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Need for speed on disability rights law



Insight, Disability - Advice, Nov '16

“Bring Back RPD Bill” will be the rallying cry on Delhi streets this December 3, the International Day of Persons with Disabilities. Shampa Sengupta wants government apathy towards the Rights of Persons with Disabilities Bill to end immediately

There are four laws in India that directly address the concerns of persons with disabilities. But the **Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act**, more popularly known as PwD Act, is the major one that addresses various kinds of disabilities. Sadly it is archaic in nature and based on a narrow medical outlook towards disability. This Act was passed in 1995 without debate or discussion in the Parliament. Its implementation remains problematic till date and the process of amending it started within nine years of it being passed!

While disability rights activists were debating and discussing amendments to the PwD Act, the United Nations adopted the **Convention on the Rights of Persons with Disabilities** (UNCRPD) in 2007. India was among the foremost countries to sign and ratify the convention. It became obligatory for India now to amend all the laws pertaining to disability in line with the UNCRPD.

The disability rights movement pointed out that amending the existing Act would require more than 300 changes, and so a new law should replace the old one. But the Government of India was keen on amending the existing Act. It was only in 2010 that it accepted the demand for a new law and constituted a committee headed by Dr. Sudha Kaul to draft a new bill.



The Sudha Kaul Committee worked extremely hard for over a year. A number of stakeholder meetings and national and regional civil society consultations took place. Disability being a heterogeneous issue, it became difficult for different groups to arrive at a consensus on various points.

There were major debates on how to define disability, and whether issues pertaining to care-givers of persons with disabilities should be included in the new law. Sometimes the debates turned rather unpalatable. There were instances when the committee members resigned and made public statements against the committee!

After the committee finally submitted its report to the Ministry of Social Justice & Empowerment (MSJE), disability rights activists christened the new law as the RPD Bill (short for Rights of Persons with Disabilities Bill). A draft of the RPD Bill was put up on the MSJE website and activists started sending suggestions for changes to the draft. But they also tried to pressure the government to place the RPD Bill in the Parliament for debate.

The MSJE at this point of time brought out its own draft of the RPD Bill, which had a large number of diversions from the draft prepared by the Sudha Kaul Committee. Disability rights activists were extremely perturbed by these changes, but they did not let up on the demand to place the Bill in the Parliament.

They argued that a lot of time and resources had been invested in the RPD Bill and it deserved to be debated in the Parliament. This would help make political leaders aware about the issues involved and generate political will towards implementation of the new law on disability. Many leaders of the disability rights movement felt that advocacy with political parties was extremely important if disability was ever to be seen as an issue of rights rather than one of just charity.

The **RPD Bill was introduced in the Rajya Sabha in February 2014** at the fag end of the United Progressive Alliance government's tenure. However, there were **substantive differences in this version of the Bill** from the earlier MSJE draft, and disability rights activists were furious about this. Several groups staged *dharnas* and did not want the Bill to be passed without specific amendments.

At this point, the ongoing advocacy with political parties paid off, and some of the political leaders agreed to intervene. MP Sitaram Yechuri of CPI (M) intervened in the Rajya Sabha and demanded that the Bill should be referred to a Parliamentary Standing Committee for further deliberations.

The MP's proposal was accepted and a standing committee was constituted to review the Bill. This committee completed its term and submitted its report in May 2015. More than 18 months later, the current government is yet to show any interest in discussing the Bill or providing its comments on the report submitted.



The fact remains that the disability rights movement is still divided in accepting certain aspects of the Bill. A major point of debate is acknowledging the 'full legal capacity' of all persons with disabilities.

Even now, the groups of care-givers and those of persons with disabilities are at loggerheads about issues like guardianship of persons with disabilities. The latter argue that not all persons with disabilities require guardianship support once they attain adulthood.

Unfortunately disability is such a heterogeneous issue that to come to a conclusive decision on such debates becomes difficult.

In the Bill itself, some major aspects have become diluted in the process of drafting and redrafting over six long years (2010-16). These are issues like right to life, full political participation or having a much more powerful body than the current **Office of the Chief Commissioner for Persons with Disabilities** to resolve cases of atrocities against persons with disabilities. Yet, a large number of persons with disabilities are hopeful that tabling the RPD Bill and discussing it in the Parliament will bring about significant changes in their lives.

One can surely say that it is important at this stage for the government to come out with an action taken report since the Parliamentary Standing Committee placed its report. Years of hard work and monetary resources spent on drafting and redrafting the RPD Bill can't be allowed to go waste.

Let it not be forgotten that the process of amending the PwD Act and bringing about a new law to address disability concerns started way back in 2004. Thus many people engaged in the disability rights struggles, including this author, have waited more than a decade to see a rights-based disability law become a reality in India.

Come December 3, the **International Day of Persons with Disabilities**, lakhs of persons with disabilities and their comrades from all over India plan to hit the streets of Delhi to demand the tabling of the RPD Bill in the Parliament. Will the Government of India remain 'blind' and turn a 'deaf' ear to the slogans of "Bring Back RPD Bill"?

All photo credits: Shampa Sengupta (second and third photographs are part of this year's campaign in Kolkata to have the RPD Bill tabled in the Parliament; main photo was taken in Kolkata ahead of last year's rally in Delhi on the International Day of Persons with Disabilities).

24-11-2016

Pawan Dhall

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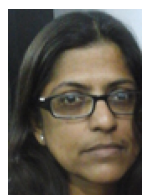
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Shampa Sengupta

Shampa Sengupta is a Kolkata-based activist working on gender and disability issues for more than 25 years. She is the founder of an advocacy group called Sruti Disability Rights Centre and is Executive Committee Member, National Platform for Rights of the Disabled. She will be happy to answer your queries on disability and related issues. Write in your queries to vartablog@gmail.com, and they will be answered with due respect to confidentiality.

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Great job done, Shampa. We are with your endeavor.

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