ Permits conditional use of shock therapy on adults, after being given anaesthesia, muscle relaxants
- ❑ Emphasises on ensuring no intrusion of rights and dignity of people with mental illness

- The Bill defines “mental illness” as a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence.
- Mental illness shall be determined in accordance with such nationally or internationally accepted medical standards.

- Various stakeholders, including academia, experts and the political establishment, were consulted while formulating the Bill, which focuses on community-based treatment.
- Special provisions for women and health are there in the Bill, including not separating women from their children unless absolutely necessary.

Exercise: Look through the Act

- What model does it follow?
- How does the new 2016 Act fit in with the above law?

The Rehabilitation Council of India Act, 1992

The National Trust for Welfare of Persons with Autism,
Cerebral Palsy, Mental Retardation and Multiple
Disabilities Act, 1999

□ Read with Section 47 of Rights of Persons
with Disabilities Act, 2016

Family Laws

- A Disabled person cannot act as a guardian of a minor under the Guardian and Wards Act, 1890 if the disability is of such a degree that one cannot act as a guardian of the minor.
- A similar position is taken by the Hindu Minority and Guardianship Act, 1956, as also under Muslim Law

Succession Laws

- Under the Hindu Succession Act, 1956 which applies to Hindus it has been specifically provided that physical disability or physical deformity would not disentitle a person from inheriting ancestral property. Similarly, in the Indian Succession Act, 1925 which applies in the case of intestate and testamentary succession, there is no provision which deprives the disabled from inheriting an ancestral property. The position with regard to Parsis and the Muslims is the same.
- In fact a disabled person can also dispose his property by writing a 'will' provided he understands the import and consequence of writing a will at the time when a will is written. For example, a person of unsound mind can make a Will during periods of sanity. Even blind persons or those who are deaf and dumb can make their Wills if they understand the import and consequence of doing it.

Income Tax Act

- **Section 80 DD:** Section 80 DD provides for a deduction in respect of the expenditure incurred by an individual or Hindu Undivided Family resident in India on the medical treatment (including nursing) training and rehabilitation etc. of handicapped dependants. For officiating the increased cost of such maintenance, the limit of the deduction has been raised from Rs.12000/- to Rs.20000/-.
- **Section 80 V:** A new section 80V has been introduced to ensure that the parent in whose hands income of a permanently disabled minor has been clubbed under Section 64, is allowed to claim a deduction upto Rs.20000/- in terms of Section 80 V.



THANK