

RIGHTS OF PERSONS WITH DISABILITIES

This chapter discusses the discriminatory policies and practices that stand in the way of equal opportunity for Persons with Disabilities in political participation, access to education, health, employment, mobility and freedom from abuse and violence against women.

Disability results from the interaction between persons with impairments, and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others. Mainstreaming disability rights is therefore crucial in every aspect of political and public life.

Legal and Policy Framework

Bangladesh has ratified the UN Convention on the Rights of Persons with Disabilities (CRPD).¹ Pursuant to constitutional guarantees of equality and non-discrimination, specific laws have been passed to safeguard the rights of persons with disabilities (PWDs) such as the Disability Welfare Act 2001. In addition, the National Policy on Disability 1995 and the National Action Plan on Disability 2006 have also been adopted. However PWDs continue to face legal and practical barriers to equality including unjust treatment, discrimination in access to voting rights, lack of free access to educational opportunities, health services and job opportunities without discrimination. Their right to free movement is still restricted and many PWDs are still victims of violence and abuse without remedy.

Political Participation

Political participation of PWDs as voters, candidates and campaigners remained limited, due mainly to poverty, poor literacy and lack of organisational affiliation and support. In a notable positive change, and resulting from continuing advocacy by activists among PWDs, this year, the major political parties addressed disability issues in their election manifestos² for the first time. Important steps were also taken for PWDs to participate as voters, but unfortunately due to the Election Commission's criteria regarding minimum educational qualifications, some PWDs were impeded from acting as election observers.

In 2007, the Election Commission, for the first time, inserted a provision for identifying voters with disabilities in the registration form. While this enabled many PWDs to be registered, it excluded persons with mild or moderate disabilities as the registration form as it only referred to severe disabilities. In practice, persons with severe disabilities, as well as elderly and pregnant women, had limited access to the registration centers. On receipt of this information, the EC issued instructions for home visits, but in the absence of adequate information on eligible voters, this has proved difficult to implement. Initiatives by ADD (Action on Disability and Development), and various Disabled Peoples' Organizations to compile information on PWDs and provide these lists to the EC and the security forces involved in the registration process enhanced the numbers of PWDs ultimately registered.

¹ Adopted in the 61st General Assembly of the United Nations on 13 December 2006, Bangladesh being the eighth state party to ratify it on 30 November 2007. The Convention came into force on 3 May and Bangladesh has to report to the UN Committee every two years.

² The Bangladesh Awami League (AL) has committed itself to updating the existing Disabled Welfare Act and take necessary measures to promote education, health and employment of persons with disabilities. The Bangladesh Nationalist Party (BNP) is committed to improving education and health services, child welfare and rehabilitation and employment for disabled persons.

In addition to voter registration, further affirmative action is required for voters to participate fully in electoral activities as candidates, campaigners, election observers, and to cast their votes freely. For example, in the Rajshahi City Corporation elections held on 4 August 2008, voters with disabilities faced difficulties in casting their votes due to lack of ramp facilities, separate queues, inaccessible polling booths and insensitive behavior from the law enforcement agency in clear breach of affirmative action provisions under the law.³

It is estimated that some seven million eligible people with disabilities have had limited access to voter registration, due to high levels of illiteracy, lack of access to information, vulnerability and poverty. Exclusion from the voter list has in turn excluded them in claiming and receiving services from the public service department and local government.

Right to Education

Reportedly only four per cent of children with disabilities have access to education in any form.⁴ About 1.6 million eligible school-aged children with disabilities are unable to access formal and non-formal education. The ongoing Primary Education Development Program (PEDP II) envisions inclusive education but lacks implementation. For example though the Government has initiated ramp installation in primary schools, the designs adopted are flawed. Accessibility is still perceived as exclusively about ramp installation, and does not extend to the classroom environment, teaching materials and curricula, which means that visual, hearing and speech challenged students remain excluded. Such exclusion is reinforced by disability issues being dealt with by the Ministry of Social Welfare under the current 'Rules of Business' instead of the Primary and Mass Education and Ministry of Education.



Right to health

The development budget for 2007-08 made no specific allocation for health care services to PWDs. In practice, public health centres, such as Upazila Health Complexes and District general hospitals, were also inaccessible to PWDs and provided no disability related services such as early identification, fitting of artificial limbs, aids and appliances, educational or therapeutic services or vocational rehabilitation. NGOs are providing some limited services. For example, ADD with local organisations of PWDS, organised dialogues

³ Article 31 (7) of Representation of People's Order 1972 states " ..where a voter is blind or is otherwise so incapacitated that s/he cannot vote without the assistance of a companion, the Presiding Officer shall allow her/him such assistance and thereupon such voter may do with such assistance anything which a voter is required or permitted to do under this Order."

⁴ ESTEEM Study Report, Government of Bangladesh .

with both private and public health practitioners to secure access to free medical services in public hospitals and receive 40-50 per cent discount at private clinics in Bogra and Natore districts.

Right to employment

According to a recent study,⁵ the mean employment rate of persons with disabilities is less than a quarter of those without a disability, and 87 per cent of disabled persons leave full-time employment within the first year of becoming disabled. These findings illustrate the limited employment opportunities and inadequate work environment for PWDs. Such opportunities are further limited by actions such as those of the Bangladesh Public Service Commission failing to provide admit cards to the visually challenged candidates for BCS examinations and denying scribe support for a visually challenged candidate for the preliminary test of the 28th BCS examination.⁶

More positively, the Department of Social Welfare's credit supports facilitated self-employment for PWDs, and the private sector also took some laudable initiatives to provide employment opportunities. In an important legal challenge to disability-based discrimination in public employment, the High Court directed the Government to show cause why the denial of appointment in a government post to a physically challenged engineer on health grounds should not be held to be in violation of Sections 5 and 7 of Schedule "Cha" of the Disabled Welfare Act, 2001.⁷

Right to Movement

In 2008, some new initiatives were taken by public institutions to facilitate mobility, for example Dhaka University's Transport Department reserved seats in university buses from October onwards and installation of ramp facilities in front of the library and different faculties are in process. ADD dialogues with the Bus Owners' Association and Trade Union leaders in 2007 have resulted in fare reductions by 50 per cent for disabled passengers along with provision for reserved seats in Rajshahi, Rangpur, Faridpur, Bogra and Natore districts. A joint initiative of ADD and the bus owners' association in Rangpur and Rajshahi led to the provision of identity cards among PWDS.

Right to freedom from violence against women

Women with disabilities continued to face serious obstacles in accessing justice in cases of violence, with courts rarely taking any specific measures to enable them to give their evidence before the courts. Currently there are some 70 ongoing prosecutions nationwide regarding instances of violence against women with disabilities (most involving accusations of rape or sexual harassment). In many cases, the inadequacy of the investigation and prosecution as well as of expert witnesses results in the failure of such prosecutions. For example, in Nilphamari, a speech and hearing challenged girl was allegedly raped by the headmaster of a madrassah. Although the police and doctors acted promptly and effectively, the public prosecutor was relatively inactive, failing even to oppose the prayer for bail of the accused after he had been absconding for some time.

5 J. Chowdhury, "Disability and Chronic Poverty: An Empirical Study on Bangladesh", M Phil Thesis, Oxford University, 2005.

6 "Deprived visually challenged candidates demand opportunities to PSC in Press Conference", *Amar Desh* and *Ittefaq*, 21 November 2008.

7 Writ Petition No. 2652 of 2008. The Bangladesh Legal Aid and Services Trust (BLAST) and Ain o Salish Kendra (ASK) filed a writ petition challenging the denial of appointment to a physically challenged engineer to the post of Assistant Manager (Mechanical) in Bangladesh Gas Fields Company Limited, even after he qualified in written and oral examinations, pursuant to an advertisement published in the *Ittefaq* on 19 April 2006.