

Accessibility of Rental homes for Persons with Disabilities in India

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Abstract

All human beings are entitled to a comfortable, safe and accessible dwelling space. This basic human right is applicable to Persons with Disabilities too. Unfortunately, PWDs¹ and families have to go through an uphill struggle while rent a housing. India is a country known for its strong family ties but do not have any statutory binding on entitlement of housing for PWD in the arena of rental housing. The constitution of India under Article 15 there is assurance of prohibition of discrimination on the basis of religion, caste, place of birth and gender. Under many legislations for PWD including the recent RPWD Act 2016 there is no specific provision on rental homes for PWD. This study is done to understand whether having person with a disability face atrocity in getting a rental dwelling place for PWD in India. There is a universal requirement of prevention of discrimination or hardship of PWD in finding a rental apartment/home. Many developed countries legislated rental provisions for PWD. Further this study aims to create awareness amongst the general public about the legal rights of PWD and the right of PWD and their families to rent a dwelling place and live with dignity amongst others without disabilities.

Introduction

People with Disabilities are a diverse group and often experience societal barriers and atrocities in many spheres of life. They and their families often face attitudes in society in the form of prejudices, stigma that devalue and limit their potential and right to live with dignity. They and families face many issues in securing rented housing which include attitudes, architectural barriers and finances. PWD along with their families have the right to be free from discrimination in housing. They have the same right to rent an apartment or house in any private or co operative housing. Unfortunately, families who do not own a home or stay in urban areas for the child/adult with disabilities education or vocational rehabilitation seek rented housing facilities. Discrimination in housing may happen when PWD or their families experience negative treatment because of their disability. Further, PWD and their families face more discrimination on grounds of gender or age. Women with disabilities experience more

discrimination. They will be more prone to sexual violence and more vulnerable and often families feel more insecure. Apart from these PWD face many kinds of barriers on a day to day basis. This include attitude, communication, physical and systematic barriers. Builders of housing and owners need to identify the requirements of PWD and remove barriers instead of addressing individual requests of PWD. There should be mandatory provisions of keeping few barrier free housing units in all newly constructed dwelling units for PWD and provisions of ramp in main common areas and washrooms. Provisions of braille in lifts and announcement of floors. No house owner should intentionally deny renting out dwelling units to PWD. Housing resources for PWD should be implemented. Many countries like United States¹, PWD are eligible for all public housing programs, provisions for rental assistance or subsidized housing, Housing choice(S8) voucher programs. All human beings seek including PWD seek a life with dignity, integration and full participation. Persons with Disabilities have the right to live in affordable, accessible housing in the community like any other person. There should be legislations to protect and improve housing laws for PWD and their families.

Types of Discrimination

Most of the times, discrimination is subtle. When the Persons with Disabilities or family contact the owner/broker/cooperative housing society for availability of house on rent and while disclosing about the status of disability, the attitude changes drastically. Many house owners change their statements, do not answer the calls or inform the inconvenience of renting out the house by quoting some other reason. Many times, discriminatory remarks may not be direct. When the circumstances like availability of number of vacant units, rent amount affordability one can make out subtle forms of discrimination. At certain occasions apparently neutral rules, advertisements, practices have a negative impact on PWD. In many incidents after giving the apartment/house on rent Often landlords enter the premises and control the families and PWD and impose rules on them. If young children with developmental disability or intellectual disability due to their lack of socio communication skills and behavioral issues make noises neighbors report it to the notice of house owners who will become adamant in vacating the house before the stipulated time. Many families report changing houses frequently due to such incidents.

Harassment include calling nick names to Person with disability, asking intrusive questions about the persons disability, treatment or medication to PWD or to their parents. Showing atrocities like not sharing and excluding PWD while using common spaces like lift with PWD and thus singling out PWD and families, disclosing the identity of persons disability to people in front of PWD or families and disseminating offensive information about PWD by social networking. Many people exhibit fear and remove children from the vicinity of PWD which is extremely humiliating and painful for families to handle.

¹ Fair Housing Act 1968 protects people with several types of disabilities. .

2Indian Legislations on Prohibition of Discrimination of PWD

The Constitution of India ⁴ there are provisions of prohibition of discrimination. The Rights of Persons with Disability Act 2016 provides Community life ⁵ for PWD.

Chapter V⁶ RPWD Act 2016 envisages that the appropriate Government shall within the limit of its economic capacity and development formulate necessary schemes and programs to safeguard and promote the rights of persons with disabilities for adequate standard of living to enable them to live independently or in the community but there is no specific mention of right in availing rented dwelling units. Further, there are provisions protection from cruelty and inhuman treatment⁷, and protection from abuse, violence and exploitation ⁸which include creating awareness among the public. There is provision of punishment for offences of atrocities against PWD ⁹. Lot of families who cannot afford to buy houses live in rented houses report being subjected to harassment even though harassing PWD is punishable as per RPWD Act 2016.

Recommendations

The initiative taken by the Government in recognizing the needs of PWD is commendable. While there needs to be clarity on various aspects like provision of accommodation, standards for accommodation facilities, accommodation provisions for PWD belong to the low-income sector, rental accommodation guidelines etc.

Builders needs to follow the guidelines of accessibility for PWD. Further Housing societies, associations and residents should be sensitized about the legal provisions of PWD so that they will be treated with dignity. Bye laws of housing societies should include a code which has provisions of prohibition of discrimination on the ground of disability and address issues of negative attitudes, stigma to make sure they should not lead to discrimination of PWD. House owners should not deny the rental rights of pwd and families. There should be provisions in the Tenancy Act for protection of rights of PWD, further legislations for PWD to include provisions for right to accommodation including right to rent dwelling units and violators need to be penalized.

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²⁴. Article 15 Constitution of India-prohibition of discrimination on the grounds of religion, caste, race, sex and place of birth.

5. Section.5 RPWD Act 2016 provides that the appropriate Government shall endeavor that PWD ARE (a) not obliged to live in any particular living arrangement(b)given access to a range of in house, residential and other community support services, including personnel assistance necessary to support living with due regard to age and gender.

⁶. Chapter-VI RPWD Act 2016

7. Section.6 RPWD Act 2016 Protection from cruelty and inhuman treatment

8. Section 7 RPWD Act 2016- Protection from abuse, violence and exploitation

References

1. Ahmed, Ali., Mats Hammarstedt.2008, *Discrimination in the Rental Housing Market: A field Experiment*, *Journal of Urban Economics* 64(2):362-372
2. Hammel Joy, Smith Janet, *Study on Rental Housing Discrimination on the basis of mental disabilities*. University of Illinois (2017)
3. *Housing and Disabled people* <https://www.equalityhumarights.com>
4. *The Fair Housing Act*
5. *Rights of Persons with Disabilities Act, 2016*
6. *WHO housing and health Guidelines (2018)* <https://www.ncbi.nih.gov/books/NBK535293>

9. Chapter XVI Offences and Penalties, S.89. Punishment for contravention of provisions of Act-first contravention be punishable with fine up to ten thousand rupees, subsequent contravention with fine which shall not be less than fifty thousand rupees which may extend to five lakhs rupees. S.92 Punishment for offences of atrocities