



The Legal Rights of the Disabled Persons in Bangladesh: An Empirical Study of Bagatipara Upazila Under Natore District

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Abstract: All citizens of the People's Republic of Bangladesh have constitutionally equal rights and equal opportunity without discrimination of any race, religion, caste, sex or place of birth. And it is the duty of the state to organise and generate equal opportunity and equal participation for all citizens for the national development of the state. In this respect, the disabled children and persons have also full fledged right to participate of the national development of the country. This is because, each and every disabled persons are firstly citizen then disabled. But the whole situation of Bangladesh is such that the people have ignorance, fear, and negative mentality about disability. Therefore, the right to participation of the disabled persons at the national development activities i.e. familial, social, economic, cultural, and political accomplishments is very minimal due to fear, unawareness, and negative mentality. However, the article emphasizes the legal rights of the disabled persons in black and white and how far they enjoy those rights practically.

Keywords: Rights; Disabled; Discrimination; Participation.

Introduction: Although disabled have their legal rights both national and international level but this is currently a burning issue. Many of the persons with disabilities are in the backward position in developing countries like Bangladesh. This is because they need to face a lot of barriers to education, health care and different basic services, etc. In several countries, they are subjected to violence and discrimination. Persons with disabilities are typically isolated their right to measure several grounds [1]. As for example, some disabled are locked up in establishments, chained, or cycled through the criminal justice system. As a result, many human rights cases of abuse arise which causes stigma and scarcity in society. Therefore, the UN Convention on the Rights of Persons with Disabilities, 2006 [2] was passed to safeguard disabled people are protected from all forms of misuse, violence, and exploitation. The article primarily focuses to enumerate the legal rights at the practical filed to protect the rights and dignity of a person with disabilities.

The the Disabled Persons Rights and Protection Act, 2013 explains that 'disabilities' refer to any person who is physically, psychologically, and/or mentally not functioning properly due to social/environmental barriers. Any person who can't take part actively in the society is considered to be disabled [3].

The objectives: The main objectives of this article are the following:

- (a) To obtain the overall incidence of persons with a disability;
- (b) To find out the socio-economic causes and areas where disability is more prevalent;
- (c) To identify what type of disability is more fundamental;
- (d) To ascertain the percentage of various types with a disability;
- (e) To examine what extent the disabled have access to education, employment, and social activities;
- (f) To study the marital status of the disabled persons;
- (g) To make some practical and useful recommendations for national policymakers.

Article history:

Received 10 April, 2020
Received in revised form 30 May, 2020
Accepted 10 April, 2020
Available online 15 August, 2020

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Methodology: In this study the method of documentary of analysis and field survey i.e. qualitative method of data collection (collecting information, usually from fairly large groups of people, by means of questionnaires but other techniques such as interviews or telephoning or e-mail) have been mostly used. Moreover, the case study method has been used to give the article into a complete shape. As the study is an empirical one, so the data collection and analysis has been used on this study as an instance to develop and safeguard the legal rights of the disable people of Bagatipara Upazila.

The data has been processed and analyzed by computer both quantitatively and qualitatively. Statistical methods consisting of percentage correlation has been used; the analysis of qualitative data has been made systematic and analytical description of the collected facts.

Discussion: Position of Disability in Bangladesh: The Constitution guarantees the right to health, education, right to work, and social security for all citizens. The disabled are considered incapable of unplanned and unexpected demand for government relief. Furthermore, Bangladesh has already signed and participated in the European Scientific Cooperative On Phytotherapy (ESCO) declaration regarding disabled right and equal participation in 1993, the government has agreed to work with United Nations Resolution in 1975 of the disabled right. The government of Bangladesh celebrated UN International Disability year in 1981, disability decade (1983-92), Disability SAARC year, 1993 which were included as a work plan for disabled persons. Moreover, Bangladesh has accepted the key principles of disability policy as the spirit of the Constitution and the above international declarations [4].

Legal Rights of the Persons with Disability:

(a) Domestic or National Level: The Constitution of the People's Republic of Bangladesh declares few rights for all citizens without discrimination. Therefore, Constitutional rights are hereby discussed below:

The Constitution expresses a democratic republic where there will be respect for human dignity and fundamental human rights as well as freedom for all [5]. The Article clearly views that these are applicable for the persons of disability although fundamental principles of state policy are not enforced by the Court. The Constitution provides the basic necessities for all citizens [6] and free and compulsory education for all [7].

Moreover, the Constitution explains that all citizens are equal in the eye of law and are entitled equal protection of the law [8]. Whereas another article provides that the Government can enact special laws for the advancement of the backward section of citizens [9]. On the other hand, the state can make special legislation for the backward sections in order to secure their sufficient representation in the service of the country [10]. Besides these, the right to property has been guaranteed for all citizens by the Constitution [11]. In case of infringement of those fundamental rights, it can be enforced by filing a writ in the High Court Division of the Supreme Court [12]. The disabled persons shall have the above equal fundamental rights with the other civilians as the citizens of the country.

Clear discrimination against persons with a disability was found in the case of *BLAST vs. Bangladesh and others*. In this case, the High Court Division held that Bangladesh Legal Aid Services Trust (BLAST) lodged a writ petition in 1998 challenging a circular of the Government of Bangladesh. The circular provided only a 10% quota to be allocated for persons with disabilities. Although in other cases 10% quota was fixed for all posts. Mostly, this case put emphasis on that the circular was in violation of Article 27, 29, 31 and 42 of the Constitution of Bangladesh. The circular obviously exposed the inequitable approach of the state towards the persons with disability. Finally, the High Court Division held that modifying the reservations for persons with disabilities for direct employment in government services of the country [13].

To uphold, protect, application and promotion of the legal rights of persons with a disability, the government of Bangladesh enacted special legislation for them i.e., *the Disabled Persons Rights and Protection Act, 2013*. The most outstanding feature of this new Act is that it explicitly defines numerous types of disability such as physical and psychological disability, autism, speech disability, visual disability, hearing disability, cerebral palsy, intellectual disability, multiple disabilities down syndrome and other disabilities, etc. [14].

This Act safeguards equality before the law, accessibility, right to a hereditament, right to participate in a unified system of education, right to get National ID card, right to get protection from harassment, right to get included in

the voter list, right to participate in an election and right to get service [15]. Furthermore, this Act discusses several committees from central to local levels to ensure transparency and accountability [16]. The duties of various private institutions and local authorities are counted in order to confirm the informal gratification of the rights by the disabled persons [17]. Another different provision is that it ensures for registration and identity card a disabled person [18].

A person with a disability has to face extreme discrimination in various field such as education and job [19]. This Act expressly forbids discrimination in working sectors on disability grounds [20]. It additionally explains that 5% seat shall be kept reserved in public vehicles for disabled person [21]. The Act clearly specifies non-discrimination of persons with disabilities in educational institutions to an otherwise competent applicant [22]. The Act also elucidates the informal entrance of disabled persons to public buildings according to the Building Construction Act, 1952 [23].

The offenses under this Act are non-cognizable, compoundable, and bailable [24]. However, the above-mentioned rights were kept them protected.

(b) International Level: Legal Rights of the Disable Persons: All international instruments protect the legal rights of persons with disabilities, as they apply to all persons. This principle of universality is reinforced by the principles of equality and non-discrimination, which are included within the following international instruments:

The core United Nations conventions are:

- International Covenant on Civil and Political Rights, 1966;
- International Covenant on Economic, Social and Cultural Rights, 1966;
- Convention on the Elimination of All Sorts of Racism , 1969;
- Convention on the Elimination of All Sorts of Discrimination against Women, 1979;
- Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, 1984 ;
- Convention on the Rights of the Children, 1989;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990.

Some international and regional conventions protect the rights of persons with disabilities specifically or have provisions concerning persons with disabilities. These include:

- The Economic, Cultural and Social Charter, 1961 (article 15);
- ILO Convention concerning Rehabilitation and Employment (Disabled Persons), 1983;
- African Charter of Human and People's Rights, 1986 (art. 18(4));
- Protocol of San Salvador, 1988 (Additional Protocol to the American Convention on Human Rights within the Area of Economic, Social and Cultural Rights) (article 6 & 9)
- The Convention on the Rights of the Children, 1989 (article 23);
- The African Charter on the Rights and Welfare of the Child, 1999 (article 13);
- Inter-American Convention on the Elimination of All sorts of Discrimination Against Persons With Disabilities, 2001;

International instruments that are non-binding, like declarations and rules, and are useful in interpreting international standards and implementing them in national legislation.

Through application of law of nations by domestic courts can also play a crucial role in implementing international Conventions to persons with disabilities by means of compliance with relevant international standards and mentioning precedents in other jurisdictions.

Empirical Study: Measuring disability - This can be explained, in large part, by the types of questions usually asked to the persons with disability to the more detailed and more numerous questions posed on surveys though it is often the only source of data collection.

Natore District Information about Disability [25] Name of the organization: *Natore Zila Disable Sangstha 'Nandon'*

Address: Chakrampur, Natore, it was established on 3 October 2003 and its Registration No. Nat/467/07 (District Social welfare office, Natore) dated: 18/07/2007.

Aims: To assist the small unit at the village level including Union units to coordination disabled persons at all spheres of the society.

Objectives:

- (a) To create awareness of the disable persons about their rights including backward sections;
- (b) To create awareness of the general people about disability;
- (c) To make them united by creating a relation with all organisations;
- (d) To make them self-dependant by giving education opportunity;
- (e) To include the disabled persons with the main economic development by networking with society and the state.

Total Union: 19, total organisation: 153 (Here organisation means branches i.e. the branches are available in small units of villages and unions), total members: 3389 (Male 1737 and Female 1652)

Funding Donor: 02 (ADD International: MGF, European Union- Social and Political Rights); (CBM: Free medical service for mentally sick disabled person).

Executive member: 7, General member: 57, Member of the Legal aid committee: 13, Member of the Employment committee: 16, Worker: 4, Drama team: 01, Resource person (Trainer): 12, Registered DPEO: 13 (from social welfare dept.), Woman Leader: 82, Union Parishad Member (Disable): 01 (Chatney Union)

Organogram: Available (General Council, Executive Committee, President, Accountant, Office Assistant)

A Number of Bank Accounts: 05 (Janata Bank – 02, UCB Bank-01, Agrani Bank – 01, National Bank – 01).

Bagatipara Upazila Information: This Upazila is very famous under the Natore District comprising the following Unions:

1 no. Pacha, 2 no. Jamnagar, 3 no. Bagatipara, 4 no. Doyarampur, 5 no. Faguardiar.

Disablility Schools at Bagatipara:

Government school: No such type disablility school available in this Upazila.

Private school: 01, Shahid Muktijoddha Mamotaz Uddin Memorial Speech impairment, Autistic and Intellectual disability school, Machimpur under Bangatipara Paurosova. Reg No.603.2015

This school was established in 2014, total students are now 273. teachers ad staffs are 28. Although UNO assists sometimes but teachers are the main contributors to their funding.

Disablility sangstha: No such type sangstha available in this Upazila.

Case Study Analysis:

Questionnaire (Interview dated January –April 2020) to the Disabled Persons

1. Participant's details: Sumi Khatun, D/O- Md. Khoda Box, Taltola, Doyarampur, Bagatipara, Natore. Her age is 15 years.
 - (a) Are you married?
Ans: No, I am not married.
 - (b) What type of disability do you suffer?
Ans: Speech disability
 - (c) Currently a student?
Ans: No

- (d) The highest class passed?
Ans: class iv
- (e) What is your field of education?
Ans: General education
- (f) Can you write a letter?
Ans: No, I cannot
- (g) What is your activity status?
Ans: Household
- (h) Are you getting disable allowance?
Ans: Yes, I am getting
- (i) Have you faced any type of harassment?
Ans: Yes, the negative mentality of the society, the male section sometimes wants to tease me.
- (j) Have you got reserve seat when you travel somewhere?
Ans: No
- (k) Do you know about disables legal rights and protection?
Ans: No I do not know about that
Sumi Khatun is missing now [26].
2. Participant's details: Shantona Parvin, D/O- Md. Shabaz Ali, Uttar Muradpur, Bagatipara, Natore. Her age is 12 years.
- (a) Are you married?
Ans: No, I am not married.
- (b) What type of disability do you suffer?
Ans: Physical disability
- (c) Currently a student?
Ans: Yes
- (d) The highest class passed?
Ans: class iii
- (e) What is your field of education?
Ans: General education
- (f) Can you write a letter?
Ans: Yes, I can
- (g) What is your activity status?
Ans: Do not work
- (h) Are you getting a disable allowance?
Ans: Yes, I am getting
- (i) Have you faced any type of harassment?
Ans: Yes, the negative mentality of the society, No sufficient fund is available in our school.
- (j) Have you got reserve seat when you travel somewhere?
Ans: No
- (k) Do you know about disables legal rights and protection?
Ans: No I do not know about that
3. Participant's details: Zahid Hasana Shovon, S/O- Md. Abdul Latif, Kolabaria, Bagatipara, Natore. Her age is 28 years.
- (a) Are you married?
Ans: No, I am not married.
- (b) What type of disability do you suffer?
Ans: Mental disability

- (c) Currently a student?
Ans: Yes
- (d) The highest class passed?
Ans: class vi
- (e) What is your field of education?
Ans: Vocational education
- (f) Can you write a letter?
Ans: Yes, I can
- (g) What is your activity status?
Ans: Do not work
- (h) Are you getting a disable allowance?
Ans: Yes, I am getting allowance sometimes
- (i) Have you faced any type of harassment?
Ans: Yes, the negative mentality of the society, No sufficient fund is available in our school.
- (j) Have you got reserve seat when you travel somewhere?
Ans: No
- (k) Do you know about disables legal rights and protection?
Ans: yes, I have heard it from our teacher
4. Participant's details: Sazia Akter, D/O- Md. Siddikur Rahman, Dhupoil, Doyarampur, Bagatipara, Natore. Her age is 21 years.
- (a) Are you married?
Ans: No, I am not married.
- (b) What type of disability do you suffer?
Ans: Hearing disability
- (c) Currently student?
Ans: yes
- (d) Highest class passed?
Ans: class x
- (e) What is your field of education?
Ans: General education
- (f) Can you write a letter?
Ans: yes
- (g) What is your activity status?
Ans: Household and looking for a job. This is because my family is very poor.
- (h) Are you getting disable allowance?
Ans: Yes, I am getting
- (i) Have you faced any type of harassment?
Ans: Yes, the negative mentality of the society, male section sometimes wants to tease me.
- (j) Have you got reserve seat when you travel somewhere?
Ans: No
- (k) Have you get any training?
Ans: I got training for my education but not for my job
- (l) Do you know about disables legal rights and protection?
Ans: No, I do not know about that rights. But I have heard it from my parents.
5. Participant's details: Abu Talha, S/O- Late Nurul Islam, Chack Harirampur, Bagatipara, Natore. His age is 18 years.
- (a) Are you married?
Ans: No, I am not married.
- (b) What type of disability do you suffer?
Ans: Autistic disability

- (c) Currently a student?
Ans: no
- (d) The highest class passed?
Ans: class viii
- (e) What is your field of education?
Ans: Technical education
- (f) Can you write a letter?
Ans: yes
- (g) What is your activity status?
Ans: Household and looking for a job. This is because my family is needy.
- (h) Are you getting disable allowance?
Ans: Yes, I am getting from Union Parishad
- (i) Have you faced any type of harassment?
Ans: Yes, I cannot go outside my family. And negative mentality of the society shocked me.
- (j) Have you got reserve seat when you travel somewhere?
Ans: No
- (k) Have you got any training?
Ans: I got training for my education but not for my job
- (l) Do you know about disables legal rights and protection?
Ans: No, I do not know about that rights. I cannot enjoy those rights properly.

Survey Result on Disability: The researcher surveyed the respective areas for data collection from the disabled people. He found some facts regarding their legal rights issues in theory and in practice. Here the researcher presented some issues relating to and education and satisfaction level of the disabled people. The survey of the disability is a continuous process and data input here up to 15 May 2020.

The Researched interviewed 60 disable people in different categories which are mentioned below:

Table: 1. Total number of disable person, Bagatipara Upazila [27].

Name of Union	Total Number	Getting govt. facilities- allowance / education stipend
1. Pacha Union	353	256
2. Jamnagor Union	291	205
3. Bagatipara Union	273	202
4. Doyarampur Union	280	230
5. Faguardiar Union	176	122
6. Bagatipar Paurosova	151	113
Total	1524	1128

The figure above shows that 1128 disable persons are getting govt. facilities and rest 396 are not getting facilities.

Table: 2. Application of Existing Laws.

Question: Do you know about the existing Rules, Policy and Laws?			
Sl No.	Type	Frequency rate	Percent
1	Yes	28	46.66
2	No	32	53.34
	Total	60	100.00

Here it is found that only 47 percent know the existing rules, policy and laws and other 53 percent do not know that.

Table: 3. About the Govt. and other Facilities.

Question: Do you know about the govt. and other facilities?		
Sl No.	Type	Percent
1	Accurately Know	35
2	Do not know	45
3	Wrongly know	20
	Total	100.00

Table: 4. Govt. circular regarding Medical treatment, Education, NID, Job etc.

Question: How much aware of the govt. circular you are?			
Sl No.	Type	Frequency rate	Percent
1	Briefly knows	8	13.33
2	Marginally knows	11	18.33
3	Sub total	17	31.66
4	Do not know	43	68.34
	Total	60	100.00

The figure shows that most of the participants interviewed do not know what the circular is. However, the figure shows the result at a glance.

Table: 5. Education Level of the disable persons.

Question: What is your education level?			
Sl No.	Type	Frequency rate	Percent
1	Class I-V	20	33.33
2	Class V- X	11	18.33
3	SSC	20	33.33
4	HSC	07	11.66
5	Graduation	1	1.66
6	Master	1	1.66
	Total	60	100.00

The table shows that of education level is not so strong as much as necessary. Only 33% of them are passed SSC.

Table: 6. Satisfaction Level.

Question: How do you satisfied with the service delivery system by the govt. offices and Local Authorities?			
Sl No.	Type	Frequency rate	Percent
1.	Quite satisfied	31	51.67
2.	Poorly satisfied	17	28.33
3.	Dissatisfied	12	20
	Total	60	100.00

Table: 7. In respect of Harassment.

Question: Have you faced harassment?			
Sl No.	Type	Frequency rate	Percent
1.	Ignored by the Society/ Negative mentality of the Society	40	66.67
2.	Sexual harassment	11	18.33
3.	Informed/complained to the local Chairman/Member	5	8.33
4.	No suit/case filed	4	6.67
	Total	60	100.00

Findings: A lot of problems and barriers such as social, political, institutional, and lack of awareness etc. are found in this study. However, discussing lightly regarding this study, the subsequent major findings are found:

- A. Institutional barriers express several laws, policies, methods, or practices that discriminate against persons with disabilities. Discrimination might not be supposed, however, systems will indirectly exclude those persons with disabilities by not taking their demand under consideration;
- B. The teachers are not well trained to assist such students. Even the syllabus does not beware and appropriates of the disabled person;
- C. Most of the govt. buildings or personal offices and other marginal infrastructures have no easy access for the persons with a disability;
- D. The Disabled person includes a terribly low representative in fields like government jobs, politics, economy, Local govt. etc. Only one disabled person leads in the Chatney Union Parishad as a member under Natore District.
- E. The lack of acceptable services for persons with disabilities could be a vital barrier to health care. Affordability of health service and transportation are two main reasons why persons with disabilities do not receive required health care;
- F. Attitudinal barriers (negative mentality) that facilitate in stigmatisation and discrimination, deny persons with disabilities their dignity and potential and one amongst the best obstacles to achieving equality of chance and social integration;
- G. Inaccessible communication systems stop access to data and opportunities to participate in all spheres of life. Lack of services or issues with service delivery conjointly restricts the participation of individuals with disabilities;

- H. Inadequate knowledge & Statistics- the scarcity of rigorous and comparable knowledge and statics, combined with an absence of proof on a program that works, lack of coming up with, typically delay in understanding and actions on incapacity inclusion.
- (I) The govt. facility/allowances (per month 750/-tk) which are given to the disabled persons, is very small and poor. By this amount, it is very difficult for them to maintain family and others.

Recommendations: The following recommendations may be taken to uphold and promote the legal rights of the disabled persons:

- (a) Prevention is better than cure. So by creating awareness disabilities can be prevented. In this respect, a planned pregnancy is the most important factor to avoid the risk of disability;
- (b) The parents of the disabled are to be more patience about their code of conduct and rights;
- (c) The authority who will provide service to the disable, to make the disability as the friendly environment;
- (d) Equalization of opportunities should be ensured at all levels of society. In this case, legal and social facilities such as physical, cultural, environmental, residence, transport, health care, educational, employment, games & sports etc. facilities should be flexible to all;
- (e) The govt. should strict to implement the existing laws regarding disabling with a high hand;
- (f) The service giving peoples (officials) should be trained properly so that they may provide adequate service to the disabled persons;
- (g) The govt. should ensure accountability at all levels who are working to deal with the protection and promotion of legal rights of the disable. As a result, the disables will get and enjoy their rights duly;
- (h) 'The National Disabilities Development Foundation' as well as the govt. should come forward to ensure access to education and employment system, for example, maintain special provision to give extra time in competitive examinations for them, employment and career opportunities should be given to them as a special case;
- (i) Adequate fund and sufficient infrastructures such as autistic school and recreation centre is very essential at both the rural and urban areas to uphold their rights;
- (j) The society should avoid negative mentality rather they should assist them as their own family member;
- (k) Rehabilitation project should be more effective so that in this project a poor and weaker disable person may recover mentally, physically and socially as their normal manifestation;
- (l) The persons of the third gender (*hijra community*) may be included under the legal framework with the persons with disability.

Conclusion: Although the Bangladesh government has enacted *the Disabled Persons Rights and Protection Act in 2013*, until today many the disabled persons are discriminate against it. This is not forever error of the texts of law; alternative difficult factors contribute to such failure furthermore. Negative thoughts of society, lack of data concerning out there facilities among the persons with disabilities and, non-implementation of laws, ever-existing economic condition are the few instances of these factors. People living in Asian countries with disabilities are entitled to government support. Bangladesh has already signed and ratified to *the United Nations Convention on the Rights of Persons with Disabilities (CRPD)*, in May 2007.

However, proper implementation of the prevailing legal provisions both national and international level is required in order that the deprivation of social and legal rights of persons with disabilities will effectively be decreased throughout the country. It is the duty of the government to implement the legal provisions of the disable persons. In case of infringement, the competent Court will implement.

References:

- [1] Disability in Bangladesh: Prevalence and Pattern, Population Monograph, Volume 5, November 2015 Bangladesh Bureau of Statistics, Statistics and Information Division, Ministry of Planning, p. 1.
- [2] This is an optional Protocol, signed on 30 March 2007 and effective from 3 May 2008.
- [3] Section 2(9) of *the Disabled Persons Rights and Protection Act, 2013*.
- [4] The United Nations (UN) Declaration on the Rights of the Disable Persons, 9 Dec 1975.
- [5] Article 11 of *the Constitution of the People's Republic of Bangladesh*.
- [6] Article 15, *ibid*
- [7] Article 17, *ibid*
- [8] Article 27, *ibid*
- [9] Article 28(4), *ibid*
- [10] Article 29(3)(a), *ibid*
- [11] Article 42, *ibid*
- [12] Article 102 and 144, *ibid*
- [13] *BLAST vs. Bangladesh and others*, Writ Petition No. 1783 of 1998.
- [14] Section 3 of *the Disabled Persons Rights and Protection Act in 2013*.
- [15] Section 16, *ibid*
- [16] Sections 17-28, *ibid*
- [17] Section 29, *ibid*
- [18] Section 31, *ibid*
- [19] Sections 33-36, *ibid*
- [20] Section 35, *ibid*
- [21] Section 32, *ibid*
- [22] Section 33, *ibid*
- [23] Section 34, *ibid*
- [24] Section 37, *ibid*
- [25] www.dcnatore.gov.bd, accessed on March 2020.
- [26] The Nagorik Barta, 17 January 2020.
- [27] Data collected from office of the Social Welfare Service, Bagatipara Upazila on 12 May 2020.