

Technical Session II

From Aspiration to Reality

Chairperson: Ms. Asha Das, Secretary, Ministry of Social Justice & Empowerment, Government of India

Co-chairperson: Prof. Utpal Goswami, Professor of Psychiatry, Lady Harding Medical College, New Delhi.

Speaker : Prof. S.C. Srivastava, Rangashree Kishore, M.K. Rastogi, Manjula Gulaff, Dr. Sudarshan Vaid

Asha Das, Secretary, Ministry of Social Justice and Empowerment in her introductory remarks gave a brief description of the Government's policy and programmes for the protection of persons with disabilities. She said that law has never been and is not the end of all the problems. The law only initiates and tries to give rights, the implementation of the laws and the atmosphere or the environment, which it contemplates, is what is more important. It is therefore necessary that the community, the society and other institutions as also individuals are called upon to provide the opportune services. The Ministry of Social Justice and Empowerment deals with all the vulnerable segments in the society from the Scheduled Caste, the Scheduled Tribes to the minorities the backward classes, the delinquents, the destitute and orphan children, the handicapped. She observed that one hardly finds dissemination of information with regard to how the disability can be prevented. It should be very material for all of us who are dealing with it. Awareness generation and other methods should be adopted in such a way that one should not either give birth to a disabled child or let a child for lack of early detection or lack of knowledge become disabled in perpetuity and not provide the treatment, which can curb it, she added.

Prof. Utpal Goswami, Senior Physician, Lady Harding Medical College emphasised on the need of sensitisation of various service providers such as doctors, police, NGO's and most importantly the government officials for the better enforcement of the legal provisions to achieve the desired results.

Prof. S. C. Srivastava, Research Professor, Indian Law Institute in his presentation highlighted various issues emerging from persons disabled during employment. He referred to the observation made in 1992 by Justice Ramaswamy that for every three minutes somewhere in the world one-worker dies and in every second that passes at least three workers are

injured. In India on an average every day one thousand and one hundred workers are injured and three are killed, he added. He said that in the arena of labour relations there are two statutes, which determines the right of persons disabled during employment, namely, the Workmen's Compensation Act, 1923 and the Employees' State Insurance Act, 1948. The Workmen's Compensation Act does not define the word disablement. It rather classifies disablement into two categories partial and total. The Employees' State Insurance Act, unlike the Workmen's Compensation Act, makes two categories, permanent and temporary, permanent may be partial or total. He said that the Workmen's Compensation Act is a mechanism for providing relief to the victim of work-connected injuries. It places the cost of these injuries only upon the employer, which ultimately lies upon the consumers. A workman is entitled to compensation for work injuries if he suffers a personal injury in accidents arising out of and in the course of employment. So the employers' liability under this scheme is not based on negligence or fault because it doesn't lessen his liability.

He suggested that rehabilitation of workers disabled should be one of the most beneficial objectives of the Workmen's Compensation Act, 1923 as also of the Employees. State Insurance Act, 1948 According to him if a disabled worker can be rehabilitated and he can be returned to these useful productive capacity the cost saving in future benefit can go. This is all the more desirable for the social view point. He also referred to the contribution made by the Supreme Court in the absence of such legislation by evolving a social security scheme.

He pleaded for (i) extension of the coverage of the Employees' State Insurance Act, 1948; (ii) periodical review of the existing facilities in order to prevent the accidents arising out of and in the course of employment and (iii) training of the persons who have become disabled.

Rangashree Kishore, Senior Librarian, UNICEF made her presentation on the "Rights of Persons with Disabilities to Information". She said that a comprehensive country-wide survey of persons with disability reveal that approximately over ninety million people are suffering from one or the other kind of disability, about twelve million are blind, 20.5 million are partially or visually impaired; twelve million have speech and hearing defect, six million are orthopaedically handicapped, twenty four million are mentally retarded, 7.5 million are mentally ill and 1.1 percent are pseudo leprosy.

She observed that if the law which offers them equal opportunity should also ensure that people serving the disabled such as the government and the NGOs find new ways of serving the disabled. To this end, libraries and library workers can play their part to hasten the process of full integration of the disabled in the society in a big way. In order to assist the disabled in leading an active and purposeful life. It is important

to identify and understand the various types of disabilities that can be assisted, she added Besides, professional library services depends largely on the continuous upgrading of staff through training on a regular basis, in order to create an efficient and effective library programme for the disabled. She called for upgradation of libraries with latest techniques so as to make them disabled friendly.

M.K. Rastogi, Superintendent, Vocational Rehabilitation Centre, New Delhi presented a paper on "Employment Opportunities for Persons with Disabilities". He observed that family solidarity which at one time sought as a citadel for the underprivileged and disabled, steadily slackened as a result of urbanisation, industrialisation, globalisation and liberalisation of our economy. With the available statistics regarding the number of persons with disability, one thing is very clear that to cope up with this alarming human problem, the State, has to step-in to provide social and public assistance. He said that in a welfare State the field of operation of legislation is ever increasing. Supported by a community-will, a thoughtful legislation carefully structured, properly interpreted and committedly administered can certainly serve as one of the viable national strategies for development and mobilisation of human resources, holding a promise and message of hope for the future.

Manjula Gulati, Chairperson, All India Confederation of the Blind and the National Forum of Blind Women in her paper discussed the rights of women with disabilities in India. She observed that the disabled persons residing in third world countries face more problems than those living in other countries. However, she felt that inspite of these, the problems being faced by the disabled persons in general and women in particular received little sympathy and support from the society. This is mainly due to lack of sensitivity and awareness among the public. While referring to the education of disabled children, she said that most of the parents willingly send their disabled male child to the school but decline to send the disabled girl child on one pretext or the other. She said that it is most astonishing that as per the 1991-census, the disabled population among women is found to be more in visual disability and there are nearly 250 organisations and educational institutions out of which only 18 educational institutions are working for the cause of visually disabled women that too they provide education only upto secondary level.

She then referred to another problem being faced by the disabled women i.e., marriage. She said that there are so many misconceptions and biases attached to this issue. The prejudices start from home itself. The parents feel that it is very difficult to get her married and many a times question her capabilities to run a family. Cases are not lacking wherein a disabled girl was given in marriage along with her sister who is normal. Though the two-wife concept is illegal and alien to Hindu

society it is increasing day by day and no one has been prosecuted till date. Adding to this if a girl becomes disabled after marriage, she is thrown out of the matrimonial home, whereas if a man gets disabled after marriage, there are limited chances of breakdown of marriage. As per the existing studies, the men feel that after the disablement the woman is incapable of serving them and to satisfy their needs that's why they prefer to breakdown the marriage. Even many of the women's organisations have declined to give shelter to such women. These are only some of the issues. There are many more problems being faced by disabled women in general and visually disabled women in particular.

She described the steps taken by the All India Confederation of the Blind with the UGC five years back in connection with the reservations for the disabled. With regard to the usage of sign language, she stated that deaf and dumb women face lot of problems while consulting doctors especially during pregnancy due to non-availability of scribes. The main problem in our society is lack of concern and sensitivity towards the issues concerning the persons with disabilities. It is high time that the government should formulate policies and programmes for the upliftment and empowerment of women with disabilities in all spheres such as education, health, employment, decision-making etc., she added.

Dr. Sudharshan Vaid, Convenor, *Suniye*, while presenting on the 'Role of Medical Profession in Protecting the Health Rights of Disabled' stated that there is lot of insensitivity about the persons with disabilities even among the doctors. Many of the doctors working in the area of rehabilitation feel that it is necessary to admit the child in a special school for his cure and rehabilitation. If the thinking of doctors is like this one can imagine about others. The Indian Medical Association has earlier organized two seminars : one was on torture, the other was on disability. The idea was to sensitise the medical profession to disability. Though very few doctors turned up for the meeting, at least some of them are being sensitized towards the issues concerning the disabled. The general tendency of doctors in the hospitals is that they treat the disabled persons just the way in which they treat the normal persons and if necessary refer them to rehabilitation unit of their hospital or any other hospital. After that, the doctors forget about the patient by thinking that their responsibility is over. In most of the cases, the doctors refer the poor patients with disability to the government hospitals. Rehabilitation in reality includes social, intellectual, mental and economic rehabilitation. One has to be rehabilitated thoroughly and be made a part of the society.

He pointed that the aspect of disability was not taught during the medicine course. Even during the study of Orthopedics, very few aspects related to disability are covered. He called for taking steps to prevent fictitious advertisements in the newspapers giving false hopes of cure of various forms of disability, which many at times prove hazardous to the

life of the individuals.

Interventions

Prof. Amita Dhanda, Registrar, NALSAR University, Hyderabad referred to the suggestion made to the amendment committee that mental illness should not be included in the Person with Disability Act and the amendment committee should suggest its exclusion from the statute and that persons with mental illness are taken care of in the Mental Health Act. The Mental Health Act only provides for the admission and discharge of persons from psychiatric institutions in hospitals, as they are now called by the statute. The other kind of provision that the statute makes is that if you have a person with mental illness who is unable to manage property and person, then you have a provision for appointment of guardian or person to manage the property. The Mental Health Act does not provide for rehabilitation and it is no where on the agenda of the Act, and it is for that reason that inclusion of mental illness within the Disability Act was a major watershed. She, therefore, suggested that in principle at least in the realm of education, employment or social security, persons with mental illness, have also to be counted in.

M.K. Rastogi, Superintendent, Vocational Rehabilitation Centre, New Delhi raised the issues concerning Intranet and Internet facilities and also the software known as Jog. He said that these facilities are available in very few of the libraries such as UNICEF etc., in the country. If all the libraries provide these facilities it will definitely contribute in some sort of information and thus lead empowerment of the disabled persons.

Santosh Rungta, Advocate, Supreme Court, focused on legal issues in the area of reservations for persons with disabilities. He said that first and foremost is to have an implementation mechanism for reservation in favour of persons with disabilities. He suggested for having a roster system, as is the case with Scheduled Caste, Scheduled Tribe and OBCs. He made a suggestion to the ILI to take up the matter for an in-depth review and examination. He also suggested for looking into the phraseology used in the Act, i.e., "subject to economic capacity and development" from a legal viewpoint.