

DOI No. <http://doi.org/10.53550/EEC.2024.v30i07s.062>

Environmental Justice and Disability Rights in India: A Comparative Analysis

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(Received 19 June, 2024; Accepted 22 August, 2024)

ABSTRACT

This paper purports to examine the intersection of environmental justice and rights of persons with disabilities in India. This study investigates the convergence of environmental justice and disability rights in India, two important social issues that are frequently treated in isolation. By conducting a comparative analysis of legislation, policy execution, and grassroots initiatives, we assess the ways in which these areas intersect and influence one another within the Indian framework. Our findings highlight notable deficiencies in the incorporation of disability perspectives into environmental policies and the lack of environmental considerations in disability rights, resulting in heightened vulnerabilities for individuals with disabilities residing in environmentally challenged regions. A close examination of the impact of environmental hazards on disabled persons. It examines the extent to which these laws consider environmental impacts on disabled persons.

Key words: *Environmental Justice, Disability rights, Persons with Disabilities, Rights of Persons with Disabilities Act: 2016, Persons with Disabilities Act:1995.*

Introduction

The issue of environmental justice combined with disability rights is complex and multifaceted for long. Regarding recent developments in such issues, the intersection of environmental justice and disability rights in India presents a significant challenge because this country has a large and diverse population that rapidly urbanizes and industrializes and grapples with increasing environmental challenges. The persons with disabilities who mostly belong to marginalized communities suffer even more heavily from environmental hazards and barriers in obtaining more crucial environmental services compared to their disabled counterparts without disabilities. Rights of disability, as it relates to the rights and well-being of disabled individuals, include education, employment, health care, accessibility, among

others. In India, the rights of a disabled person had been preserved in the Constitution and were given further relief with specific legislations and policies. Yet, even with such laws and rules, people with disabilities are still largely excluded and discriminated against in several aspects.

The intersection of environmental justice and disability rights in India is very evident in many respects. People with disabilities are more likely to live in dangerous environments, such as slum settlements and industrial zones, due to a variety of factors, such as poverty and discrimination. These areas are commonly affected by air pollution, water pollution, and other environmental hazards leading to serious health consequences. Secondly, people with disability may not access the accessible environmental services such as pure and safe water resources, sanitation, and transport; their suffering

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escalates.

Also, disasters such as floods, drought, or cyclones may cause critical impacts to people with disabilities. Events of this character can disorganize the daily lives of these persons, destroy their homes and means of survival, and limit access to necessary services. Lack of access to environmental infrastructure, such as parks, public transport, and buildings, eliminates persons with disabilities from full participation in society.

The intersection of environmental justice and rights of persons with disabilities is a very urgent issue in India and needs to be tackled through the strengthening: First of all, disability rights legislation is improved upon through ensuring that the provisions of disability rights laws and policies are comprehensive and effectively enforced.

An inclusive society has to ensure that differently Abled have equal rights and opportunities. The best progress to date in this regard in India has come because of its legal system. The Persons with Disabilities Act (PwD Act) of 1995, followed by the Rights of Persons with Disabilities Act (RPwD Act) of 2016, are two significant pieces of legal documents that reflect the evolving legal scenario for Persons with Disabilities in India. This comparative study provides insight into the strides achieved in India to ensure that Persons with Disabilities enjoy their rights and equal opportunities. And also discuss the challenges in the implementation of legislative safeguards has faced and problems in the realization of complete inclusion of Persons with Disabilities in Indian society and suggest some solutions.

The environmental justice addresses the point of unequal distribution of ecological burdens and benefits. But, in particular, it forgets its marginalised community, specifically the disabled, who face increased vulnerabilities from environmental hazards and climate change effects. Issues like mobility impairment, dependence on medical equipment, or higher sensitivity to pollution make the disabled an increasingly vulnerable population when it comes to natural degradation, extreme weather, or public health crises. In such access, many with disabilities face sharply limited shelter, clean air, water, and transportation. In most cases, special evacuation plans are seldom available, meaning their needs may be overlooked, causing them to be left behind or rescued too late in the disaster evacuation process. Also, post-disaster recovery programs and re-

building efforts are rarely accessible without adequate accommodations for disabled populations. Environmental policies also tend to pay less attention to disability issues. For instance, the transition to renewable energy and green infrastructure might inadvertently reproduce existing inequalities if it is not designed as inclusive. Therefore, policies adopting the universal design should emphasise the accessibility of green technologies, public spaces, and services.

Materials and Methods

This is a doctrinal study which includes the analysis of the various legal documents such as the Persons with Disabilities Act of 1995 and its later version, the Rights of Persons with Disabilities Act of 2016. This will involve reading, line by line, the contents of both Acts, and it's concern towards environmental justice to bring out the major changes and modifications introduced by the Rights of Persons with Disabilities Act. The study will also consider scholarly articles, governmental reports, and other relevant legal commentaries to have a greater insight into the legislative history and implementation of the two Acts.

Results and Discussion

As per the 2011 Census, twenty percent of the disabled population of India are unable to move, 19% are blind or have low vision, and a further 19% are deaf. Eight percent are disabled in more than one way. Of all the persons affected by different types of disabilities, male predominance is seen. Of the impaired male population, 22% had a disability related to movement, while another 18% had a disability related to hearing or vision. Of the impaired female population, 8% had several disabilities. Of the impaired female population, 20% have visual or audio impairments, 18% have mobility impairments, and 8% have various disabilities.

Environmental degradation and climate change have particular negative effects on people with disabilities: hardly ever is it possible for them to overcome the challenges through adaptation or mitigation. The paper approaches this issue comparatively as it delves into the relationship between the two critical areas, where all specific vulnerabilities of people with disabilities are placed at the heart of environmental injustice. Moreover, the environmen-

tal conditions in many parts of India can contribute to the development or exacerbation of disabilities. Poor water quality, exposure to industrial pollutants, and inadequate sanitation can lead to health problems that may result in long-term disabilities. This is particularly true in low-income areas and informal settlements, where environmental protections are often lacking. The intersection of poverty, disability, and environmental injustice creates a cycle that can be difficult to break, as those affected often lack the resources to advocate for change or relocate to safer areas.

However, there are also opportunities for synergy between environmental justice and disability rights movements in India. Both advocate for more inclusive and sustainable development practices that consider the needs of marginalized communities. For example, efforts to create more accessible public spaces can align with green urban planning initiatives, resulting in cities that are both more navigable for people with disabilities and more environmentally friendly. Additionally, the push for cleaner technologies and reduced pollution can have significant benefits for individuals with disabilities who are more susceptible to environmental health hazards.

The insufficient healthcare infrastructure in numerous regions of India significantly impacts environmentally vulnerable populations and people with disabilities. In areas susceptible to environmental threats, healthcare facilities frequently lack the necessary resources to address the unique requirements of disabled persons during emergencies. For example, in regions at risk of flooding, hospitals may not have established effective evacuation procedures for patients with mobility challenges. Furthermore, prolonged exposure to environmental toxins can result in chronic health issues that further burden an already strained healthcare system, complicating access to essential care for individuals with disabilities.

There is an urgent necessity for enhanced education and awareness regarding environmental challenges and disability rights in India. A considerable number of educational institutions are devoid of accessible infrastructure and inclusive pedagogical approaches, hindering students with disabilities from obtaining a quality education, including in the realm of environmental studies. This deficiency in knowledge can diminish awareness of environmental hazards and limit the involvement of individuals

with disabilities in environmental policymaking. Additionally, environmental education initiatives often overlook the viewpoints and requirements of disabled individuals, thereby missing valuable opportunities to foster more inclusive and effective environmental strategies. The swift urbanization of India poses both challenges and opportunities in the pursuit of environmental justice and the rights of individuals with disabilities. Many urban areas in India suffer from inadequate urban planning, resulting in problems such as poor waste management, insufficient green spaces, and inaccessible public transport systems. These issues disproportionately impact individuals with disabilities and economically disadvantaged communities. Nevertheless, there is an increasing acknowledgment of the necessity for inclusive urban design that harmonizes environmental sustainability with accessibility. Concepts such as universal design are gaining traction as potential solutions.

In order to implement the "Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region," the Persons with Disabilities [Equal Opportunities, Protection of Rights, and Full Participations] Act, 1995 was passed. The Economic and Social Commission for Asia and the Pacific Region was organized, which then issued the proclamation in Beijing in December 1992 for the purpose of launching the "Asian and Pacific Decade of Disabled Persons 1993–2002". Mental illness was defined as "any mental disorder other than mental retardation". This Act looked at Persons with Disabilities from a social welfare perspective, with a primary emphasis on the early detection and prevention of disability, employment of Persons with Disabilities, and education. It made provisions for 3% reservation in government employment as well as educational institutions. It laid emphasis on a barrier-free environment as a measure to prevent discrimination.

A major step towards recognizing the rights of people with disabilities and giving them the equal opportunities was fulfilled by the passing of the Persons with Disabilities Act, 1995. But, the loopholes in the Persons with Disabilities Act, 1995 required the need for more inclusive and comprehensive laws. The Persons with Disabilities Act 1995 was a good start but had many flaws and gaps. It had a narrow definition of disability and focused only on specific types of impairments and left out conditions like cerebral palsy, autism and multiple disabilities. It

did not address issues of accessibility, education and employment leaving many gaps in the law. To solve this and harmonise Indian disability laws with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the Rights of Persons with Disabilities Act, 2016 (RPwD Act, 2016) was enacted.

According to Rights of Persons with Disabilities Act, 2016, "The appropriate Government shall ensure that the Persons with Disabilities enjoys the right to equality, life with dignity, and respect for his or her own integrity equally with others". The state has to act in the incapacitated environment in a way of making use of the capacitated environment to use the capacity of the Persons with Disabilities. Further, section 3 also provides that there can be no discrimination against any Persons with Disabilities unless it can be proved that the impugned act or omission is a reasonable means of achieving a legitimate objective and that no person can be deprived of personal liberty only because of a disability. According to section 7(2) of this very Act, any act of abuse, violence, or exploitation against a Persons with Disabilities which has been, is being, or is likely to be committed can be reported by any person or registered organization and the local Executive Magistrate is to take prompt action to stop or prevent the incident and issue appropriate order to protect the Persons with Disabilities. Whenever the police discover assault, abuse, or exploitation, upon complaint or otherwise, they shall inform the harmed Persons with Disabilities of his legal right to consult the Executive Magistrate. The police officer shall also inform the Persons with Disabilities of his/her right to free legal aid, details pertaining to the nearest rehabilitation agency, and as to how to register a complaint under this Act or any other applicable law.

The major problem is a lack of infrastructure and resources in support of these offices. Most state commissioners work with little funding and staff to enable them effectively investigate complaints, carry out awareness campaigns, and monitor the application of laws and policies on disabilities. This resource inadequacy really curtails their success in delivering their mandate. There can be harmonization or the need for improvement in certain areas, even if generally aligned in the implementation of the Rights of Persons with Disabilities Act and United Nations Convention on the Rights of Persons with Disabilities.

Even though the Rights of Persons with Disabilities Act, 2016 is a vast advance over its predecessor, there are still certain shortcomings and need for development. A foremost criticism is the lack of effective methods of implementation and enforcement, which can impede the fulfillment of the rights and provisions laid down in the Act. Another widely accepted gap in the legal framework for this vulnerable population is that the Act does not adequately deal with issues related to mental health or psychosocial disability. Though mental illness is currently considered a condition of impairment according to the stipulations of the Act, the special needs of persons with this condition and their families have not been addressed properly. The nature of these conditions requires Persons with Disabilities with mental illnesses to need special and unique care.

The intersection of environmental justice and disability rights in India raises profound challenges that are, at the same time, urgent. An approach and a response to specific vulnerabilities of people with disabilities in the context of environmental degradation and climate change will not only enrich equity and inclusiveness in India but also allow government agencies, civil society organizations, and individuals to really ensure the protection of all citizens' rights.

Conclusion

The dynamism with which disability laws have evolved in India—from the Persons with Disabilities Act, 1995 to the Rights of Persons with Disabilities Act, 2016—reflects the country's serious commitment toward the protection of the rights and inclusion of people with disabilities. A comparative analysis between the two Acts shall, therefore, illustrate the visible progress in the harmonization process of national legislative procedures with international standards besides the critical need for India to adopt a more inclusive and rights-based approach to disability. People with disabilities are only considered as disabled while they encounter environmental and attitude adversities that inhibit full and equitable societal participation. With a focus on the impact of societal circumstances upon the participation and inclusion of people living with disability, the understanding of disability has shifted from an individualistic medical approach to a more holistic social or human rights-related approach. These two

factors comprise what makes structured negotiation an effective event of assisting the resolution of the disability rights disputes. The installation of accessible automated teller machines, access point of sale devices, pedestrian signals, and service provider websites have all been accomplished through the use of structured bargaining. It convinced Walmart, CVS and Caremark to create accessible prescription bottles for blind or low vision customers. structured negotiation has also been able to drive complementary, institutional reform by helping strategies to increase accessible voting machines and websites.

Deeper links and collaboration between government agencies, civil society organizations, and advocacy groups for people with disabilities would ensure proper implementation and monitoring of the laws. Comprehensive policies and programs that address the inclusion of persons with disabilities in accessibility, education, and employment must be developed. The comparative analysis of environmental justice and disability rights in India depicts this dimension extremely pervasive and complex. The country has covered reasonable distances on the fronts of enhancing disability rights and on those of environmental protection. Despite all these strides, much remains to be done for people with disabilities to be safeguarded from the probable disproportionate impacts of environmental degradation and climate change. People with disabilities are particularly vulnerable to environmental risks because of factors that include limited mobility, sensory impairments and lack of information and resources. Environmental justice and disability rights converge in themselves by protecting marginalized and vulnerable population's interests. It has become important for people with disabilities to be represented within environmental policies and programs aimed at promoting equity and justice. It is focused on the special needs of the disabled in both disaster relief and response work.

Recommendations

To address this coming together of an environmental justice case with the rights of the disabled Indian citizen, some recommendations are as follows:

- Strengthen Effective Implementation of Existing Disability Rights Legislation: Proper implementation of existing disability rights legislation and development of comprehensive policies pertaining to their needs within the context of environmental change are necessary.

- Promotion of Accessibility and Inclusion: Environment-related programs and activities should become accessible to the members of the disability group, including the provision of assistive technologies and provisions of adjustments.
- Awareness and Education: Public awareness campaigns should be launched on the relation between environmental justice and disability rights, and inclusive and equitable practices should be promoted.
- Strengthen Community-Based Initiatives: Essential services and supports should be provided for people with disabilities, especially at the grassroots level, in rural areas and marginalized communities, through supporting community-based organizations and networks.
- Invest in research and data. Research is necessary to get a clear perspective on the given vulnerabilities of disability populations towards environmental hazards as well as useful for policy interventions.
- By pursuing these recommendations, India can take giant leaps towards the protection of people with disabilities from all the ills of environmental degradation and climate change. Only with such a commitment toward environmental justice for all, regardless of ability, may a more equal and just society be built.

Conflict of Interest - None

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