

EXAMINING THE COMPLEXITIES OF EDUCATION FOR THE DISABLED,
TOWARDS AN INCLUSIVE CONCEPTUALISATION

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ABSTRACT

Since long, disability is seen as something which invites charity and philanthropy. Deeply rooted biases and prejudices have led to treating the disabled as inferior to others. In Unnikrishnan v. UOI, the Supreme Court held that the right to education is embedded within the right to life and personal liberty and this has been reiterated in other cases. It is important to ensure affordable and accessible education to children with disabilities to give them opportunities to excel. The paper will first discuss the massive difficulty that is presented in defining who children with disabilities are. This first-level difficulty places disability under an umbrella of reforms without understanding their different natures and degrees and how they need different kinds of attention. With the help of statistics, it will be shown how most of the reformative measures fall short of mandating physical presence of these children in schools. The paper will then deal with the Sarva Shiksha Abhiyan and then discuss in detail the concepts of 'Special Schools', 'Resource Teachers', and 'Home-Based Education, and will show how they fail to normalise disability in the realm of the education sector. Along with being restricted by numerous logistic difficulties, these concepts fail to bridge the gap between the disabled and the 'normal', and only add to the prevalent stigma. It will then look at the intersectionality between disability and other factors like caste, class and religion, and how the discrimination on the basis of disability is intertwined with these factors and have to be read in a socio-economic context.

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1. INTRODUCTION

In *Unnikrishnan v Union of India*,¹ the Supreme Court held that the right to education is embedded within the right to life and personal liberty. The Right to Education Act, 2009 mandates free and compulsory education for children in the range of six to fourteen years. Education is one of the strongest tools that can lead to the overall development of an individual. It is one of the stepping stones in the life of an individual, which if neglected, can have detrimental consequences. This is why basic primary education for all children is the need of the hour. However, accessible and affordable education is still a dream for many, and this is because of the social and economic background that many of these individuals hail from. Some of the biggest hurdles that fall in the way of acquiring basic education are faced by children with disabilities.

In our country, disability is seen as something that invites charity and sympathy from the society. People with disabilities have, since time immemorial, been shunned from society by the so-called 'normal' members. These deeply rooted biases lead to them being denied opportunities, resources, and basic facilities, because they are seen as not worthy of any of these. The cause of the disabled had been long ignored in our country. But now, the situation is changing and more awareness is being generated about the rights and needs of the disabled. Through this paper, it is argued that lack of affordable and accessible education to the children with disabilities is one of the biggest hurdles in the way of overall development and progress in the life of a disabled person. Therefore, once the existing factors that create an impediment for education for the disabled are analysed, one can expect the State to create modifications and ease the entire process for children with disabilities, so that they are privy to the same opportunities of development as the others are, and are not left behind owing to the negative attitude towards them that the society has.

¹ *Unni Krishnan, J.P. And Ors. Etc. v. State Of Andhra Pradesh And Ors.*, (1993) 1 S.C.C. 645 (1) 645.

2. ANALYSIS

How Can Disability be Defined?

The “Rights of Persons with Disabilities Bill, 2016” was passed by the Parliament in December 2016. The Act replaced the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation Act, 1995 (the “PWD Act”). In the PWD Act, a list of seven conditions was listed as ‘disabilities.’² However, as per the Disabilities Act, 2016, a ‘person with disability’ has been defined as “*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*”³ (add citation) and the Schedule appended to the Act lays down an exhaustive list of ‘Specified Disabilities’ as per Section 2(zc) of the Act.

However, there isn’t a single definition that can be employed for disability, as it is a fluid subject. The Preamble to the United Nations Convention on the Rights of Persons with Disabilities, 2006 states that “... *disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others*”⁴

There are various conceptual models of disability that are followed. Among those, the medical and social models have often been pitted against each other. The former views disability as a health condition that has been caused by a disease which requires some sort of a medical treatment by professionals to correct the problem within an individual. It looks at what is wrong with the person’s body, but doesn’t delve into what he needs, and, hence, leads to him losing independence and control of his own life.⁵ The ‘scientific’ model forms part of the medical model, whereby science is held to be the most powerful which removes all ‘abnormality’ from

² Section 2(i) of the Persons with Disabilities (equal opportunities, protection of rights and full participation) Act, 1995.

³ Section 2(s) of the Rights of Persons with Disabilities Act, 2016.

⁴ United Nations Convention on the Rights of Persons with Disabilities (2008).

⁵ *Towards a Common Language for Functioning, Disability and Health*, World Health Organization (May. 09, 2017, 10:50 AM), <http://www.who.int/classifications/icf/training/icfbeginnersguide.pdf>.

the human body, which includes disabilities.⁶ The social model, on the other hand, sees disability as a social construct and not merely as an attribute of an individual. There is some kind of a political response that is sought by this model, and it aims at removing not only legal and medical, but also social barriers that come in the way of the overall development of disabled persons.⁷

The Human Rights model purports that all persons, irrespective of their disabilities have certain human rights which are essential to their existence. This has been built upon the spirit of the Universal Declaration of Human Rights, 1948. (http://www.cuts-international.org/cart/pdf/Dis-Ability_Junction_03-2011.pdf). The charity model, on the other hand, views the person with disabilities as someone that needs the sympathy of the other members of the society, who is dependent on such persons for getting help and assistance.⁸

The International Classification of Functioning, Disability and Health, known more commonly as ICF, is the World Health Organization framework for measuring health and disability at both the individual and population levels.⁹ It follows a ‘biopsychosocial model of disability,’ which is a merger of the social and medical models of disability, because it believes that neither of the two are adequate in themselves. Hence, it provides a ‘coherent view’ of all the perspectives related to health, which are biological, individual and social.¹⁰

Because of the varying and fluid ways in which disability is defined, there is a visible inconsistency that can be seen when it comes to identifying the total number of disabled people in India. According to the 2001 Census data, 26,810,557 people in India suffer from disability of

⁶ Shanimon, S. and Nair, R., *Theoretizing the Models of Disability Philosophical Social and Medical Concepts- An Empirical Research based on existing Literature*, 3 INTERNATIONAL JOURNAL OF SCIENTIFIC AND RESEARCH PUBLICATIONS, 4 (2016)

⁷ *Supra* note 5

⁸ *Supra* note 6

⁹ *Supra* note 5

¹⁰ *Supra* note 5

one kind or the other, which amounts to about 2.21 of the total population of the country.¹¹ However, as per the National Sample Survey Organization (NSSO) in its 58th round during July-Dec 2002, the number of persons with disabilities in the country was 1.85 crores, which is an estimated of 1.85% of the population.¹² Even though the difference between the figures by the NSSO and the 2011 Census is not huge, disability-wise, the gap is quite wide, because the way in which these two have defined disabilities are very different. According to the World Bank report of 2007 on People with Disabilities in India, around 40 million people are disabled in the country, and this number can be as high as 80-90 million, “*if more definitions of mental illness and mental retardation in particular were used.*”¹³

It is clear that the figures are different according to varying sources. It is not possible to pool all the persons with disabilities as one homogenous group.¹⁴ Disabilities vary because they may be physical, sensory, intellectual, mental or social, and while some are present from birth, others may be acquired at a later stage in life.¹⁵ It is important to understand that while for some, their disability causes only a small effect on their ability to participate in the society, for others the said effect might be larger. There is an increased need to focus on the disabled, instead of the types of disabilities, because even persons with the same disability may experience their life in different ways. Therefore, there is a need to move away from a point-by-point categorisation of what impairments count as disabilities, and move towards an approach of understanding the

¹¹ *Census Of India 2011: Data On Disability*, OFFICE OF THE REGISTRAR GENERAL & CENSUS COMMISSIONER, INDIA (May. 09, 2017, 10:50 AM), [http://www.censusindia.gov.in/2011census/Disability_Data/Disability_2011_Data_Release_Dec_2013_PPT%20\(27.12.13\).ppt](http://www.censusindia.gov.in/2011census/Disability_Data/Disability_2011_Data_Release_Dec_2013_PPT%20(27.12.13).ppt).

¹² *Disability in India*, OFFICE OF THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT- GOVERNMENT OF INDIA (May. 09, 2017, 10:50 AM) http://www.ccdisabilities.nic.in/page.php?p=disab_ind

¹³ O’Keefe, *People With Disabilities In India: From Commitments to Outcomes*, HUMAN DEVELOPMENT UNIT, SOUTH ASIA REGION, THE WORLD BANK (May. 09, 2017, 10:50 AM), <http://documents.worldbank.org/curated/en/358151468268839622/pdf/415850IN0Disab1ort0NOV200701PUBLIC1.pdf>.

¹⁴ In 2006, the Madurai Bench of the Madras High Court was encountered with a case of a bus driver who was discharged from service after he was diagnosed with colour blindness, which does not feature as one of the seven types of medical conditions that are listed as disabilities under the Persons With Disabilities (equal opportunities, protection of rights and full participation) Act, 1995. A Division Bench held that the word ‘disability’ was not exhaustive in nature.

¹⁵ *Defining Disability*, CANADA: INTERNATIONAL ASSOCIATION OF PROFESSIONALS IN DISABILITY MANAGEMENT (MAY. 09, 2017, 10:50 AM), <http://www.cspdm.ca/dm-in-context/impact-of-disability/defining-disability/>.

experiences that individuals go through, and how they vary because of the diverse socioeconomic backgrounds. There is a need for an amalgamation of the medical and social models of disability in India. By achieving this goal, the biopsychosocial model ensures that all the aspects — biological, social and individual — of a disabled person, and his related needs are taken care of, and the process of increasing the participation of disabled persons in society is complete in all respects.

3. WHAT IS GOING WRONG?

There is a multitude of programmes that have been taken up by the government for the welfare of children with disabilities.¹⁶ But despite a number of these that focus on their education, it can be seen that their effect hasn't proven to be as fruitful as one would expect. According to the World Bank report, about three quarters of those with severe disabilities are illiterate, and for those with 'mild' disabilities, the rate is around half.¹⁷ In fact, the report also observes that children with disabilities rarely progress beyond primary school.¹⁸

This primarily comes from the government's failure to create a strict framework for the implementation of these programmes. For example, vide Article 46 of the Constitution of India,¹⁹ the State provides for a straightforward commitment to ensure that the economic and educational interests of the Scheduled Castes, Scheduled Tribes, and other weaker sections are protected. However, Article 41 of the Constitution²⁰, which provides for securing the right to work, education and public assistance to the disabled, has a clause at the beginning which reads as: "*the State shall, within the limits of its economic capacity and development ...*". The presence of

¹⁶ The following are the national level schemes that focus on the education of children with disabilities: 1) the Integrated Child Development Scheme (ICDS) [which is a Early Childhood Care and Education provision], 2) Project for Integrated Education Development (PIED) and Integrated Education for the Disabled Children (IEDC), 3) District Primary Education Project (DPEP), 4) District Rehabilitation Centres and National Programme for Rehabilitation for Persons with Disability (NPRPD), 5) UN Support to Primary Education: Community School Programme and 6) Sarva Shiksha Abhiyan (SSA)

¹⁷ *Supra* note 13, at 61.

¹⁸ *Id.* at 63

¹⁹ The Constitution of India

²⁰ The Constitution of India

such a clause will obviously not create as strong an effect on the authorities as Article 46 would, and it can clearly be seen in practice.

The Rights of Persons with Disabilities Act, 2016 provides for employment and education benefits to persons with ‘benchmark disability,’ which has further been defined as a person with not less than forty percent of a ‘specified disability’.²¹ (add footnote Section 2(r)) ‘Specified Disability has further been defined as one of twenty-one conditions as mentioned in the Schedule appended to the Act. This technical way of assigning numerical standards to determining who persons with disabilities are, and what benefits they can avail, excludes many from the ambit of the Act itself.

To begin with, The Persons with Disabilities (equal opportunities, protection of rights and full participation) Act, 1995 defines a ‘person with disability’ as someone who suffers from not less than forty percent of any disability that is certified by the medical authority.²² This technical way of assigning numerical standards to determining who persons with disabilities are automatically excludes many from the ambit of the Act itself.

The number of facilities that are available to the disabled children for their education is meagre. What are available are a few government scholarships or some facilities for training teachers. But what lacks is a concrete developmental scheme taken by any state.²³ What is even surprising is that the illiteracy rates for the disabled are way higher than that of the rest of the population, and even the situation of school attendance is abysmal.²⁴ Despite various efforts, both educational participation as well as the outcomes of education stand to be very poor for

²¹ Section 2(r) of Rights of Persons with Disabilities Act, 2016

²² Section 2(f) of the Persons with Disabilities (equal opportunities, protection of rights and full participation) Act, 1995

²³ Majumdar, S, Educational programmes for the disadvantaged groups, in GOVERNANCE OF SCHOOL EDUCATION IN INDIA 30 (M. Mukhopadhyay and R. S. Tyagi 2001)

²⁴ Singal, N., *Education of children with disabilities in India*, BACKGROUND PAPER PREPARED FOR THE EDUCATION FOR ALL GLOBAL MONITORING REPORTING, UNESCO, 9 (2010)

those with disabilities.²⁵ The World Bank report lays down that the educational attainment as well as current attendance of those with disabilities is extremely poor, and way below what the national average is.²⁶ The Parliamentary Standing Committee on the proposed amendments to the Right to Education Act, 2009 had observed that the number of children with multiple disabilities that attend regular schools is very less.

There are various organisations that have taken recourse to the legal system in order to enforce the implementation of the provisions that are meant to integrate children with disabilities with the so-called normal education system, and have, in the process, highlighted the barriers that come in the way. For example, ‘Social Jurist,’ an organisation headed by Mr. Ashok Agarwal, an advocate, has taken up the cause of education for children in India. In 2011, it moved the Delhi High Court for the purposes for enforcing the key provisions of the Right to Education (RTE) Act, 2009 and for integrating into the mainstream education system children with disabilities, especially from the economically weaker sections.²⁷ In an interview, Mr. Ashok Agarwal revealed how out of around two lakh disabled children in New Delhi, about only eight hundred were in regular schools, and the reason for this disproportion is the lack of enough schools as well as trained teachers, despite the RPD Act²⁸ mandating training teachers in special education.²⁹ He also noted that more special schools are found in urban areas than in rural areas, which is why Government should aim for more access to inclusive education in rural areas.³⁰ He emphasised on how constitutional provisions without any penal sanctions would not bring out the intended effects of their enforcement, and would defy the usefulness of the provision itself. There is a lack of the ‘strength to progress’ which is creating problems.³¹ He explained how despite there being various schemes implemented for the education of the disabled population, their success is diminished because of the lack of adequate information, which results the stakeholders being unaware of what is implemented for them. Moreover, the entire process of

²⁵ *Id.*

²⁶ *Supra* note 13, at 61.

²⁷ “Continue to fight for what has not been achieved”: Disability News and Information Service, DNIS.ORG. (N.D.) (May. 09, 2017, 10:50 AM), http://www.dnis.org/print_interview.php?interview_id=36.

²⁸ The Persons with Disabilities (equal opportunities, protection of rights and full participation) Act, 1995

²⁹ *supra* note 27

³⁰ *Id.*

³¹ *Id.*

availing the benefits of the schemes is so time-consuming and cumbersome that they fail to become fruitful.³² Among many suggestions that he gave, one of them was to remove the subject of disability rehabilitation from the ambit of the Ministry of Social Justice and Empowerment and to place it under the Ministry of Human Resource Development.³³

Parents of children with disabilities have time and again expressed their displeasure about the incompetency of the mainstream schools to cope up with the needs of their children. A lot of these parents have explained how teachers, because of lack of experience and expertise in the field, label their children as ‘not focused’ and ‘lazy’, and are not able to prevent them from being bullied by their peers. There have also been instances of teachers beating up these children and behaving with them in a rude manner.³⁴ These loopholes hinder the exercise of these schemes and increase the fears and insecurities that parents of children with disabilities have about sending their child to a school which does not acknowledge his presence, and might on the contrary create a hostile and unsupportive environment for him.

The barriers to affordable education for the disabled are generally of two kinds — legal and social. The former is depicted by the lack of strong legal provisions securing their rights to access education, and the latter comes from a wrong approach that the society has towards the cause of the disabled. While legal barriers could be overcome by creating stronger and more enforceable laws with stricter consequences in the event of non-compliance, real success can only be achieved once the social barriers are overcome, and this can happen once more awareness is created among members of the society so that it stops looking at the issue as something that invites charity and sympathy. The programmes that have been implemented nationally have made only a limited impact, as far as the participation of children with disabilities in formal education is concerned. To improve this situation, focused efforts after a

³² *Id.*

³³ *Id.*

³⁴ T. Kulkarni, *Can special-needs children find place in mainstream schools?*, THE HINDU (MAY. 09, 2017, 10:50 AM), <http://www.thehindu.com/news/national/karnataka/can-specialneeds-children-find-place-in-mainstream-schools/article6933671.ece>

comprehensive review would be necessary.³⁵ There should be more participation from the disabled community itself when legislative decisions are made. It's important for the beneficiaries of a law to have a say in how it should be shaped and formulated.

It has to be understood that when the educational opportunities of disabled children are tampered with, it results in a diminishing of all further possibilities of employment, income generation, etc. Access to proper education would mean that persons with disabilities are not pushed down to economic and social dependence on others. The practical enforcement of laws can be very different from how the law on paper intended it to be. The next section discusses one of the most important attempts by the government to tackle the problem of inaccessible education for the disabled, the Sarva Shiksha Abhiyan (SSA).

4. REVIEWING SOME ASPECTS OF SARVA SHIKSHA ABHIYAN

Sarva Shiksha Abhiyan is the main vehicle under the Ministry of Human Resource Development for the purpose of implementation of the provisions of the RTE Act, 2009. Its main aim is to provide inclusive education to “Children with Special Needs” (CWSN) and mainstream them in regular schools. The components of the scheme include : (i) *assessment of medical / educational needs* (ii) *provision of student specific facilities* (iii) *development of learning material* (iv) *support services like special educators* (v) *construction and equipping of resource rooms* (vi) *training of general school teachers to build their capacity to fulfill the needs of children with special needs* (vii) *make schools barrier free. Setting up of Model inclusive schools in every State is also envisaged.*³⁶

SSA in itself is a huge programme with a multitude of features. Therefore, this paper deals with three main aspects of the scheme and analyses them to see if they have proven to be as effective as they set out to be.

³⁵ Chaudhari P., *Practices on education of Children with Special Needs in India*, 2(7) IJIR 1057 (2016).

³⁶ *Education to Physically Challenged Persons*, PRESS INFORMATION BUREAU (MAY. 09, 2017, 10:50 AM), <http://www.pib.nic.in/newsite/mbErel.aspx?relid=100251>.

a. Aids and Appliances

The Sarva Shiksha Abhiyan provides for aids and appliances for four types of impairments – visual, hearing, orthopaedic and intellectual, which are aimed towards improving the efficiency of the children’s day-to-day and educational functioning. This includes hearing devices, crutches, wheelchairs, ramps, etc.

However, it has been found out that only 25 percent of CWSN were using these aids and appliances.³⁷ There were problems of all kinds, ranging from inaccessibility in rural areas, to difficulties faced in repairing and maintaining them. At the same time, some of them were also found to be of poor quality.³⁸ For example, the Sixth Joint Review Mission Report of SSA showed how the quality of ramps that were constructed in all the schools for ease of movement of disabled students, as well as the angle of the ramp were still in question.³⁹ Not only this, there wasn’t much awareness regarding these free aids and appliances. For example, in its report, the World Bank noted that 72.3 percent of households were not even aware of the availability of free aids and appliances under the scheme.⁴⁰ Often these aids and appliances are provided to the students not free of cost, but on the payment of some bribe amount to the officials. At the same time, the design of these equipment has proved to be not in consonance with the rural settings, in addition to being of substandard quality, eventually leading to the users abandoning their use.⁴¹

The aids and appliances that are provided to CWSN are one of the most important factors that normalise their presence in mainstream schools. With the help of such tools, it can be made sure that these children are able to efficiently imbibe the school learning by being at par with other students. In the absence of (or because of poor quality of) these very basic facilities, these

³⁷ Paths to Inclusion: Perceptions and possibilities, Unpublished draft, UNNATI, Gujarat (2004) (unpublished manuscript)

³⁸ P. Thomas, *Mainstreaming disability in development: India country report*, THE WORLD BANK (May. 09, 2017, 10:50 AM), <http://siteresources.worldbank.org/INTSARREGTOPLABSOCPRO/12117141144074285477/20873614/IndiaReportDFID.pdf>.

³⁹ Sixth Joint Review Mission report, SARVA SHIKSHA ABHIYAN, (May. 09, 2017, 10:50 AM), <http://ssa.nic.in/joint-review-mission-ssa/6th%20JRM-Aide-Memoire.pdf>

⁴⁰ *Supra* note 13, at 61.

⁴¹ Mander, H., *At the Precipice of Despair*, 19(15) FRONTLINE (2002).

children will only feel excluded from the ‘normal’ and ‘mainstream’ process of these schools, and this will fail the purpose of smoothly integrating them into the rest of the society and pulling them away from the stigma attached to their disabilities. Therefore, there should be a strict scrutiny of the status of these aids and appliances in schools and their condition should be improved by the government as quickly as possible.

b. Resource Teachers

SSA has regarded the concept of ‘resource teachers’ as essential to the cause of CWSN. They are teachers that have been specially trained to teach children with special needs and to be of support to them. Their focus is mainly on diagnostic issues.⁴² Their job mainly includes handling remedial workload, conducting counselling sessions with both the child as well as the parents, coordinating details about the performance of such students with the regular teachers, as well as supporting them in participating in co-curricular activities.⁴³ However, the availability of such resource teachers is a big concern and the resource teacher to CWSN ratio is highly skewed. In fact, because of the non-availability of such resource teachers, a number of parents have been reluctant in admitting their children to mainstream schools.⁴⁴

But this not the only barrier that restricts the intended success of this concept. By attributing certain teachers as capable of taking care of CWSN, the scheme deskills the regular teachers, and reduces the onus on them to be sensitised and responsible towards the needs of such children.⁴⁵ According to a study, regular teachers assume CWSN to be the complete responsibility of the resource teachers, and don’t take any extra efforts to normalise their experience in schools, and consider them to be a mere disturbance.⁴⁶ In a situation like this, how will the student feel like a part of the same experience as the other children, when he is not

⁴² *Supra* note 12

⁴³ Das, A. and Kattumuri, D., *Children with Disabilities in Private Inclusive Schools in Mumbai: Experiences and Challenges*, (34) LSE ASIA RESEARCH CENTRE, WORKING PAPERS, 26 (2010).

⁴⁴ V. Hari Prasad, T, *Enabling the Disabled*, 1 HYDERABAD: THAKUR HARI PRASAD INSTITUTE OF RESEARCH AND REHABILITATION FOR THE MENTALLY HANDICAPPED, 36 (1999).

⁴⁵ *supra* note 14, at 26

⁴⁶ *Supra* note 23

considered to belong to the same environment as his peers, and is being treated in a different and neglected manner?

By separating the qualifications, scope, and ambit of the two kinds of teachers (those for regular classrooms, and those for the needs of the disabled child), this scheme helps in creating a bridge between the disabled and the so-called 'normal'. What needs more focus is the training and sensitising of the teachers that are already present in these mainstream schools, so that they can be as equipped in understanding the needs of CWSN. This can be done by having group sessions of such teachers with the resource teachers, where discussions can be held in this regard. Resource teachers in schools are definitely necessary as an additional support to the school and for ensuring that the disabled students get the attention they need and deserve, but should not create a completely different section in school. It is equally important for the children to feel a part of the same class as his peers, and get the same kind of treatment from the teachers as his peers do.

c. Home-based Education

The SSA defines home-based education as a setting where children who have severe intellectual or physical disabilities can be educated in a 'home-based' or an alternate educational setting, which would enable them to achieve 'independent living skills.'⁴⁷

What this concept fails to realise is that education is not merely about gaining knowledge about subjects being taught in schools and acquiring basic knowledge bases. The entire schooling experience of a student includes his interaction with his peers in the form of group activities with them, being a part of the environment of a school where he is taught by a grown-up who is different from his parents. Only this wholesome experience will lead to the complete evolution and empowerment of these students. It has also been argued that this step, because of its loose implementation, is a violation of the UN Convention on the Rights of Persons with Disabilities,

⁴⁷ *Supra* note 24, at 29

2006, to which India is a signatory.⁴⁸ There should be more efforts to support the child and bring him to school, instead of labelling him as incapable of participating in mainstream schooling, which is a way of putting the blame on the child. An inclusive system would be one, which would be willing to stretch and bend for the child.⁴⁹ If that involves certain systemic changes, like modifications in the curricula and the methods of teaching, then why can it not be done? Why should there be any hesitation in changing the status quo?

Even though it has been seen as a ‘remedial alternative’ to be used in only exceptional circumstances, this concept has increasingly been used to ‘sideline’ those CWSN who could very well be a part of the mainstream schooling process, but for the lack of training and awareness, as well as the absence of a ready alternative, are not a part of the same. What is even more disappointing is that the scheme does not define what these ‘exceptional circumstances’ or ‘severely disabled’ are. While on one hand, the SSA adopts a policy of inclusion, on the other hand, a weak implementation of the scheme only leads to the pushing away of CWSN into isolation, away from the experience of all the other students, adding to the notion of excluding the disabled from the mainstream experience.

5. VIEWING DISABILITY WITH CASTE, CLASS AND GENDER

It has to be understood that disability is not a plain and isolated concept, and how it affects children varies according to a lot of factors. Caste, class, and gender play a huge role in attributing to the experience that a child with disability undergoes. Even according to the World Bank, “*a country’s economic, legislative, physical, and social environment may create or maintain barriers to the participation of people with disabilities in economic, civic, and community life.*”⁵⁰ Despite this, the schemes that are implemented for the purpose of their

⁴⁸ V. Venugopal, ‘Home-based schooling for disabled is non-inclusive’, THE HINDU (MAY. 09, 2017, 10:50 AM), <http://www.thehindu.com/news/cities/chennai/homebased-schooling-for-disabled-is-noninclusive/article3381392.ece>.

⁴⁹ *Home-based Education: A Right for Children with Severe and Multiple Disabilities?*, 9(1) DISABILITY NEWS AND INFORMATION SERVICE, NATIONAL CENTRE FOR PROMOTION OF EMPLOYMENT FOR DISABLED PEOPLE (2012).

⁵⁰ *Disability Overview*, THE WORLD BANK (May. 09, 2017, 10:50 AM) <http://www.worldbank.org/en/topic/disability/overview>

education, viewing the Sarva Shiksha Abhiyan in particular, fail to address the intersectionality among all these factors, and somehow view disability in isolation.

Among children with disabilities, the illiteracy rate is of around 64 percent for females, as compared to a 43 percent for males, and for the visually disabled, the rate is as high as 73 percent for females. Access to affordable education for a female disabled child is much more difficult than that for a male disabled child.⁵¹

Speaking of the rural-urban divide, the total illiteracy rate for persons with disabilities in the rural areas are around 49 percent, whereas for those in the urban areas, the rate is around 67 percent.⁵² Even the attendance rates in schools in urban areas are much higher than that in the rural areas, with the former being 65 percent, and the latter about 60 percent.⁵³

On the other hand, a person with disability from the backward class also has to face additional problems. Suffering from two stigmas, he faces not only discrimination and deprivation, but also faces trouble in gaining access to public resources, which is a basic violation of human rights.⁵⁴ The proportion of non-literate persons with disabilities is the highest among the members of the Scheduled Tribes (STs) [around 69%], followed by people from backward classes [around 64%].⁵⁵ This gap between the social groups widens as they move on to higher levels of education.⁵⁶

⁵¹ Mehrotra, N., *Disability, Gender and Caste: Marginality, Exclusion and Opportunities in Indian Economy*, (18) WOMEN'S LINK, 6 (2010)

⁵² Disabled Persons in India A Statistical Profile 2016, SOCIAL STATISTICS DIVISION, MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION, GOVERNMENT OF INDIA 28 (2016) (May 09, 2017, 10:50 AM) http://mospi.nic.in/sites/default/files/publication_reports/Disabled_persons_in_India_2016.pdf.

⁵³ *Id.* at 26

⁵⁴ C. Pal, G., *Dalits with Disabilities: The Neglected Dimensions of Social Exclusion*, (4) THE INDIAN INSTITUTE OF DALIT STUDIES, WORKING PAPER SERIES, 1 (2010).

⁵⁵ *supra* note 13, at 9

⁵⁶ *Supra* note 13, at 10

To understand marginalisation in India, one has to look at social categorisation that is based on all kinds of factors such as caste, gender, class, religion, ethnicity, etc. There is a hierarchy that is created on the basis of each of these factors, and social groups are placed at somewhere or the other in this hierarchy, and they deprive certain groups from availing of their rights, opportunities and resources. Therefore, when we look at disability as something on the basis of which marginalisation takes place, then it cannot be seen in isolation, and as a binary of persons with disabilities and those who do not have these disabilities. How a particular social benefit is being received by a child with disability depends on his social and economic background completely.

Gender also plays a pivotal role in the discourse on disability and education. The experience of a female child with disabilities will be very different from that of a male child, similarly the accessibility of education for a student with disability from a backward class will be encountered with many more hurdles than those that an upper caste child with disability has to face. Why, in this case, are the present laws and schemes not cognizant of that? The lawmakers have to realise the intermingling of all these social factors on the basis of which marginalisation has to take place, and only then will they be able to create legislation which will have a strong and concrete impact on the prevalent stigma that is attached with disability. The laws and schemes that are enforced should create provisions and craft measures that help fight discrimination on other grounds as well, so that equality can be achieved in the truest sense of the word.

6. CONCLUSION

Despite a multitude of laws and programmes for the upliftment of the status of education of children with disabilities, the enforcement seems to be quite poor. The root cause of this problem lies in the approach that majority of the society has towards disability, which is that of sympathy and charity. First of all, the definitions of disability have to be made more open ended and fluid, so that there is no unnecessary exclusion of those who deserve to avail the benefits of the various opportunities that the State provides for them. While the Rights of Persons with

Disabilities Act, 2016 increases the number of disabilities so that a multitude of people suffering from diverse forms of disabilities can avail of benefits accruing from the Act, the problem of providing an exhaustive list and a numerical standard is still problematic. Secondly, the focus of all these schemes and programmes should be to integrate the children with disabilities with the other students in schools, and not to impede their development by highlighting the differences between the disabled and the 'normal'. And lastly, the lawmakers have to realise that the socioeconomic background of a disabled child has a lot to do in contributing to his experience with education, and, hence, that should be taken into account when laws are made in this regard. There is a need for changing the existing education system by understanding how it upholds various patterns of injustice, rather than sticking to a merely distributive paradigm of social justice, and bringing changes which will only segregate the disabled from the 'normal'. There is a need for a sea-change in the approach of the society as well as the initiatives taken up by the government in the area of affordable and accessible education for disabled children, and once these changes are brought, their positive effects on education in the country will definitely be more visible, and that will contribute to the overall development and progress of the entire country.