



Contemporary relevance of the basic structure of the constitution of India: Especially focussed on the condition of differently abled people in India

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Abstract

Preamble of Indian constitution is the basic philosophy of our constitution. It tells us about the main target to make Indian constitution for us. Constitution provides us different fundamental rights, duties and a political structure through which India is being governed and administered for the all-round developments of each and every section of Indian society in term of economic, social and political. If we look at the condition of person with disabilities section of Indian society then we find that it is very intolerable. Almost 10% of total population of India belongs to person with disabilities. But their living standard is very poor though the Indian constitution provides them liberty, equality, justice, fraternity, dignity of individuals, unity and integrity of nation but there is no liberty, equality, justice, fraternity and dignity in their lives. The basic structure of Indian constitution has failed to achieve its target in favor of the condition of differently abled people in India. Here in this paper, I want to illuminate the contemporary relevance of the basic structure of constitution of India in light of the condition of person with disabilities section of Indian society.

Keywords: Preamble, constitution, person with disabilities, condition, liberty, equality, justice and dignity

Introduction

The Basic Structure of the constitution of India is its preamble which contains sovereignty, Socialism, Secularism, Democracy, Republic, Liberty, Equality, Fraternity, and Dignity of individuals, unity and integrity of Nation. In present time some part of basic structure of Indian constitution has lost its relevance in my point of view. For example, Dignity of the differently abled people, Liberty and Equality of Differently abled people in our country. If we see in the society then we will find that there is no dignity, liberty and equality of Disabled people in our country. The common people don't respect them. They use slang words to call them in trains and buses, on the way and in the crowded places, in the work place and everywhere where their population is present. So where is the dignity of the disabled people? I am visually disabled person. I face many problems in my everyday life action as like; In using computer, in identifying the destination of buses and Auto which is written on the front glass, identifying the switch of lift of any governmental institution, hospital and shopping mall, identifying the post, name and chamber of officers and staffs in any government and non-government institutions, problem in crossing the road, identifying the needy shop in the market, problem in counting the money on way, problem in reading the notice board of any government and non-governmental offices, Identifying compartment number and seat number of train, and so on. If I ask people about these. They simply say that there is written, are you not watching? Can you not read? They don't understand my problem. Here I am deprived, not only I, there are almost 10% of total population of India who are also suffering from different types of disability, are also suffering from the lack of dignity in every place and in every time in our country. Our constitution talks about dignity of every individual. But where is the dignity of disabled people? In the basic structure of constitution or in the hands of government? Here in this paper, I am going to express my concern on this point.

Meaning of Dignity and Its Importance

The English word dignity has come from the Latin word 'Dignus' or 'Dignitas' which means certain respect or worthiness, This word use in politics to critique the treatment of oppressed and vulnerable group and people. In ordinary modern usage, the word denotes 'Respect' and 'Status' and it is often used to suggest that someone is not receiving a proper degree of respect or even that they are failing to treat themselves with proper self-respect. Here respect and status from other given a person self-respect and this self-respect brings confidence and opportunity especially among the disabled people. According to United Nation Universal Declaration of Human Right," All human beings are born free and equal in dignity and rights: they are endowed with reasons and conscience and should act towards one another in a spirit of brotherhood."

Constitutional Provision for Disabled People in India

It is common knowledge that international human rights law is based on the principles of equality, dignity, autonomy and liberty and its security. The constitution of India has also imbibed the spirit of these values. The preamble to the constitution clearly states, "Indian constitution secure to all the citizens; justice: social, economic and political; liberty of thoughts, expression, belief, faith, and worship; equality of status and of opportunity and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the nation."

The constitution of India applies uniformly to every legal citizen of India, whether they are healthy or disabled in any way (physical or mentally). Under our constitution, the disabled have been guaranteed the following fundamental rights:

1. The constitution secures to the citizens including the disabled, a right of justice, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and for the promotion of fraternity.

2. Article 15(1) enjoins on the government not to discriminate against any citizen of India (including disabled) on the ground of religion, race, caste, sex or place of birth.
3. Article 15(2) states that no citizen (including the disabled) shall be subjected to any disability, liability, restriction or condition of any of the above grounds in the matter of their access to shops, public restaurants, hotels and places of public entertainment or in the use of Wells, Tanks, Bathing Ghats, Roads and Places of public resort maintained wholly or partly out of government funds or dedicated to the use of the general public. Women and children and those belonging to any socially and educationally backward classes or the scheduled castes and tribes can be given the benefit of special laws or special provisions made by the state. There shall be equality of opportunity for all citizens (including the disabled) in the matters relating to employment or appointment to any office under the state.
4. No person including the disabled irrespective of his belonging can be treated as an untouchable. It would be an offence punishable in accordance with law as provided by article 17 of the constitution.
5. Every person including the disabled has his life and liberty guaranteed under article 21 of the constitution.
6. There can be no traffic in human beings (including the disabled), and beggar and other forms of forced Labor is prohibited and the same is made punishable in accordance with law (article 23).
7. Article 24 prohibits employment of children (including the disabled) below the age of 14 years to work in any factory or mine or to be engaged in any other hazardous employment. Even a private contractor acting for the government cannot engage children below 14 years of age in such employment.
8. Article 25 guarantees to every citizen (including the disabled) the right to freedom of religion. Every disabled person (like the non-disabled) has the freedom of conscience to practice and propagate his religion subject to proper order, morality and health.
9. No disabled person can be compelled to pay taxes for the promotion and maintenance of any particular religion or religious group.
10. No Disabled person will be deprived of the right to the language, script or culture which he has or to which he belongs.
11. Every disabled person can move the supreme court of India to enforce his fundamental rights and the rights to move the Supreme Court is itself guaranteed by Article 32.
12. No disabled person owning property (like the non-disabled) can be deprived of his property except by authority of law though right to property is not a fundamental right. Any unauthorized deprivation of property can be challenged by suit and for relief by way of damages.
13. Every disabled person (like the non-disabled) on attainment of 18 years of age becomes eligible for inclusion of his name in the general electoral roll for the territorial constituency to which he belongs

Whether There Is Dignity of Differently abled People in India Present or Not

There is a lot of constitutional rights for all the people of India including differently abled people but the question arises whether these rights are able to protect and secure the condition of this section of society or not? Whether the basic structure of Indian constitution is relevant or not? According to my point of view, there is not the dignity of differently abled people in India. Though there are constitutional and legal right for them. The present Prime Minister, Shri Narendra Modi on 27th December, 2015 in his speech of Mann Ki Baat, said that we should use the word 'Divyang' in place of 'Viklang' to refer to person with disabilities which mean the one with Divine body. Morally it is good but in practical it is a matter of laugh. Prime Minister, just wanted to elevate the level of dignity of Indian disabled people by using the term 'Divyang' but there is no any effect in the life of disabled people. Only changing the name does not guarantee that that will change the dignity, standard of life and confidence of disabled people. I am myself visually disabled. My problem and its observation is the source of my thought. Not only my problem, I have observed 20 disabled people's lives in different types of disability such as hearing impaired, orthopedically disability, Speaking disability, Mental disability and also multiple disabilities and their problem. After discussing with them, I have found many things which can prove that there is no dignity of these types of people in the society. Firstly, they don't know that the prime minister of India, Shri Narendra Modi has told the public to use the term 'Divyang' in place of 'Viklang'. So how the term will work, Secondly, out of 20 disabled people 10 have not disability certificate. No one is there to tell them about their rights. Here where is the government and non-government organization who are talking about the dignity of these people? Thirdly, there are two families who hide their daughter's disability due to social prestige. So where is the dignity of these two girls? Fourthly, they said that local people use the slang words to call them. At that time no one is there to save the dignity of these people. Fifthly, out of 20 disabled people. No one has permanent work and no any person give them the work to do. So here how will they live the life. They are the burden on their families. Hence where is the dignity? Where is the constitution? Sixthly, they said that they could not read in the school because when they used to go to school, the non-disabled students make jokes on them which they could not tolerate and they left the school. Here their dignity is violated by the non-disabled students. Seventhly, they said that they are unable to climb in the buses so they don't go to their relatives and outside of their villages. it means that there is not barrier free environment for them. Here where is equality, liberty and justice? In the constitution or to government. Eighthly, one among them was graduate. He said that he does not go to government offices because the officers don't listen his matter and he does not get any response from them. Once he went to post office to withdraw his pension amount of 600 rs. At that time the staff of post office said that which type of disability do you have? He told visually disability then he said that you are looking well, why is government giving you pension. Staff told him that he is cheating the government and he used many slang words. Here where is the dignity? Ninthly, no one wants to marry these types of people, here they lose their dignity. Tenthly, they told that

they can not express their views on anything because they always feel less confidence. So, he loses his dignity. Eleventh, many of them said that their disability is the result of their previous karma. This thought makes them feel poor and less confidence and they feel that there is no meaning of their lives so here their dignity lost.

How can the dignity of disabled people be achieved?

There are many laws to protect the right of person with disability in India as like, the mental health act 1987, the rehabilitation council of India act 1992, the person with disability act, 1995, the national trust for welfare of person with autism, cerebral palsy, mental retardation and multiple disabilities act, 1999, the right of person with disability act, 2016. All these acts failed to achieve the liberty, equality, justice and dignity of the major part of disabled people in India. According to my point of view there are many ways through which it can be achieved. Which are as following:

1. Every panchayat members of each gram panchayat or every councilors of each municipality or every booth level officer (BLO) of each booth should be given the work of identifying the disabled people in their respective areas in every year and they will have to submit the report within a specific time period. They will have to find out all those disabled person who have disability certificate and all those disabled person who have not disability certificate.
2. The report of not having disability certificate should be Sent to the respective health centre to verify their disability and then after the health centre will have to collect the required or relevant documents from the disabled person and will have to submit it to the medical officer. Medical officer will again verify the disability of that person with the help of respective doctor of that person's disability and he will have to provide disability certificate to that verified disabled person at his home address.
3. It will be the responsibility of the chief medical officer or medical officer to provide the disability certificate to the respective disabled person to their respective home address because there are many disabled people who are unable to go to the office or no one is there in their family to support them.
4. The government should add a new chapter on disability study in the syllabus of social science from primary level to post graduate level. Here in this chapter, there will be the contents like meaning of disability, various forms of disability, different terms used for these people, why does disability arise in human?, feeling of disabled people, public policies for them in different state of India and in the world, how to minimize the problem of these people, how to behave with them etc. Their study will create awareness among the common people and the normal students will aware towards the problems and feelings of these people. So that the common people will not misbehave with them and will not use slang words for them. Not only this much, the normal students of school, college and university will behave with them Politely and morally. So, in this way it will create positive environment for them in the educational institution and in the public environment.
5. Only making laws for the welfare of them will not provide the liberty, equality, dignity to them but whatever laws have been passed should be strictly

reached to the last Divyang people in every village of India through panchayat members, councilors, primary school teachers, local people and NGO because these Divyang people of village do not aware about their rights.

6. In gram Sabha and gram Sansad meeting the topic of disability should be discussed among the common people by the B.D.O, join B.D.O, Panchayat Pradhan, panchayat members, whoever will present in the meeting. So that the uneducated, illiterate common people will aware about the problem of disabled people and their feeling and then they will not behave like animal with them.
7. In our country, the pension amount of these people is varied from state to state. It is one thousand per month in west Bengal whereas it is 500 to 3000 in other state of India. But this amount is not sufficient to live the life. The Indian government should equalize the pension amount at least 5000 per month in each state of India. So that the economic power of disabled people will increase and they will be able to live the life freely without be any burden on others and will live the life with dignity.
8. There should be one platform where every disabled people will interact with each other and can share their views in the solution of their problem, on public policies for them, on new information relating to disability, on medical treatment related information, on government / private service-related information, on different NGO related information, information relating to new invention in the world for them etc. This will create awareness among them. So that they can develop their inner and outer capacity where disability will not become barrier in their life.
9. Government should allot more funds in budget for department of empowerment of person with disability, ministry of social justice, so that the development process of these people will be very fast.
10. Woman and the girl child with disability face double discrimination due to existing gender discrimination and social inequality. They are socially, culturally and economically more disadvantaged people. So, whenever any law or policy is made for disable person, specific provision should be made for this highly discriminated and disadvantaged group of people of our country.
11. Proper training should be given to the respective differently abled people by central and every state government. So that they can easily use their potential in different ways to live their lives and can solve their problem of their lives without being burden on others.

Conclusion

At last after elaborating the above topic, it can be said that there is no liberty, equality, justice and dignity of disabled people in India. These people are so much valuable for our country. They are assets of our country. If they will provide proper facilities, guidance and care and respect, then they can contribute a lot of things for our country. Suppose our whole body is India and if one part of body is defective then whole body fell illness as like this the disable population of India affects the growth of India. So, the government should work on the condition of disabled people and should protect the liberty, equality, justice and dignity of them by

providing job opportunity, creating awareness among the common people about the felling of these people, providing 5000 per month as pension and insurance facility, regular survey of them, providing disability certificate at their home address, providing more fund for them. Though there are many laws for them but they have not reached to the majority of disable people. So, if local authority like BDO, Join BDO, Panchayat Pradhan, Panchayat members, NGO will be given responsibility to work on these population and aware them about their rights and facilities then the disabled population may feel liberty, equality, justice and dignity in society. Then the basic structure of Indian constitution will become valid.

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