

---

# **ABUSE AND VIOLENCE COMMITTED AGAINST PEOPLE WITH DISABILITIES**

---

Abhishek Bhushan Singh, School of law, Christ (Deemed to be University)  
&  
Anushka Ojha, New Law College, Bharati Vidyapeeth University

## **ABSTRACT**

Disability literally means a physical or mental state of a person that limits a person's movement, senses or activities. Disability in our country is considered a curse. People with disabilities are very prone to violence and abuse. People with disabilities experience forms of violence and abuse similar to those without disabilities, such as physical injury, sexual assault, emotional trauma, and financial abuse. Disabled people now make up the world's largest minority, with over 650 million people, or 10% of the global population, suffering from some kind of disability. A physical, emotional, or sensory disability affects at least one out of every ten people in the majority of countries. In India, more than 50 million people suffer from disabilities in some form or another.

In this paper, we recognise the problem with the physically disabled person especially concerning children with disability and women with a disability how they are prone to sexual abuse and why the cases are not reported and, in the end, we will talk about the suggestion to stop violence in any form against them.

Keywords: Physical Disability, Sexual Abuse, Physical Abuse, Intellectual Disability.

## INTRODUCTION

Disability in our country is considered to be a curse. Many times if a child is born physically disabled is killed as soon as they are born because of their disability. It mostly happens with the girl child, there are many societal problems related to this, parents think that if their girl child will be physically disabled, they will not get married and various other things. In a society where people have children thinking that their children will be the helping hands and caretaker of them in their old age if a child is born physically disabled the children will then be a burden on their parents and the family. Disabled people now make up the world's largest minority, with over 650 million people, or 10% of the global population, suffering from some kind of disability. A physical, emotional, or sensory disability affects at least one out of every ten people in the majority of countries. In India, more than 50 million people suffer from disabilities in some form or another.

It is a historically proven fact that people with disability are very prone to violence whether it is sexual or physical or any other forms of abuse. According to studies, people with disabilities are 1.5 times more likely to be victims of abuse than people without disabilities. The offenders are often individuals who are familiar to the disabled individual, such as partners, family members, colleagues, or acquaintances. Intimate partner abuse, family violence, and school violence are all examples of violence against women and children. According to estimates, 15% of the world's population is disabled, and those who are disabled are more likely to be disadvantaged and socially excluded. As a result, abuse against people with disabilities takes several forms. It is a matter of concern because sometimes people with mental disabilities can not understand what they are going through and kept on being the subject of violence. Living with a disability is unmistakably related to a higher risk of being victimised by abuse. Though there is a scarcity of research on the intersection of violence and disability, what is available shows that the two are inextricably linked. In 2015, disabled people were 2.5 times as likely as non-disabled people to be victims of violent crime<sup>1</sup>.c[1] And serious violent crimes (i.e., sexual assault, aggravated assault, and robbery) were even more disproportionate, *more than three times as likely to impact disabled people*

### Meaning of Disability

---

<sup>1</sup> United States. Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. (2017). *Crimes Against Persons with Disabilities, 2009-2015* by E. Harrell. Retrieved from <https://www.bjs.gov/content/pub/pdf/capd0915st.pdf>.

Disability is a broad concept that encompasses impairments, behaviour limits, and participation limitations. A disability is a problem with a person's body function or structure; an activity limitation is a problem with a person's ability to perform a task or action. The condition or standard of being mentally or physically impaired or weak, incapacity or inability to hold a specific job due to physical or mental handicap, desire, or legal qualification is referred to as disability. The United Nations General Assembly adopted the Declaration on the Rights of Disabled Persons in accordance with the United Nations Charter, and a participation restriction is a problem with a person's ability to participate in life circumstances. As a result, disability is a dynamic condition that reflects the relationship between a person's body and the environment in which he or she lives. The term "disabled person" means "any person unable to ensure for himself or herself wholly or partly the necessities of a normal individual and or social life as a result of a deficiency, either congenital or not, in his or her physical or mental capabilities". In India, there are two types of disability circumstances that have been addressed by legislation. One that bases payments on the event of disability—whether on the road or at work. Two main laws dealing with compensation-related disability legislation are the Workmen's Compensation Act of 1923 and the Motor Vehicles Act of 1988. The second condition in which disability laws are enacted is where people are denied educational opportunities or employment because of their disabilities. However, the importance of these laws is the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

### **Types of Abuse that disable people suffer**

People with disabilities experience forms of violence and abuse similar to those without disabilities, such as physical injury, sexual assault, emotional trauma, and financial abuse. However, persons with disabilities also face unique forms of abuse, such as disabling equipment, manipulating medications, or refusal to provide essential personal assistance. Men and women with disabilities have identified seven major categories of abusive behaviour:

- Physical abuse is the hurt or trauma which is intentionally given to a person by means of bodily contact.(ref) In most cases, children are vulnerable to physical abuse but in cases of domestic violence, workplace violence can be observed in adults as well. A person with disabilities can also face physical violence as abusers mostly target those who they find gullible
- Sexual abuse is exploiting or molesting someone without consent and often by the means of physical force or taking advantage of someone. Someone being physically

challenged is an easy target and by taking advantage of their disability molesting them sexually gets easier. According to the University of Michigan, it is estimated that as many as 40% of women with disabilities experience sexual assault or physical violence in their lifetimes and that more than 90% of all people with developmental disabilities will experience sexual assault.

- Verbal or emotional abuse does not cause bodily harm but they affect psychologically and can cause mental health issues like anxiety, depression, post-traumatic disorder. A person with disabilities are mostly treated as a liability and instead of extra nurture and care, they often face psychological distress due to constant verbal and emotional abuse.
- Neglect or withholding support - Neglect is the failure by a service provider or a person caring for you to provide adequate care to you. It can be of many kinds like physical, passive, willful deprivation or emotional neglect.
- Financial abuse is the unauthorized use of someone's property, money or other financial assets. Financial fraud is among the fastest-growing types of abuse, and individuals with disabilities are particularly vulnerable.
- Manipulation of medications is easy for abusers in the case of a person with disabilities, if they conspire even murder they can switch the medications without the person even knowing it.
- Destroying or disabling equipment is one of the cruellest forms of abuse done to a person with disabilities. The abuser dismantles their equipment or support to walk or listen or of any other kind.

Abuse can take numerous structures, and it tends to be particularly harmful to individuals with disabilities. Circumstances like getting totally dependent on one individual for the entirety of one's necessities, not approaching a telephone or an approach to escape the house autonomously, or getting isolated from others may all raise the probability of savagery for individuals with disabilities. Both of these kinds of misuse incorporate the culprit applying force and impact over the person in question, similar to savagery against individuals who don't have handicaps.

Numerous times it is found in the instances of savagery or maltreatments against the actual crippled people groups that the victimizer is the person who is near him. The scholarly handicapped kids, exceptionally the young lady and kids have inclined to the sexual maltreatment and the victimizer is the relative or the people near the family. It happens on the

grounds that the victimizer realizes that the kids can't comprehend what is befalling them and that they can't educate anybody concerning it.

### **Violence against children with disabilities**

As per two late efficient examinations led in the Lancet, the two youngsters and grown-ups with handicaps are at a lot higher danger of maltreatment than their non-incapacitated companions. The reports were directed by the Centre for Public Health at Liverpool John Moores University, a WHO Collaborating Centre for Violence Prevention, and the WHO Department of Violence and Injury Prevention and Disability. These are the primary examinations to approve the extent of the issue, and they give the most convincing information on viciousness against impaired kids and grown-ups. They likewise call attention to the shortage of information from low-and centre pay nations regarding this matter.

As per an investigation distributed in July 2012 on the commonness and hazard of brutality against youngsters with handicaps, kids with incapacities are almost multiple times more probable than non-crippled kids to experience savagery. As per the investigation, handicapped kids are 3.7 occasions more certain than non-debilitated kids to be casualties of some kind of misuse, 3.6 occasions bound to be survivors of actual brutality, and 2.9 occasions bound to be sexual savagery casualties. Kids with mental or scholarly handicaps will in general be among the most powerless, with a danger of rape 4.6 occasions higher than their non-handicapped companions.

There have been a few hypotheses proposed to clarify why youngsters with disabilities are at a particularly higher danger of viciousness than kids without incapacities. Really focusing on an incapacitated youngster may put extra tension on guardians or families, expanding the danger of brutality. Private consideration keeps on being utilized by an enormous number of debilitated kids, and is a huge danger factor for sexual and actual brutality. Kids with correspondence problems might be more defenceless against harassing, as correspondence boundaries may make it hard for them to report oppressive encounters. Disabled students must also contend with this weakness in the classroom. During the 2013–2014 school year, almost 50,000 US students were physically confined, with more than 75 percent receiving disability accommodations.<sup>2</sup> Given that these students made up just 14% of the student body, this is

---

<sup>2</sup> United States. Department of Education. Office for Civil Rights. Civil Rights Data Collection. (2017). *Number and percentage of public school students with and without disabilities subjected to physical restraint*, by

absurdly disproportionate, And this only covers students with disabilities that were accommodated under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973, implying that far more physically restrained students were possibly disabled.<sup>3</sup>

The United Nations Convention on the Rights of Persons with Disabilities looks to secure impaired individuals' privileges and guarantee their total and equivalent cooperation in the public arena. This includes keeping a sound and secure progress through adolescence and into adulthood for youngsters with handicaps. A protected and stable youth, likewise with all kids, is the best indicator of decent, composed adulthood. Unfriendly youth encounters, like wrongdoing, have been connected to an assortment of negative well-being and social results in adulthood. A solid and stable youth is particularly basic for kids with handicaps, who should adapt to their incapacities while additionally conquering social deterrents that improve their probability of less fortunate results sometime down the road.

### **Violence against women with disability**

Women with handicaps are exposed to similar kinds of maltreatment as non-impaired women and other incapacitated individuals, yet they are frequently exposed to explicit types of sexual orientation-based savagery. They are exposed to more mental, physical, and sexual savagery. This should be possible by close to home orderlies, medical services experts, family members, and outsiders at different places of their lives, going from the outset to mature age.

As a result of the inability to adapt to the diverse intricacies of the maltreatment that these women experience, brutality against women and young women with handicaps falls into an assortment of strategy "holes."

Retaining assistive gadgets, like wheelchairs, listening devices, and white sticks, might be a type of brutality against women with incapacities, restricting portability and contact with others while likewise expanding a feeling of frailty and reliance. Abusive behaviour at home,

---

*race/ethnicity, whether with disabilities served under IDEA or Section 504, and English proficiency, by state: School Year 2013-14.* Retrieved from <https://ocrdata.ed.gov/downloads/projections/2013-14/Physical-Restraint>.

<sup>3</sup> United States. Department of Education. Office for Civil Rights. Civil Rights Data Collection. (2017). Public school students overall and by race/ethnicity, students with disabilities served under IDEA and those served solely under Section 504, and students who are English language learners, by state: School Year 2013-14. Retrieved from <https://ocrdata.ed.gov/downloads/projections/2013-14/SCH-0005-Overall-Enrollment.xlsx>.

monetary viciousness, illegal exploitation, and verbal and psychological mistreatment are instances of different sorts of brutality.

Women with incapacities, especially those with scholarly handicaps, are bound to be pressured into disinfection. Incapacitated women have been rejected passage to public spaces on a few events, or have been irritated for being available in these spaces. In India, comparative occurrences have been recorded.

Women with inabilities are excessively helpless against viciousness, with one out of each two incapacitated women encountering some sort of maltreatment sooner or later in their lives. Homegrown maltreatment influences twice as many debilitated individuals as it does non-handicapped women. When contrasted with their non-handicapped partners, women with incapacities are multiple times bound to be assaulted, actually harmed, or explicitly attacked. Crippled women likewise face difficulties in getting away from culprits and acquiring the essential consideration, just as getting equity after they have been exposed to unreasonable brutality. During the lawful interaction, they are regularly embarrassed at police headquarters and medical clinics.

Since there is a solid absence of disaggregated information on viciousness against individuals with incapacities, the interesting difficulties looked by crippled women are regularly ignored in giving an account of brutality against women. Information on various sorts of wrongdoings is infrequently gathered by handicap—for instance, as indicated by an NPR study, individuals with scholarly incapacities are explicitly manhandled at a seven-overlay higher rate than individuals without disabilities. The National Crime Reports Bureau in India doesn't gather information on viciousness against women and young women with inabilities independently. The problems are much greater for Indian women and girls with disabilities, who are more vulnerable to sexual abuse. It could be more difficult for women with physical disabilities to flee abusive conditions. Deaf people may not be able to call for help or express violence effectively. Non-consensual sexual acts are a felony that should be revealed by women and girls with intellectual or psychosocial disabilities. These difficulties are exacerbated by the stigma associated with their sexuality and impairment.

In 2013, a local man raped “Kanchana,” a 19-year-old woman with an intellectual disability from a village in West Bengal. Kanchana had no idea she needed to report being raped before

she found out she was five months pregnant. Her learning disability also made it difficult for her to justify what had happened to the cops.<sup>4</sup>

### **Institutional and non-institutional Abuse**

When analysing institutional and non-institutional instances of savagery against individuals with incapacities, regulation records for 82% of viciousness against debilitated individuals. Establishments are thought to "innately energize brutality and dehumanization." Despite the way that standardized cases are significantly more typical than non-regulated cases, measurements show that rape-related savagery is multiple times almost certain among mentally handicapped people, and multiple times more probable if the individual is a lady when contrasted with a non-crippled friend.<sup>5</sup>

### **Disability Services**

Men and women with disabilities consistently highlight barriers to violence prevention and management that are inherent in the way disability services are designed and implemented. Major problems relate to a lack of respect, acknowledgement and control that many individuals report in their interactions with disability service agencies, including:

- Disability agencies don't listen or take individual's concerns seriously.
- Agencies don't assist individuals to screen for abuse or proactively offer help with abuse.
- Reporting abuse may lead to agency intrusion in many areas of an individual's life and disregard for the individual's privacy.
- Reporting abuse may lead to losing independence, like going into a group home or nursing home.
- Reporting abuse may lead to losing custody of children because the person with a disability is not considered capable of keeping children safe.

### **Special Laws and Remedies available against abuse for people with disabilities**

---

<sup>4</sup> India: Remove Hurdles to Justice for Women with Disabilities". Human Rights Watch. 2018-04-03. Retrieved 2020-11-29.

<sup>5</sup> Thornberry, C. & Olson, K. (2005). The abuse of individuals with developmental disabilities. *Developmental Disabilities Bulletin*, 33(1), 1-19. Retrieved from <https://files.eric.ed.gov/fulltext/EJ844468.pdf>.

The Rights of Persons with Disabilities Act, 2016 was enacted especially to cope up with the issues and management for the people facing disability of one kind or the other. Although, it didn't specifically mention women or children rather was more gender-neutral about abuse. Section 7 of the act deals with protection from abuse, violence and exploitation, and talks about the procedure to handle such injustice as well. In fact, section 92 has sub-sections criminalizing :

- Outraging the modesty of a woman with a disability by the means of assault or force.
- The sexual exploitation of a woman or child facing disability by a person who can dominate their will.
- Conducting or giving directions to perform any medical procedure which leads or is likely to a pregnancy termination without the expressed consent of a woman with a disability.
- Punishment –fine and minimum 6 months imprisonment which can extend to 5 years.

**The relevant provisions in the Indian Penal Code, 1860 ('IPC') and the POCSO Act, 2012:**

- 1) Commission of rape of a woman “suffering from mental or physical disability” constitutes aggravated rape under Section 376(2)(1) of the IPC.
- 2) A woman in a permanent vegetative state because of rape or aggravated rape, it is an offence punishable under Section 376-A, IPC with a minimum term of 20 years rigorous imprisonment which can extend to life imprisonment. This provision was added after the Criminal Law (Amendment) Act, 2013.
- 3) “taking advantage of a child’s mental or physical disability” following penetration constitutes aggravated penetrative sexual assault under Section 5(k), POCSO Act and aggravated sexual assault under Section 9(k), POCSO Act, respectively.
- 4) If the sexual assault or penetration during sexual assault results in physical incapacitation, mental illness, or impairment that temporarily or permanently unable the child to perform regular tasks, it would amount to aggravated penetrative sexual assault under Section 5(j)(i) and aggravated sexual assault under Section 9(j)(i) of the POCSO Act.

## **Conclusion and Suggestion**

From the above study, we can come to a conclusion that the violence against disabled people are very much in cases, even the reporting of such cases is very low. It is high time for the legislature to come with strict rules and laws to stop the abuses and crimes especially with respect to the sexual crimes against physically disabled people. It is very much needed for the government to bring such people into the mainstream and to provide job opportunities to them. To deal with the offences against physically disabled people there should be an enactment of a special law that will only be dealt with respect to all the forms of abuses and crimes that happen against them. The education institutions should have special measures to deal with the cases related to the abuse of physically disabled people. Special training should be given to the caretakers to deal with the problems of disabled persons, especially children. In the 2013 criminal amendment act with the enactment of the Protection of Children from Sexual Offences Act, various measures were taken to deal with the sexual offences against children below the age of 18 years. Either the same laws should be applied to intellectually disabled persons of any age or a new law should be established for the same to deal with the sexual offences that happen against them. The executive department, especially the police department should be given appropriate training to deal with such issues. Various help centres should be established to take care of the physically disabled children who are thrown out by their family.

In the end, it should be understood that every life is important and every individual must take care of vulnerable groups of society.