

REPORT

**Regional training for DPO's and lawyers
On
Rights of Persons with Disabilities Act 2016**

**Organised by
Socio Legal information Centre
Centre for Constitutional Rights
Advocates for Public Justice Foundation**

**In collaboration with
RPS Law College, Patna
At State Institute of Health and Family Welfare, Patna
On 28th and 29th, April, 2018**

BACKGROUND:

India legislated the Rights of Persons with Disabilities Act in December 2016 and in doing so has ensured its commitment to the international community to bring its domestic law in harmony with the UN Convention on Rights of Persons with Disabilities which it ratified in October, 2007. With the passage of this law the Persons with Disabilities Act of 1995 stood repealed.

The Disability Rights Initiative of Socio Legal Information Centre was a member of the expert committee set up by the Government of India to draft this new law and this regional training was organised to spread an awareness among lawyers and DPO members on the provisions in the law.

The regional training was organised in collaboration with RPS Law College Patna and was intended to train young lawyers, activists from 6 States of Central and East India and law students on the newly legislated Rights of Persons with Disabilities Act of 2016. Senior lawyers and activists delivered the training, detailed the provisions of the Act and shared important case laws which have positively impacted persons with disabilities in the areas of Accessibility, Employment, Education etc.

The training programme envisaged that post the training activists and DPOs would be able to use provisions of the law whilst advocating for their rights and entitlements with government officials and duty bearers; young lawyers would learn from their senior counterparts and use the new law to challenge discriminations and; young law students would learn from social movements of persons with disabilities in rural parts of the targeted states of Central and East India.

WELCOME ADDRESS:

Advocate Vikash Pankaj, Coordinator of SLIC unit in Bihar welcomed the participants and detailed the objectives of the training programme and invited the Chief Guest Mr Kaushal Kumar, Principal RPS Law College to deliver the key note address.

SPEECH BY CHIEF GUEST:

Mr Kaushal Kumar, Principal of RPS Law College welcomed the initiative of SLIC to train DPOs and young law students stating it was important for activists to be aware of the provisions in the new law and for young students of law to understand the issues concerning marginalised groups and persons with disabilities in particular. This initiative, he stated, was essential as with globalisation and resultant material benefits young lawyers were moving towards more lucrative practices of law and in the process were distancing themselves from issues of marginalised groups.

He stated that he was happy to partner with SLIC for this very relevant training programme and he hoped that this will encourage student participants to also look at collaborative working with movements of persons with disabilities and provide them with legal support whenever required.



(second from right) Mr. Rajive Raturi

PROVISIONS IN RIGHTS OF PERSONS WITH DISABILITIES ACT 2016:

Rajive Raturi, Director of Disability Rights Initiative of SLIC gave an overview of the Rights of Persons with Disabilities Act of 2016. Starting the session he informed participants about the improvements over the Persons with Disabilities Act of 1995 that have been introduced in the RPD Act of 2016 to bring it in harmony with the UN Convention on Rights of Persons with Disabilities.

He spoke of the 12 newly introduced disabilities in the RPD Act 2016 informing participants that blood disorders like Thallesemia, Haemophilia and Sickle cell disease alongwith Neurological disorders of Parkinson;s disease and Multiple sclerosis were now in the schedule of disabilities under the new Act. Locomotor disabilities now also included Acid attack victims, muscular dystrophy and dwarfism whilst learning disabilities, Autism spectrum disorders, mental illness as well as multiple disabilities including deafblindness too wer part of the schedule. The Schedule, he stated, was not a closed list and the Government had the option to include more disabilities, or remove existing disabilities if required.

Important definitions like barrier, communication, discrimination, high support and reasonable accommodation were dealt specifically during the session.

This Act, he stated, detailed Civil and Political rights and whilst all Civil and Political rights are Fundamental rights guaranteed under the Constitution of the country, this law detailed procedures on how persons with disabilities can avail these rights and that specifically duties and responsibilities of the government had been spelt out to ensure that all persons with disabilities can avail these rights. This, he stated, was a marked improvement over the earlier law.

Speaking of Rights and Entitlements in the Act he stated that all persons with disabilities have the Right to Live with Dignity and Equality and that there can be no discrimination on the Grounds of Disability. Women and children with disabilities have equal rights as others and that the views of children will be taken on all matters concerning them and they will be provided with age and gender appropriate support to express their views. He added that children with disabilities cannot be separated from their parents unless directed by a competent court in the best interest of the child. If parents were unable to take care of their child then the court would direct for the child to be placed with immediate family members, or in the community or as a last resort in homes run by NGOs or the Government.

The law, he stated, provides protection against torture and abuse and that no research can be conducted on persons with disabilities without their consent and unless authorized by a committee specially constituted for this purpose. The law, he also added, has detailed provisions for protecting persons with disabilities from illtreatment and violence and duties and responsibilities of Executive Magistrates, Judicial Magistrates, the Police as well as NGOs working on rehabilitation have been detailed and the focus is on rehabilitation and relief of victims of such violence.

Similarly, duties of the State and District Disaster Management Authorities have been detailed so as to ensure inclusion of persons with disabilities in relief and rehabilitation measures during situations of conflict or disasters.

The most important aspect of this Act, he stated, is the recognition of the legal capacity of all persons with disabilities as being equal before the law and their right to own and inherit property and to enter into legal and financial transactions.

The law recognizes the right to employment and livelihood and focuses on skill development and the provision of support and reasonable accommodations so that persons with disabilities can avail of all vocational training programmes. In public employment the reservation has been increased from 3% to 4% with the additional 1% being given to learning disabilities, Autism spectrum disorders, mental illness, multiple disabilities including deafblindness. No employer can discriminate in any matter related to employment on the ground of Disability and there can be no termination and denial of promotions and other benefits if a person acquires a disability whilst in service.

On Education, he informed, that all mainstream schools are required to provide inclusive education without discrimination and for benchmark disabilities the choice of education in a neighbourhood school or special school has been left to the child. All higher educational

institutions that receive aid from the Government are required to provide a 5% reservation and age relaxation of 5 years for admissions.

Regarding Health and Social Security, he stated that every Hospital is to provide a barrier free access and admit and provide Medical care free of charge subject to an income criteria. On the aspect of social security the Government is required to frame schemes that address shelters for the homeless and abandoned persons with disabilities, support to women with disabilities to bring up their children, disability pensions, care giver allowance and insurance facilities.

Duties of Government include, he informed;

Awareness campaigns; Ensure inclusion of the rights of persons with disabilities in curriculum in Universities, colleges and schools; Formulate rules laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems; Promote personal mobility and Make all contents in audio, print and electronic media in accessible format, Audio description, sign language interpretation and close captioning to ensure access to electronic media; All service providers including private Service providers shall provide services in accordance with the rules on accessibility; Induct disability as a component for all education courses for schools, colleges and University teachers, doctors and other staff, Government officials AASHA workers, Aanganwadi workers, engineers, architects, other professionals.

On Grievance redressal he informed about the Chief Commissioner and the State Commissioner disabilities and their duties as well as the designation of special courts in each district of the country to ensure easier access to the justice system to persons with disabilities.

Interventions from the floor:

There was discussion on remedying difficulties in the Act within a stipulated time period and the government could bring some changes in the law if they experienced any difficulty in implementing some provisions but this was to be done within a stipulated time frame.

Other interventions from the floor included questions about fake disability certificates being given to people and what could be done to ensure that the certificates which are given are based on medical tests.

To this question Mr Raturi informed that if there was proof about this then this could be challenged and the penal provisions in the law on fraudulently using benefits meant for persons with disabilities could be invoked. If this was found to be correct then the person who got the disability certificate by fraud could be fined and even sentenced to imprisonment.

CHALLENGES TO INCLUSION IN HIGHER EDUCATION:

Prof. Anil Aneja,

Chairman Advocacy Cell,

AICB Delhi

Prof. Anil Aneja gave a brief introduction on the session on higher education and challenges faced by persons with disabilities in accessing higher education. He discussed the initial phase of advocacy undertaken by the All India Confederation of the Blind when the RPD Act was being drafted. This, he said, was done to ensure that the rights of visually impaired persons were not overlooked in the new law.

He also detailed important cases undertaken by his organisation which included;

- AICB Case 1996- against Railways. This case was regarding the employment and how provisions of the 1995 Act were not being implemented by the Indian Railways in particular he stated that whenever the cases are filed, there must be a strong ground for them and efforts should be made to collect relevant information.
- The right of higher education is a weak bridge between the school education and the life and liberty of the persons with disabilities.
- Higher education has not been granted any specific provision in the RPD Act, 2016 except for a 5% reservation in all higher education institutions supported by the Government. As Higher Education was now largely privatised how would persons with disabilities aspiring for higher education in private institutions benefit?
- Special schools are not of great use rather the persons with disabilities shall be given the right to get educated in the normal schools and universities.
- Accessibility to the higher education is one of the most important aspects for the persons with disability if they are to be economically independent.
- Establishment of the Centre for Disability studies is also of great importance in the sector of the higher educational institutions and all institutions of higher learning, whether private or public, need to have such centres.
- It is miserable, he stated, that even the institutions are negligent towards the issue of higher education of persons with disabilities in the country.
- It is high time that the people should start working at least thinking about the rights of person with disabilities to higher education.

- He also focused on the need of implementation of reservation provisions for the persons with disabilities.
- Volunteers need to help people running institutions and they need to focus on the institutions to help them in getting accessibility to the infrastructural dynamics.
- Use higher education as an advocacy strategy not as a method of funding.

Interventions from the floor;

- Adv. Rajan Mani referred to a report of the World Bank regarding the rate of the school dropouts among the disable students.
- Mr. Hemant from Orissa Viklang Manch spoke of the general trend of school dropouts. The persons with disabilities do not need the higher education rather they are focusing on the professional education which offers better chances for employability he stated.
- Higher education and reservation should also include the hostel accommodation for the students in the universities.
- DPOs have to make network of disable youths.

SKILL DEVELOPMENT AND EMPLOYMENT:

Adv. Rajni Soren

HRLN Chattisgarh

A presentation on the skill development programmes was made by Adv. Rajni. She focused primarily on the governmental programmes regarding the skill development. She also talked about vocational training programme by government i.e. Pradhan Mantri Kaushal Vikas Yojana which focuses on providing vocational training to the youth of the country by 2020. She presented as a fact that when the question was raised in the parliament about the statistics of benefits received by disabled people through this scheme, there was no data provided. Hence, she also requested people to file RTI regarding the same.

Adv Rajni Soren informed participants about provisions in the law which relate to skill development and employment and these were:

- inclusion of persons with disability in all mainstream formal and non-formal vocational and skill training schemes and programmes;
- to ensure that a person with disability has adequate support and facilities to avail specific training;
- Exclusive skill training programmes for persons with disabilities with active links with the market, for those with development, intellectual, multiple disabilities and autism;
- Loans at concessional rates including that of microcredit;
- Marketing the products made by persons with disabilities

maintenance of disaggregated data on the progress made in the skill training and self-employment, including persons with disabilities



Advocate Rajan Mani and advocate Rajni Soren

EMPLOYMENT PROVISIONS IN THE RPD ACT:

Adv. Rajan Mani

Advocates for Public Justice Foundation

Adv Rajan Mani spoke on Employment Provisions in public employment as detailed in the RPD Act of 2016 and detailed on Reasonable Accommodations required in employment and about Benchmark disability and how the benefit of employment reservation was only meant for benchmark disabilities. He detailed the definition of reasonable accommodation as “Necessary and appropriate modifications and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others”

Adv Rajan Mani’s presentations highlighted following points;

- Identification of Jobs / Posts in government departments;
- List of identified jobs to be updated every three years;
- An Expert Committee to be constituted to include PwD with benchmark disabilities (2016 in job identification committee);

- 4% reservation in vacancies;
- Appointment in identified posts;
- 1% each for Vision, Hearing, Locomotor Disability
- 1% for Autism, Intellectual Disability, Specific Learning Disability, Mental Illness as well as Multiple Disabilities;
- Non-discrimination of disabled persons in service;
- Prohibition of termination or reduction in rank;
- Creation of supernumerary Post if no appropriate post available;
- Provision of reasonable Accommodation and support in employment;
- Appointment of Grievance Redressal Officer;
- Incentives to the private sector;

Adv Rajan Mani discussed important cases on employments which were:

Ravi Prakash Gupta vs. Union of India (2010)

- Filling of Backlog in Civil Services
- Reservation for PwD in Civil Services done first time in 2006
- Reservation not dependent on Identification

Mahesh Gupta vs. Yashwant Kumar Ahirwar (2007)

- There can be no further reservation for SC/ST/OBC in disability quota

AICB vs. Railways (2012)

- Special Recruitment Drive to fill backlog of 4200 vacancies

These were certain important cases which were discussed by Adv. Rajan. The session was interactive and the chair directly addressed the gathering on the questions which were raised by them.

Queries regarding the status of job for disabled persons were raised from DPO members from the States of Jharkhand and Orrisa.

HOW TO FILE A PIL:

Adv. Kishore Narayan

HRLN Chattisgarh

Adv. Kishore made the gathering aware of the procedure of filing a PIL. He also told the complexities involved in filing a PIL. He explained the meaning of locus standing to the participants. He informed how a person can stand for a any social issue on behalf of a society or community or group of people. He also made certain interesting exceptional remarks on the procedure for filing a PIL. There shall be no private or personal interest of the person filing PIL in to that matter or issue. He explained the meaning and importance of the suo moto cognizance of the cases by the hon'ble court. Though SC has said that there cannot be a PIL on service matters. But this rule can be relaxed in cases where a larger public interest is involved.

HOW TO FILE A PIL?

1. Who will be the petitioner? This is the question of utmost importance.
2. There shall be a declaration that no personal profit is involved on the part of petitioner.
3. Letter petition can also be sent.
4. Research and analysis of the case shall be done beforehand and the facts shall be discussed in an impartial manner.
5. This shall not be seen as an adversarial system. Rather it should be seen as an example of the amicable judicial system.

The last session of the first day was regarding the grievance redressal and using the RPD Act 2016. Adv. Rajni and Mr. Rajiv Raturi clarified the doubts of the audiences regarding the mechanism of grievance redressal through the legal process. Adv. Rajni informed the audience that every PSU and government office is to have a grievance redressal officer whose duty is to make sure that no person with disabilities should be treated with discrimination. There shall be no reduction in the payment of the person or there shall be no hindrance in the promotion of the person if he/she gets disabled during the term of his service. The speakers adequately responded the queries of the audiences.

Intervention from the floor;

A woman from the audience mentioned a case where there was age relaxation given to sc/st castes but there was no age relaxation given to people with disabilities. She talked about a petition which was filed in the court for the age relaxation provided to people with disabilities as per the act.

Day-2. (29/04/2018)

DPO SHARING OF SUCCESSES AND CHALLENGES:

DPOs sharing information on advocacy and litigation:

DPOs from Odissa, Bengal, Bihar, Jharkhand and Madhya Pradesh were present on the stage who shared their vast experience in the field of the disability rights.

The DPO from Orissa, Mr. Pranab explained the struggle of the disabled from Orissa and the grievances were also shared with the audiences and the legal advice was sought from the advocates. The DPO from Orissa specifically described the progress in the rural districts of the Orissa. He said that there are volunteers present in villages of Orissa to help disabled people. Mr. Pranab also told the audience about the provisions that Orissa government provided in the form of distributing 10 kg of grain in 1 rupee to people with disabilities even before the National Food Security Act came into force.

Next presentation was by Mr. Narendra the DPO from Jharkhand. He explained that how his Jharkhand Viklang Manch covered 18 out of 24 total districts. He also focused on the service matters which were adequately dealt by the advocates from HRLN. The presentation focused on the various achievements of the JVM (Jharkhand Viklang Manch) which was started in March 2006, to work collectively for the rights of person with disability. He shared an anecdote where he hung a notice on the walls of the government office and warned them of protest and legal action against the government officials, if their work was not done on time or if their rights were refused by the government officials. He briefly explained the PILs filed in the Jharkhand High Court. He also shared the success story of certain JPSC candidates like Mr. Vivek who is now serving as the Income Tax Officer in Jamshedpur. He also explained his journey of setting up of ramps in stations of Jharkhand. He also informed about the job fair which was held in Jharkhand. In that job fair 500 disabled were given the job opportunity.

The third presentation in the session was given by the DPO from Madhya Pradesh, Ms. Kiran. She shared the grief of a blind student who was denied admission in a school. The HRLN advocates helped that student in the Legal battle. She also told the audience that a representation from the MP Viklang Manch met the CM of MP regarding the grievances of the disabled. Ms Kiran proudly explained the legal battles being contested by the activists from the Manch in the MP High court and various district and Civil courts. An

advisory body of the experts is to be set up soon in which it is expected that the members of the MP Viklang Manch will be given preference in the advisory committee.

The fourth speaker Mr. Anirban represented the DPO from West Bengal. He explained the journey of disability rights activism from the state since 1986. The journey though has not been an easier one. During 1990's the certification process of the disabled was relaxed and the process was made easier for the accessibility of the disabled. The disabled, he stated, need to be informed about their rights and the awareness need to be spread about their rights and the facilities which are being provided to them via various governmental schemes. His presentation was focused upon the educational needs of the disabled. He emphasized the need of higher education among the Persons with Disabilities. He also informed the people that the disabled are also facing threats of sexual harassments. The incidents like such are to be dealt via intervention of the human rights organizations and the Viklang Manch in the state. The intimation of the incidents is to be made to the HRLN and legal help can be sought from the associate advocates. He also explained that how the Manch has been working in the field of rights of disabled since 3 decades. Many basic needs of communication and ascribes were raised and the hope of working closely with the HRLN was raised.

The last presentation of the session was given by Mr. Dipak, the DPO from Bihar. He explained the journey of the Bihar Viklang Adhikar Manch since 2008. He told about the difficulties faced by the disabled in certification process. The certification of the disabled is an issue which was not being dealt adequately by the government in Bihar. Also, the issue of pension was not being addressed by the concerned officials from the state government. The direct benefit of pension through the block offices in Bihar was institutionalised by the help of the Bihar Viklang Adhikar Manch. The disabled were getting pension benefits via way of legal battle in the post offices and the main problem was that the pension was lapsed if that was not received by the pensioners in a specified deadline. Railway concession issue of the disabled and the specific certification through the CMO was dealt by the Bihar Viklang Adhikar Manch through the help of inspecting authorities. He also explained the struggle in establishment of the Barrier free ATM facility for the disabled. The grievances of the disabled are not being dealt adequately by the commissioner. Also the issue of extra charge of the Commissioner was raised. He also explained the achievements through the RTI and PIL advocacy. He has filed around 50+ RTIs in Bihar. He explained the activism through RTI that how he tackled the issue of

pension. He also explained that how he managed to have waived off the entry fee in the Patna Zoo and Museum. He told many successful stories of the “Anokha Vivah” – a beautiful initiative of the Bihar Viklang Adhikar Manch for marriage of the disabled. He also explained that how Bihar Viklang Adhikar Manch is working for the Skill Development and the development of employment opportunities in Bihar.



Mr. Deepak from Bihar Viklang Manch

SESSION ON MOCK COURTS:

This session was organised for DPOs to experience court room functioning. Each DPO was given a problem and asked to present the case to a mock court. Each DPO was expected to give a background to the problem, the reason they were approaching the court and what provisions of the disability Act would be relevant to be used if court action was to be initiated.

The first case of Mock Case Exercise was chaired and adjudged by Adv. Rajan Mani and Adv. Rajni Soren. The case was presented by the DPO from Jharkhand.

Facts:

The Jharkhand Govt. issued an advertisement of the PWD which didn't mention specifically about the reservation of the persons with disabilities.

The court took the matter into consideration for the further hearing and the PIL was maintained.

The second case of Mock Case Exercise was chaired and adjudged by Adv. Rajan Mani and Adv. Rajni Soren. The case was presented by the DPO from Bihar.

Facts:

The petitioner raised the issue of the disabled girls and the issue of ill maintenance of the Nishant Balika Grih. The issue of the adolescent girls was raised by the petitioner and the data was presented before the Hon'ble Court. Around 80-90 such cases of violation of the rights of girls with disabilities were raised. The issue of shelter homes was also raised in the petition.

The court took the PIL into consideration. The demand regarding establishment of at least one shelter home in every district was raised. However certain specific data was missing and the court held that the facts shall be precise and the issue should not be generalised.

The third case of Mock Case Exercise was chaired and adjudged by Adv. Kishore, Adv. Subhash and Adv. Rajni Soren. The case was presented by the DPO from Madhya Pradesh.

Facts:

The petitioner argued before the High Court regarding the issue of land dispute of a blind person.

The court however was not satisfied as the jurisdiction was not adequate and preliminary objections were raised and the court held that the remedies should exhaust first and then only the matter can be covered under the ambit of PIL. The petitioner argued that the quick relief was needed in this issue so he has to plead before this Hon'ble Court.

The fourth case of Mock Case Exercise was chaired and adjudged by Adv. Kishore, Adv. Subhash and Adv. Rajni Soren. The case was presented by the DPO from West Bengal.

Facts:

The petitioner sought for specific guidelines by the WB govt. regarding the notification of the Higher Education for the PWD. He sought directions from the hon'ble court to issue the notice to the WB govt.

The court held that the notice will be issued U/S 32 (1) of the RPD Act 2016.

The fifth case of Mock Case Exercise was chaired and adjudged by Adv. Rajan Mani , Adv. Vikash and Adv. Rajni Soren. The case was presented by the DPO from Odisha.

Facts:

The petitioner sought for relief regarding the issuance of the fake certificates to the persons not having any disabilities. The issue to differentiate between permanent disability certificates and the temporary disability certificates was also raised by the petitioner. The petitioner sought for directions of the court regarding the selection criteria for the PWD.

The court however held this case to be a matter related to service matter in which the PIL is not maintainable in this hon'ble court. It was held that it is a disputed question of fact and the court directed to state govt. that the disability certificate should be issued as per the specific criteria.

The winner of the Mock exercise were the DPOs from:



Rajiv Raturi Distributing Awards

1st Rank: West Bengal & Jharkhand

2nd Rank: Bihar

3rd Rank: Madhya Pradesh and Odisha



Adv. Rajan Mani & Adv. Subhash Vashishth

DISABILITY AND ACCESSIBILITY:

Accessibility and Disability by Adv. Rajan Mani

The laws regarding accessibility of the PWD under RPD Act 2016.

Accessibility provisions like:

U/S 41 Access to transport which includes transportation mediums like- railways, airways, public buses and roadways.

U/S 42 Access to information and communication services which includes accessibility to public documents in E-format, websites and TV channels.

U/S 45 Accessibility to public offices and buildings as defined u/s 2 w.

- Certain rules for accessibility have been defined u/s 40 of the RPD Act 2016 which includes Central Government to formulate standards in consultation with Chief Commissioner within 6 months
- To address Built Environment, Transportation and Information / Communication Services
- Rules notified for Buildings, Buses, Web Sites and Public Documents
- Also to address other Public Facilities and Services
- Definition of “Public Facilities and Services” (S. 2x)
 - All forms of delivery of services to the public
 - Includes educational and vocational, employment, shopping, banking, communication, access to justice
- Supreme Court is monitoring in Rajive Raturi vs. Union of India case
 - Reports are being filed by Centre and States
- State Government Buildings to be made accessible
 - 1600 buildings audited for accessibility
 - Funds released by Centre for 122 buildings
 - To be completed by 2019
- Central Government Buildings to be made accessible
 - 466 buildings audited
 - 219 buildings being modified for accessibility
 - To be completed by 2019

Certain guidelines have been issued but the adequate funds have not been released.

- In Rajive Raturi case, the Union of India argued that they have made all the airports accessible.
- All Airports to be made accessible
 - Central Government claimed that work is complete
 - Petitioner pointed out that only basic accessibility has been done
 - SC directed Government to follow IIT Roorkee template
 - Fresh audit of airports to be completed by June 2018
- All Railway stations to be made accessible
 - Central Government claimed that Class A1, A and B stations have been made accessible
 - Petitioner pointed out many deficiencies
 - SC directed Railways to make a new accessibility plan for Railways by March 2018
 - The reservations were put forward by the petitioner and the court directed the govt. to come forward with a permanent solution to the issue of accessibility to the PWDs.
 - To make 50% public documents accessible. 25% TV channels are directed for close captioning.
 - Only 3 state govt. has responded to the issue of accessibility.
 - 200 sign language interpreter to be appointed. So far only 1 state has replied in the court.
 - SC has directed the Central as well as the state govt. to prepare fresh plan by March, 2018.

ACCESS AUDITS, ACCESS POLICY AND LEGAL FRAMEWORK ON ACCESSIBILITY:

Access Audits (Policy and Legal Framework on Accessibility) by Adv. Subhash Vashishth

Adv. Subhash Vashishth briefly described what “Accessibility” means in simple words. He explained it as approachable and useable by everyone, without taking any assistance from anybody. He talked about WCAG guidelines and a website called, Disability Rights through Codes, which has sample applications for various kinds of cases. Mr. Subhash explained about Tactile Stud ME -500 which can be pasted on the floor for helping the visually impaired people to travel alone. Through showing images of various places such china metro station and Singapore bus stand, Delhi Metro, he explained how tactile works and how it helpful for people. On the other had he also showed examples where the engineers don't know how to properly put the tactile path that led to accidents of people with disabilities.

Following are the brief points he discussed-

- Accessibility of public toilets, usage of tactile boxes, the issue of wheelchair operators.
- The involvement of the stakeholders in the accessibility audits is of utmost importance.
- DPOs were asked certain questions regarding the slope of ramps and the standards of the access audits.
- The reports of access audits can be submitted to the lawyers, NGOs and the Commissions.
- The target of accessing the services within 2 years and buildings are to be made accessible within 5 years.
- It needs accessibility advocacy via DPOs and advocates.
- A brief presentation on the issue of accessibility for the persons with disabilities to the public services was made.
- Architectural framework has to be taken into consideration while constructing new buildings.
- “Disability rights via courts”-blog.
- Orientation of the primary and secondary stakeholders is important.

- Active participation of the DPOs in the access audits. Persons with disabilities
- Certification of the access audit programs.
- State can adopt the regarding the building bye laws.
- Guidelines on accessibility were discussed.

WOMEN WITH DISABILITIES:



Group Photograph of Participants

Women and Disability by Ms. Vaishnavi Kumari & Ms. Shampa Sengupta

- The women and adolescent girls are subjected to violence during their menstrual cycle and they are locked in the separate room during that time span.
- The girls are subjected to mental harassment and physical harassment which is often sexual in nature.
- The pregnant women are also subjected to the mental harassment and certain other human rights violations.
- A letter has been sent to the Minister, Women and Child Development, Govt. of Bihar regarding this issue.

- Public mobility and awareness through press and police.
- However the intervention has not been made as adequately as expected.
- The married girls are also facing problems such as the violence in the matrimonial home.
- The women feel pity and helpless at the same time.
- Patriarchy is another issue which is to be addressed adequately by the court.
- A case was referred to the family court, regarding the rights of the disable woman. The issue was related to the custody of child.
- The vulnerability of women with disabilities has been witnessed in a no. of cases.
- Prior to RPD Act 2016, there were no specific relief to the women in the society.
- National trust Act was also referred to address the issue of abuse.
- Property rights of the disabled were also discussed.
- The issue of drug addiction among the disabled was also dealt by the speaker.
- Very important cases were referred- related to rape, violence and dowry deaths.
- Basically pregnancy issue was raised among intellectual disabilities and the Chandigarh case was also referred.
- The domestic violence incidents are also increasing.
- Adv. Shalini (HRLN Delhi) was unable to attend the conference due to illness, however Adv. Sadiya shared her leading cases assigned by HRLN concerning rape of speech impaired disabled girl. Also mentioned about the recording of her testimony by the therapist in the court, which is not in the RPD Act but in the POCSO Act. This inter woven application of law is henceforth a great success.
- Another case of Adv. Shalini mentioned by Adv. Sadiya was concerning the acid attack victim who lost her eyes due to this brutal incident. A Writ was moved in the High Court but the Judge denied job to her stating it would be difficult for her mobility and work . Adv. Shalini approached to an organisation working for women with blindness. The victim today has completed her mobility training and also done basic computer training .Now s has availed so much confidence that when Adv. Shalini followed up with her, she expressed to do an advance course in computers. Indeed it's a great achievement for a girl who never moved out of her house since 2009 and now in 2017 she had indeed changed her entire approach in life.

CIVIL AND POLITICAL RIGHTS UNDER THE RPD ACT:

Civil and political rights in the context of Independent living and living in the community and Electoral rights, Access to justice by Adv. Rajni Soren and Rajive Raturi.

- The issue of shelter homes was discussed and If any home for intellectually disabled children is not working properly then this issue should be reported.
- Electoral rights of the disabled were discussed. Accessibility of the disabled to the electoral booths is an issue of great concern keeping in view the upcoming General Elections of 2019.
- The UNCRPD talks about the rights of disabled persons to take part in the electoral processes in a democracy.
- A PIL was filed in the Kerala High Court regarding the ability of the mentally ill people to cast their votes. The court held that the state mental hospital had to make arrangements for the voting for persons with disabilities residing within institutions.
- The issue of access to justice was raised regarding which Shri. Raturi said that the collaboration has to be made with the DLSA, SLSA and NALSA. Also, the HC can intervene in certain issues where accessibility to justice is at stake.



Group photograph of the participants

WAY FORWARD:

The day 2 session ended with the open house discussion in which thoughts and reservations of the DPOs and the Advocates was shared. The DPOs and the advocates actively took part in the discussion. The non implementation of the RPD Act is an issue which was widely discussed in the Open House Discussion session.

DPOs were advised to collect relevant data and to use this whilst advocating with government officials and duty bearers in their advocacy campaigns to bridge the gaps between what the law states and what the ground realities actually are. DPOs were also advised to connect with SLIC units in their home states and consult them for any legal advice or legal aid they might require. This, DPOs were informed, Will help speeden the implementation of the RPD Act through advocacy and by taking matters to the Courts of law.

DPOs thanked SLIC for organising this training programme which was much required as even though the new law was legislated over a year back they were not aware of the provisions and also that no real implementation of the new law was happening at the level of the States.

Participants of the training workshop were given certificates of participation at the end of the programme. These certificates were signed by the Principal of RPS Law College and Rajive Raturi on behalf of CCRI.

The vote of thanks was delivered by Adv. Vikash Kumar Pankaj at the end of the session.