

Feminist Analysis of RPWD Act 2016

Raj Kumari Gupta

Professor,

Department of Education, Panjab University, Chandigarh, India.

ABSTRACT

This article presents feminist analysis of Rights of Persons with Disability Act, 2016. The points of focus of analysis are language of the Act, content of the Act and its essence, contravention found in the Act and some omissions (content desired but amiss). One would find the Act more feminist had these omissions not been there.

Keywords: RPWD Act, analysis, feminist

INTRODUCTION

A need to analyze Rights of the Persons with Disability (RPWD) Act was felt considering the male dominated society of India. Here is an account of how far it is catering to idea of feminism.

RPWD Act was enacted to adhere to U.N. Convention on the Rights of Persons with Disabilities (2006) which India had also signed. It came to be published in the Indian Gazette on 28th December, 2016. Section 102 of this Act speaks of repealing the previous legislation in this regard i.e. The Persons with Disability (Equal Opportunity, Protection of Rights and Full participation) Act of 1995. RPWD Act recognises 21 disabilities. It has 17 chapters with a schedule at the end which defines all the recognized disabilities. It talks of a bench mark disability, presents a chapter on offences and penalties and gives importance to district level committees besides central and state committees. National fund for the disabled figures in it, which is a first in a legal document for the disabled. In research, permission for the data collection from the relevant corners is mentioned- a significant step for ethical considerations. This Act talks of Special Court, Health, Skill development etc. With such significant aspects in it, this Act will prove to be a landmark in history of the legal facilities for persons with disabilities.

Present article is devoted to analysis of this Act with respect to feminist perspective. Analysis has been done while keeping in mind language of the Act, content and its essence, contravention, omissions etc.

CONCEPT

Word feminist relates to or supports feminism.

Feminism is advocacy of women's rights on the ground of the equality of the sexes (Dictionary.com 2015).

Feminism is a range of political movements, ideologies and social movements that share a common goal: to define, establish, and achieve political, economic, personal, and social equality for both men and women (<https://www.cram.com/essay/Feminism-Is-A-Range-Of-Political-Movements/FKTHETLG6EEX>). Feminism is the belief that women should be allowed the same rights, power, and opportunities as men and be treated in the same way, or the set of activities intended to achieve this state (<https://dictionary.cambridge.org/dictionary/english/feminism>).

ANALYSIS

Following is an account of analysis of the Act with respect to feminist point of view

Language:

As far as language of the Act is concerned the words used in text at most places are:-

- a. person with disability (not men or women),
- b. children (not boys or girls),
- c. students (not males or females),
- d. public (not men or women),

and his/her are used together. Herein, mostly gender neutrality has been exercised.

However, chapters IV, X, XI, XII, XIII, XIV, XV, XVI, are replete with pronouns like 'His', 'Him', 'he' without partner words 'her', 'her' and 'she'. One finds abundant use of these gender biased usages. e.g. Clause 61, part 2, on page 22, Chapter XI, it reads as 'the Central Government may, if it thinks fit, remove any member nominated under (r) of subsection (2) of section 60, before the expiry of his (her is missing) term of office after giving him (her is missing) a reasonable opportunity of showing cause against the same.

Similarly, 58 (2) b 'inform him (her is missing) in writing that he (she is missing) has no specified disability'. At other places 'he' (alone without 'she') is also used in these chapters.

Chapter XVI on offences and penalties, Clause 92 b) whoever.....assaults or uses force to any personswith intend to dishonour him (her is missing).

Let us note that nowhere, pronouns she and/or her were used alone, without he, his and/or him. The mind does not work like that. Gender bias is tilted towards one side favoring the male counterpart and treating it as natural. In a National Conference, author was told (by a lawyer faculty member) that 'she' is part of 'he' when author was talking on the same subject.

Content

If we look at content part, separate provisions made for women are visible at places: Chapter II, Clause 4 (i); the appropriate Government & the local authorities shall take measures to ensure that the women & children with disabilities enjoy their rights equally with others.

Also, Chapter V, Clause 25 (2) the appropriate govt. shall take measures and make schemes.....(f) For pre-natal, peri-natal & post natal care of mother and child. Similarly, in same clause 25 (2) the appropriate govt. shall take measures and make schemes.....(k): for sexual and reproductive healthcare especially for women with disability. This part shows that there are provisions meant only for women at places.

In Chapter V and chapter VI, similarly special provisions for women have been made. Chapter V, on social security, health, rehabilitation & recreation, clause 24 (3) d makes a mention of 'support to women with

disability for livelihood and for upbringing of their children'. Chapter VI, on Special provisions for persons with benchmark disabilities Clause 37 The appropriate Govt. make schemes..... to provide.. (a) 5% reservation in allotment of land..... with appropriate priority to women with benchmark disabilities (b) 5% reservation in all poverty alleviation.... schemes..... priority to women with benchmark disabilities.

Chapter XI, on Central & State advisory boards on disability and district level committee is indicative of similar equality. Clause 60 (2) r -ii: It deals with central nominations. It reads---'ten members.....being PwDs..... to represent NGOs concerned with disabilities..... provided out of these ten members nominated at least five members shall be women...

Similarly, for state nominations, clause 66 (2) e iii---- out of ten members provision for at least five to be women.

These are some chunks in the Act which will facilitate upliftment of Women with Disability positively.

Contravention

CHAPTER XVI on OFFENCES AND PENALTIES, clause 92, part (b) reads asWhoever-'assaults or uses force to any person with disability with intent to dishonor him or outrage the modesty of a woman with disability shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years & with fine.'

Indian Penal Code —section 354, mentions a punishment at a minimum of one year for such a misdeed. This contravenes the provisions under Indian Penal Code. In fact, the minimum penalty should be more (rather than less) for such a person who outrages the modesty of a woman with disability, because for them it is difficult to fight back. Only if the penalty is good enough, the deterrent effect will come. This does not find favor with feminism.

Omissions

Following section deals with some suggestions, which, if were present in the Act, would lead to better welfare of Women with Disability:-

- In chapter IV, page 9 onwards, on skill development and employment a mention of 'equivalence of wages of women having disability with those of men having disability and with those women who have no disability' would ensure equal wages for same work for men & women with disability, and women with and without disability.
- In Chapter V, page 11, on social security, health, rehabilitation & recreation, addition of 'awareness & education of newly-wed women for prevention of disability' in Clause 25, part 2 will go a long way.
- Chapter XII, 74, (8), page 20, the Chief Commissioner shall be assisted by an advisory committee comprising of not more than 11 members drawn from the experts from different disabilities in such manner as may be prescribed by central govt. No visible provision for inclusion of women is found here.
- Clause 79 (7) page 25, the state commissioner shall be assisted by an advisory committee comprising of not more than 5 members drawn from the experts from different disabilities in such manner as may be prescribed by state govt. No visible provision for inclusion of women, is seen here.
- Also access to proper toilets in case of women with disability whether in home or outside home as a matter of right must be mentioned in the Act. This could be part of 'health care' chapter. Author's experience in some villages suggests that many women do not have easy access to toilets. Matter becomes even more complicated for woman with disability.

We must remember that a woman with a disability is doubly disadvantaged due to our deeply ingrained cultural conditioning. Access to provisions must be carefully made in all sensitivity. Though this Act is quite feminist in its presentation, a lot more can be done.

REFERENCES

- Dictionary. Com (2015) <https://www.cram.com/essay/Feminism-The-Advocacy-Of-Women-s-Rights/PKW2D59GR445> Retrieved on January 24th 2020.
- <https://www.cram.com/essay/Feminism-Is-A-Range-of-Political-Movements/FKTHETLG6EEX> Retrieved on January 24th 2020
- <https://dictionary.cambridge.org/dictionary/english/feminism>
- Indian Penal Code (1860). Government of India. New Delhi.
- Rights of Persons with Disability Act (2016). The Gazette of India, New Delhi.

Note: Contents carrying blanks with dots are to be read from the Act for whole text.

Access the article online:

<http://jdmronline.org/index.php/jdmr/article/view/73>

Quick Response Code



Corresponding Author :

Prof. Raj Kumari Gupta, Department of Education,
Panjab University, Chandigarh, India.

Email: rajkgupta1955@gmail.com

How to cite this article: Gupta, R.K. (2019). Feminist Analysis of RPWD Act 2016. *Journal of Disability Management and Rehabilitation*, 5(2):57-59.