
UNIT 25 RIGHTS OF PERSONS WITH DISABILITIES

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25.0 INTRODUCTION

Persons with disabilities constitute the largest minority in the world encompassing over 600 million persons, of which majority live in developing countries (Helander, 1992). At least one quarter of these children suffer from physical, mental or sensory impairment. For a long time, the disabled people have experienced discrimination, prejudice, neglect and exclusion in every walk of life. In pre-modern societies, the disabled persons were eliminated through killing programmes and sterilization and were considered as non-persons and second-class citizens. The systematic exclusion and discrimination of people with disabilities has no rational basis but is precisely due to prejudice, thoughtlessness and indifference of the society as a whole.

There is no doubt that disability causes social stigma, because the condition of disability is considered as “undesired differentness” from socially defined norm of “normality.” The core aspect of stigma occurs when the prevailing social norms treat disability as universally discrediting. The society and its institutions are designed for the “normal” and not for the people with stigmatized traits. In the

context of employment, it is seen that the persons with disabilities are disfavoured because of stereotypes, discomfort or misconceptions and unfounded fears about increased costs and decreased productivity. In fact, the effects of disability are directly felt in the spheres of education, transport, physical access to market and recreational places, social and welfare services, income and wealth, housing, health services, and in employment.

However, it must be remembered that the disabled persons are also human beings and as such, they are entitled to enjoy all human rights. They have every right to be treated equally with others. They too are potentially able to perform a broad range of activities. They only need our support, encouragement and special protection and special rights to enable them to utilize their abilities to the maximum extent.

The Constitution of India ensures equality, freedom, justice and dignity of all individuals and implicitly mandates an inclusive society for all including persons with disabilities. In the recent years, there have been vast and positive changes in the perception of the society towards persons with disabilities. It has been realized that a majority of persons with disabilities can lead a better quality of life if they have equal opportunities and effective access to rehabilitation measures.

25.1 OBJECTIVES

After you go through this Unit, we expect you to be able to:

- Analyze the problems faced by the persons with disabilities in their day to day life;
- Appreciate the rights of the persons with disabilities;
- Describe the international efforts for the protection of the rights of persons with disabilities; and
- Explain the significance of the national laws and policies for the protection and promotion of the rights of persons with disabilities.

25.2 RIGHTS OF PERSONS WITH DISABILITIES: INTERNATIONAL PERSPECTIVE

At international level, the United Nations Charter in its Preamble reaffirms faith in the fundamental human rights, in the dignity and worth of human persons and in the equal rights of men and women. One of the purposes of the UN is to promote and encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

The Universal Declaration of Human Rights (UDHR), 1948, in its preamble, clearly states that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. The Declaration emphasizes that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration without distinction of any kind (United Nations, 1948). The disabled are also human beings and entitled to full enjoyment of all the human rights set forth in the Declaration.

As a starting point in the direction of ameliorating the hardships of the disabled persons, the UN adopted a resolution in 1950 concerning rehabilitation of the physically handicapped and entrusted the responsibility on the Economic and Social Council.

In 1971, the UN General Assembly adopted the “Declaration on the Rights of Mentally Retarded Persons” which states that people with mental impairments are entitled to the same rights that their fellow men enjoy in medical care and economic security, and the right to live in family and in community. This remains the *magna carta* of the rights of mentally retarded persons even today.

An important first step in the global recognition of equal rights of the disabled persons was the “Declaration of the Rights of Disabled Persons” adopted by the UN General Assembly in 1975. The Declaration aims to assist the disabled persons to develop their abilities in most varied fields of activities and promoting in so far as possible their integration into normal life. It envisages the various rights of the disabled such as right to medical and psychological treatment, medical and social rehabilitation, education, counseling and other services to ensure their social integration. Entitlements to live with ones family, to participate in social and recreational activities and freedom from discrimination with respect to accommodation are also enumerated (United Nations, 1975).

Along with these developments, the UN had also proclaimed 1981 as the International Year of Disabled Persons, 1983-1992 as the Decade for Disabled Persons and every 3rd December as the International Day of Disabled Persons. The main objective was to encourage disabled persons to organize themselves, to enable them to express their views and to secure their rights to participate in the work of policy-making bodies and in the management of the society in general (www.aifo.it/english/.../manual_human_rights-disability-eng07).

The General Assembly, in its 37th session in December 1982, adopted the World Programme of Action concerning Disabled Persons (WPA). “Equalization of Opportunities” was the main theme of WPA which demands participation of the disabled persons in decision-making. A major event was the appointment of a special rapporteur on human rights and disability by the Sub-Commission on Prevention of Discrimination and Protection of Disability in 1984 (<http://www.unhchr.ch/html/menu3/b/72.htm>).

However, in spite of all these declarations, recommendations and resolutions, the member States were not legally obliged to take specific steps to protect and rehabilitate the disabled. This lacuna made it urgent to formulate a new and comprehensive convention to promote and protect the rights and dignity of the disabled. After a series of efforts, the UN General Assembly adopted the “UN Convention on the Rights of the Disabled Persons” on December 13, 2006. This Convention is highlighted, in brief, below.

India is a signatory to the Declaration on the Full Participation and Equality of People with Disabilities in the Asia Pacific Region. India is also a signatory to the Biwako Millennium Framework for Action towards an inclusive, barrier free and rights-based society. India signed the UN Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities on 30th March 2007, the day it opened for signature. India ratifies the UN Convention on 1st October 2008.

25.2.1 United Nations Convention on the Rights of the Disabled Persons

The main objective of the Convention is to guarantee effective protection of the disabled and to ensure that they can enjoy the full range of human rights — civil, political, economic, social and cultural. The Convention obligates the member-States to enact laws and take measures to protect and promote the rights of the disabled and abolish biased legislations, customs and practices which discriminate against the disabled persons.

25.2.1.1 Definition of Disability

The Convention adopts a social model of disability, and defines the disabled persons as those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

25.2.1.2 Prevention of Discrimination

The Convention stresses that persons with disabilities should be able to live independently and participate fully in all aspects of life. To this end, State parties should take appropriate measures to ensure that persons with disabilities have access to the physical environment, to transportation, to information and communications technology, and to other facilities and services open or provided to the public.

25.2.1.3 Right to Education

The Convention states that persons with disabilities should be guaranteed the right to inclusive education at all levels, regardless of age, without discrimination and on the basis of equal opportunity.

State parties should ensure that:

- children with disabilities are not excluded from free and compulsory primary education, or from secondary education;
- adults with disabilities have access to general tertiary education, vocational training, adult education and lifelong learning;
- persons with disabilities receive the necessary support, within the general education system, to facilitate their effective education; and
- effective individualized support measures are put in place to maximize academic and social development.

State Parties should take appropriate measures, such as:

- 1) endorsing the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication, and orientation and mobility skills, including facilitating peer support and mentoring;
- 2) supporting the learning of sign language and promoting the linguistic identity of the deaf community;

- 3) advocating that education of persons, particularly children, who are blind and/or deaf, is delivered in the most appropriate languages and means of communication for the individual; and
- 4) employing teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train education professionals and staff about disability awareness, use of augmentative and alternative modes and formats of communication, and educational techniques and materials to support persons with disabilities.

25.2.1.4 Right to Health

Article 17 of the Convention states that, every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

25.2.1.5 Participation Rights

The Convention recognised 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” and that “persons with disabilities continue to face barriers in their participation as equal members of society.”

The Convention makes participation of the disabled one of its principles, stating “The principles of the present Convention shall be full and effective participation and inclusion in society”, subsequently enshrining the right of disabled to participate fully and equally in the community, education, and all aspects of life including political and public life, cultural life, leisure and sports.

State parties should take appropriate measures such as:

- 1) To enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential not only for their own benefit but also for the enrichment of society.
- 2) To ensure, in accordance with international law, that law protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
- 3) To ensure that persons with disabilities should be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

One of the fundamental obligations contained in the Convention is that national law should guarantee the enjoyment of the rights enumerated in the Convention. State parties should, thus, consider the best ways of giving effect to the rights guaranteed by the Convention in domestic law. Implementing legislation should include the terms of the Convention or a specific reference to them, in order to indicate clearly that the laws should be interpreted in accordance with the letter and spirit of the Convention. The first meeting of the Conference of State parties was held on 31 October and 3 November 2008 (United Nations, See www.un.org/disabilities/default.asp?id).

Check Your Progress

Notes: a) Space given below the question is for writing your answer.

b) Check your answer with the one given at the end of this unit under “Answers to ‘Check Your Progress’ Questions”.

1) What are the important rights provided for in the International Convention on the Rights of Disabled Persons, 2006?

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25.3 RIGHTS OF PERSONS WITH DISABILITIES: NATIONAL PERSPECTIVE – CONSTITUTIONAL, LEGAL AND POLICY MEASURES

In India approximately 5 to 6% of the total populations are disabled (Evance Kalula, 2006). The Constitution of India expressly recognizes the duty of the State to protect the rights of the disabled. To ensure social justice is one of the prime objectives of the Constitution of India. The Constitution envisages the concept of Welfare State and it is the duty of the State to raise the level of nutrition and standard of living and to improve public health. The State is also duty-bound to make effective provisions for securing the right to work, education and public assistance in cases of unemployment, old age, sickness and disablement. Besides these, entry 9 of the List II to the Seventh Schedule of the Constitution is specifically titled “Relief of the Disabled and Unemployable.”

In furtherance of the constitutional provisions, the Indian parliament passed a number of legislations to protect and promote the rights of the persons with disabilities. These legislations are briefly discussed below.

25.3.1 Legislations for the Disabled Persons

The Constitution of India ensures equality, freedom, justice and dignity of all individuals and implicitly mandates an inclusive society for all including the persons with disabilities. The Constitution in the schedule of subjects lays direct responsibility of the empowerment of the persons with disabilities on the State Governments. Therefore, the primary responsibility to empower the persons with disabilities rests with the State Governments.

Under Article 253 of the Constitution read with item No.13 of the Union List of the Seventh Schedule, the Government of India enacted “The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995”, in the effort to ensure equal opportunities for persons with disabilities and their full participation in nation-building. The Act extends to whole of India except the State of Jammu and Kashmir (Note: The State of Jammu & Kashmir

has enacted its own Act — The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1998).

A multi-sectoral collaborative approach, involving all the appropriate Governments and authorities (i.e. Ministries of the Central Government, the State Governments/UTs as well as Central/State undertakings, local authorities and others), is being followed in implementation of various provisions of the Act.

Following are the Acts specially related to the disabled people, in addition to common laws equally applicable to them, in our country:

25.3.1.1 The Mental Health Act, 1987

This is an Act which consolidates and amends the law relating to the treatment and care of mentally-ill persons, and to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto.

25.3.1.2 The Rehabilitation Council of India Act, 1992

The Act was created to provide for the constitution of the Rehabilitation Council of India for regulating training of the Rehabilitation Professionals and maintaining of a Central Rehabilitation Register and for matters related to these issues.

The professionals who come under the purview of the Act include the following.

- Audiologists and speech therapists.
- Clinical psychologists.
- Hearing aid and ear mould technicians.
- Rehabilitation engineers and technicians.
- Special educators for teaching and training the handicapped.
- Vocational counsellors, employment officers, and placement officers.
- Multi-purpose rehabilitation therapists and technicians.
- Speech pathologists.
- Rehabilitation psychologists.
- Rehabilitation social workers.
- Rehabilitation practitioners in mental retardation.
- Orientation and mobility specialists.
- Community based rehabilitation professionals.
- Rehabilitation counsellors/administrators.
- Prosthetists and orthodontists.
- Rehabilitation workshop managers.

25.3.1.3 The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

The Act is guided by the philosophy of empowering persons with disabilities and their associates. The Act requires the appropriate government to endeavor, ensure and promote equality for people with disabilities. The government is also required to frame schemes for the rehabilitation of the disabled people.

The Act defines disability as one or more of the following: blindness, low vision, leprosy cured, hearing impairment, locomotors disability, mental retardation and mental illness. It says that to be considered disabled, a person must suffer from not less than 40 per cent of any disability, as certified by a medical authority.

The Act also authorizes the appropriate government to take affirmative actions to protect the rights of the persons with disabilities. Important provisions of the Act are:

- Chapter V of the Act is titled “Education” and deals with various aspects relating to the right to education of the persons with disabilities;
- Chapter VI which deals with “Employment”. It provides that all government educational institutions and other educational institutions receiving aid from the government shall reserve not less than three percent seats for persons with disabilities. It specifically provides for non-discrimination in transport, on the road, in the built-environment and in the government employment.

25.3.1.4 The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999

The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 establishes a National Trust to support programmes promoting independence and protecting interests of the persons with autism, cerebral palsy, mental retardation and multiple disabilities.

25.3.2 National Policy for Persons with Disabilities

In addition to the legal framework, extensive infrastructure has been developed over time under national policy to protect and promote the rights of the disabled persons. The following national Institutes have been working for development of manpower in different areas.

- Institute for the Physically Handicapped, New Delhi.
- National Institute of Visually Handicapped, Dehradun.
- National Institute for Orthopaedically Handicapped, Kolkata.
- National Institute for Mentally Handicapped, Secunderabad.
- National Institute for Hearing Handicapped, Mumbai.
- National Institute of Rehabilitation Training & Research, Cuttack.
- National Institute for Empowerment of Persons with Multiple Disabilities, Chennai.

There are five Composite Rehabilitation Centres (CRCs), four Regional Rehabilitation Centres (RRCs) and 120 District Disability Rehabilitation Centres (DDRCs) providing various kinds of rehabilitation services to persons with disabilities. There are also several national institutions under the Ministry of Health and Family Welfare working in the field of rehabilitation, like National Institute of Mental Health and Neuro Sciences, Bangalore; All India Institute of Physical Medicine and Rehabilitation, Mumbai; All India Institute of Speech and Hearing, Mysore; Central Institute of Psychiatry, Ranchi, etc. In addition, certain State Government institutions also provide rehabilitation services. Besides,

250 private institutions conduct training courses for rehabilitation professionals (kodakkal.ning.com/forum/topics/2038808).

National Handicapped and Finance Development Corporation (NHFDC) has been providing loans on concessional terms for undertaking self-employment ventures by the persons with disabilities through State channelizing Agencies.

Panchayati Raj Institutions at village, intermediary and district levels have been entrusted with the welfare of persons with disabilities.

All the above mentioned developments are the outcome of the national policy.

25.3.2.1 National Policy Statement – Important Aspects

The National Policy recognizes that Persons with Disabilities are valuable human resource for the country and seeks to create an environment that provides them equal opportunities, protection of their rights and full participation in society. The policy laid the focus on the following.

- i) Prevention of Disabilities:** Since disability, in a large number of cases, is preventable, there will be strong emphasis on prevention of disabilities. Programme for prevention of diseases which result in disability and for the creation of awareness regarding measures to be taken for prevention of disabilities during the period of pregnancy and thereafter will be intensified and their coverage expanded.
- ii) Rehabilitation Measures:** Rehabilitation measures can be classified into three distinct groups: a) physical rehabilitation, which includes early detection and intervention, counseling and medical interventions and provision of aids and appliances. It will also include the development of rehabilitation professionals; b) educational rehabilitation including vocational education; and c) economic rehabilitation for a dignified life in society.
- iii) Assistive Devices:** The Government of India has been assisting persons with disabilities in procuring durable and scientifically manufactured, modern aids and appliances of ISI standard that can promote their physical, social and psychological independence by reducing the effect of disabilities.
 - Every year through National Institutes, State Governments, DDRCs and NGOs, persons with disabilities are provided with devices such as prostheses and orthoses, tricycles, wheel chair, surgical footwear and devices for activities of daily living, learning equipments (Braille writing equipments, Dictaphone, CD player/tape recorder), low vision aids, special mobility aids like canes for blind, hearing aids, educational kits, communication aids, assistive and alerting devices and devices suitable for the persons with mental disabilities. The availability of devices will be expanded to cover uncovered and under-serviced areas.
 - Private, public and joint sector enterprises involved in the manufacture of high-tech assistive devices for persons with disabilities will be provided financial support by the public sector banks.
- iv) Education (Inclusive Education):** Education is the most effective vehicle of social and economic empowerment. In keeping with the spirit of the

Article 21A of the Constitution guaranteeing education as a fundamental right and Section 26 of the Persons with Disabilities Act, 1995, free and compulsory education has to be provided to all children with disabilities up to the minimum age of 18 years. According to the Census, 2001, fifty-one percent persons with disabilities are illiterate. There is a need for mainstreaming of the persons with disabilities in the general education system through inclusive education.

- **Sarva Shiksha Abhiyan (SSA)** launched by the Government has the goal of eight years of elementary schooling for all children including children with disabilities in the age group of 6-14 years by 2010. Children with disabilities in the age group of 15-18 years are provided free education under Integrated Education for Disabled Children (IEDC) Scheme. IEDC Scheme implemented through the State Governments, Autonomous Bodies and Voluntary Organizations provides hundred percent financial assistance for various facilities like special teachers, books and stationery, uniform, transport, readers allowance for the visually handicapped, hostel allowance, equipment cost, removal/modification of architectural barriers, financial assistance for purchase/production of instructional material, training of general teachers and equipment for resource rooms.
 - Under SSA, a continuum of educational options, learning aids and tools, mobility assistance, support services, etc., are being made available to students with disabilities. This includes education through an open learning system and open schools, alternative schooling, distance education, special schools, wherever necessary home-based education, itinerant teacher model, remedial teaching, part-time classes, Community Based Rehabilitation (CBR) and vocational education.
 - Government of India is providing scholarships to students with disabilities for pursuing studies at post-school level. Government will continue to support the scholarships and expand its coverage.
 - Persons with disabilities will be provided access to the universities, technical institutions and other institutions of higher learning to pursue higher and professional courses.
- v) **Economic Rehabilitation:** Economic rehabilitation of persons with disabilities comprise of both wage employment in organized sector and self-employment. Supporting structure of services by way of vocational rehabilitation centres and vocational training centres will be developed to ensure that disabled persons in both urban and rural areas have increased opportunities for productive and gainful employment. Strategies for economic empowerment of persons with disabilities would be the following.
- **Employment in Government Establishments:** The PWD Act, 1995 provides for 3% reservation in employment in the establishments of Government of India and Public Sector Undertakings (PSUs) against identified posts. The status of reservation in various Ministries/Departments of the Government against identified posts in Group A, B, C and D is 3.07%, 4.41%, 3.76% and 3.18% respectively. In PSUs, the reservation status in Group A, B, C and D is 2.78%, 8.54%, 5.04% and

6.75% respectively. Government will ensure reservation in identified posts in the Government sector including public sector undertakings in accordance with the provisions of the PWD Act, 1995.

- **Wage employment in private sector:** Development of appropriate skills in persons with disabilities will be encouraged for their employability in private sector. Vocational rehabilitation and training centres engaged in developing appropriate skills amongst persons with disabilities, keeping in view their potential and abilities, will be encouraged to expand their services. Considering rapid growth of employment opportunities in service sector, persons with disabilities will be encouraged to undertake skill training suitable to the market requirement. Pro-active measures like incentives, awards, tax exemptions, etc., will be taken to encourage the employment of persons with disabilities in the private sector.
- **Self-employment:** Considering slow pace of growth in employment opportunities in the organized sector, self-employment of persons with disabilities will be promoted. This will be done through vocational education and management training. Further, the existing system of providing loans at softer terms from the NHFDC will be improved to make it easily accessible with transparent and efficient procedures of processing. The Government will also encourage self-employment by providing incentives, tax concessions, exemptions from duties, preferential treatment for procurement of goods and services by the Government from the enterprises of persons with disabilities, etc. Priority in financial support will be given to Self Help Groups formed by the persons with disabilities (www.socialjustice.nic.in/hindi/nppde.php).
- vi) **Barrier-free Environment:** Barrier-free environment enables people with disabilities to move about safely and freely, and use the facilities within the built-environment. The goal of barrier-free design is to provide an environment that supports the independent functioning of individuals so that they can participate without assistance, in every day activities. Therefore, to the maximum extent possible, buildings/places/transportation systems for public use will be made barrier-free.
- vii) **Issue of Disability Certificates:** The Government of India has notified guidelines for evaluation of the disabilities and procedure for certification. The Government will ensure that the persons disabilities obtain the disability certificates without any difficulty in the shortest possible time by adoption of simple, transparent and client-friendly procedures.
- viii) **Social Security:** Disabled persons, their families and care-givers incur substantial additional expenditure for facilitating activities of daily living, medical care, transportation, assistive devices, etc. Therefore, there is a need to provide them social security by various means.
- Central Government has been providing tax relief to persons with disabilities and their guardians. The State Governments/U.T. administrations have been providing unemployment allowance or disability pension. The State Governments will be encouraged to develop a comprehensive social security policy for persons with disabilities.

- Parents of severely disabled persons with autism, cerebral palsy, mental retardation and multiple disabilities feel a sense of insecurity regarding the welfare of their wards after their death. The National Trust for persons with autism, cerebral palsy, mental retardation and multiple disabilities has been providing legal guardians through Local Level Committee. They are also implementing the Supported Guardianship Scheme to provide financial security to persons with the above mentioned severe disabilities who are destitute and abandoned by supporting the cost of guardianship.

25.3.2.2 Role of Non-Governmental Organisations (NGOs)

The National Policy for Persons with Disabilities recognizes the NGO sector as a very important institutional mechanism to provide affordable services to complement the endeavors of the Government. The NGO sector is a vibrant and growing one. It has played a significant role in the provisions of services for persons with disabilities.

Some of the NGOs are also undertaking human resource development and research activities. Government has been actively involving them in policy formulation, planning, implementation and monitoring, and has also been seeking their advice on various issues relating to persons with disabilities.

Interaction with NGOs will be enhanced on various disability issues regarding planning, policy formulation and implementation. Further, networking, collection and exchange of information and sharing of good practices amongst NGOs will be encouraged and facilitated.

- **Support for collection of regular information on persons with disabilities:** The National Sample Survey Organization has been collecting information on socio-economic conditions of persons with disabilities on regular basis once in ten years since 1981. The Census has also started collection of information on persons with disabilities from the Census-2001. There is a need for regular collection, compilation and analysis of data relating to socio-economic conditions of persons with disabilities.

A comprehensive website for persons with disability will be created under the Ministry of Social Justice and Empowerment. Organizations both in public and private sector will be encouraged to make their websites accessible to the visually impaired using Screen Reading Technologies.

- **Support for Research:** For improving the quality of life of persons with disabilities, research will be supported on their socio-economic and cultural context, causes of disabilities, early childhood education methodologies, development of user-friendly aids and appliances and all matters connected with disabilities which will significantly alter the quality of their life and civil society's ability to respond to their concerns.
- **Sports, Recreation and Cultural life:** The contribution of sports for its therapeutic and community spirit is undeniable. Persons with disabilities have right to access sports, recreation and cultural facilities. The Government will take necessary steps to provide them opportunity for participation in various sports, recreation and cultural activities.

25.3.2.3 Responsibility for Implementation

The responsibility for implementation of the Policy at different levels is dovetailed as follows.

- 1) The Ministry of Social Justice and Empowerment will be the nodal Ministry to coordinate all matters relating to the implementation of the Policy.
- 2) An inter-ministerial body to coordinate matters relating to implementation of National Policy will be formed. All stakeholders including prominent NGOs, Disabled Peoples' Organizations, advocacy groups and family associations of parents/guardians, experts and professionals will also be represented on this body. Similar arrangements will be encouraged at the State and Districts levels. Panchayati Raj Institutions and Urban Local Bodies will be associated in the functioning of the District Level Committees of District Disability Rehabilitation Centres (DDRCs) to coordinate the matters relating to the implementation of the policy.
- 3) The Ministries of Home Affairs, Health and Family Welfare, Rural Development, Urban Development, Youth Affairs and Sports, Railways, Science and Technology, Statistics and Programme Implementation, Labour, Panchayati Raj and Departments of Elementary Education and Literacy, Secondary and Higher Education, Road Transport and Highways, Public Enterprises, Revenue, Women and Child Development, Information Technology, and Personnel and Training will setup necessary mechanism for implementation of the policy.
- 4) The Chief Commissioner for Disabilities at Central level and State Commissioners at the State level shall play key role in implementation of National Policy, apart from their statutory responsibilities.
- 5) Panchayati Raj Institutions will play a crucial role in the implementation of the National Policy to address local level issues and draw up suitable programmes, which will be integrated with the district and State plans. These institutions will include disability related components in their projects.
- 6) Infrastructure created during the course of implementation will be required to be maintained and effectively used for a long period. The community should take a leading role in generating resources within themselves or through mobilization from private sector organizations to maintain the infrastructure and also to meet the running cost. This step will not only reduce the burden on state resources but also create a greater sense of responsibility among the community and private entrepreneurs.
- 7) Every five years a comprehensive review will be done on the implementation of the Policy. A document indicating status of implementation and a roadmap for five years shall be prepared based on the deliberations in a national level convention. State Governments and Union Territory administrations will be urged to take steps for drawing-up State Policy and develop action plan.

Check Your Progress

Notes: a) Space given below the question is for writing your answer.

b) Check your answer with the one given at the end of this unit under "Answers to 'Check Your Progress' Questions".

2) List out specific legislations which provide special rights and protection for the persons with disabilities.

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3) Mention the broad aspects focused by the National Policy for Persons with Disabilities.

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25.4 LET US SUM UP

While there is no universally agreed definition of disability, in India, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 defines disability as one or more of the following: blindness, low vision, leprosy cured, hearing impairment, locomotors disability, mental retardation and mental illness. It says that to be considered disabled, a person must suffer from not less than 40 per cent of any disability, as certified by a medical authority. The PWD Act was enacted in 1996, and is known to be one of the best and comprehensive among disability legislation in the countries of the region. However, the caveat in the PWD Act that reforms should only be undertaken within the limits of a State's economic capacity nullifies the Acts potential for change. Further, the Act has been criticized as it suffers from indistinct terminology and lacks teeth for its full implementation with lack of adequate and proper monitoring mechanism.

At the international level the definition in Article 1 of the UN Convention on the Rights of the Disabled Persons indicates the very first change that needs to be made to the definition. The PWD Act has strict specifications as to what counts as disability; however, the Convention includes all long-term physical, mental, intellectual or sensory impairments, which may hinder their full and effective participation in society. Another problem is with regards to Article 4(2), which

says that the maximum possible resources should be utilized for the upliftment of the disabled.

In this Unit, we have, therefore, presented you the international and national perspectives of the rights of the persons with disabilities. No doubt, much is being done for the welfare of the disabled persons in our country by the Governments, the legislature and the judiciary. One can hope that the time would come soon where all the problems of the disabled people would be addressed effectively at the national and international level.

25.5 ANSWERS TO 'CHECK YOUR PROGRESS' QUESTIONS

- 1) Important rights provided for in the UN Convention on the Rights of Disabled Persons, 2006 include the following.
 - Right to prevention of discrimination which ensures the living of disabled persons independently and their full participation in all aspects of life.
 - Right to education, at all levels, regardless of age, without discrimination and on the basis of equal opportunity.
 - Right to health, emphasizing the respect for physical and mental integrity on an equal basis with others for disabled persons.
 - Right to participate, fully and equally, in the community, education and all aspects of life including political and public life, cultural life, leisure and sports.
- 2) The specific legislations that provide for special protection of the rights of persons with disabilities include the following.
 - The Mental Health Act, 1987.
 - The Rehabilitation Council of India Act, 1992.
 - The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
 - The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

Along with these provisions, there is a National Policy for Persons with Disabilities which provides for implementation of these provisions.

- 3) The broad aspects on which the National Policy for Persons with Disabilities laid its focus include the following, among other things: i) prevention of disabilities, ii) rehabilitation measures, iii) provision of assistive devices, iv) education (inclusive education), v) economic rehabilitation, vi) barrier-free environment, vii) issue of disability certificate, and viii) social security.

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