

Human Rights in Vulnerable Groups: A Case Study of the Visually Challenged in Higher Education

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Abstract: *In a human rights sense, certain population groups often encounter discriminatory treatment or need special attention to avoid potential exploitation. These populations make up what can be referred to as vulnerable groups. The new United Nations Convention on the Rights of People with Disabilities- ... "Is to promote, protect and ensure full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect and ... their full and effective participation in society on an equal basis with others". In this age of "equality of opportunity and treatment" to disabled person, while human beings are interdependent and interrelated without discrimination, the need for persons with disabilities must be guaranteed their full enjoyment of fundamental freedom and human rights. Some human rights advocates dislike the separation of particular groups for special treatment. In reality without providing additional protection to certain groups, it becomes too easy to discriminate. For that reason, human rights principles have created the concept of vulnerable groups. This paper while presenting a case Study of the Visually Challenged in Higher Education, the most vulnerable group of Human Rights, appeals to every citizen to recognize, promote, protect and ensure the need for equal human rights to the disabled persons against backdrop of clash of human rights and right to intellectual property.*

Keywords: Visually challenged Discriminatory treatment, equality of opportunity and treatment, intellectual property rights, knowledge famine, Access to knowledge and copy righted material.

1. Introduction

In a human rights sense, certain population groups often encounter discriminatory treatment or need special attention to avoid potential exploitation. These populations make up what can be referred to as vulnerable groups. The new United Nations Convention on the Rights of People with Disabilities- ... "Is to promote, protect and ensure full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect and ... their full and effective participation in society on an equal basis with others". [Resolution7/9.Human Rights of persons with disabilities. Also found in the UN Convention on the Rights of Persons with Disabilities.

In this age of "equality of opportunity and treatment" to disabled person, disability is an evolving concept. While the world is turning into a global village and while human beings are interdependent and interrelated without discrimination, the need for persons with disabilities must be guaranteed their full enjoyment of fundamental freedom and human rights. There are varying disabilities and various definitions of disabilities. Every disability bears fundamental difference/s from other disabilities. The disability results from poor interaction and attitudinal barriers of people and hinders the disabled persons from full and effective participation in society on equal basis with others.

Recognizing the importance of accessibility of the disabled persons to physical, economic and cultural situations, to health, education, information and communication and enable them enjoy all human rights, and further improve their living conditions particularly disabled women and girls who are subject to multiple discrimination, my paper while presenting a case Study of the Visually Challenged in Higher Education, the most vulnerable group of Human

Rights appeals to every citizen in every country and developing country to recognize, promote, protect and ensure the need for equal human rights to the disabled persons against backdrop of clash of human rights and right to intellectual property. Of the disabled persons, the most vulnerable group to be protected is the blind and visually impaired. According to Oxford Dictionary a blind person is someone who is "unable to see because of injury, disease, or a congenital condition" Also, when it comes to technicalities such as providing health and medical services, education/employment/ financial aid statistically the data assessment of the visually impaired are difficult to be defined.

Apart from the visual impairment and blindness, hundreds of visually challenged suffer from other disabilities to access reading. "Reading disabilities are demonstrated by atypical reading behaviors and presumed cognitive irregularities. These effects could be attributed to a range of factors or conditions, and necessary conditions could likely include multiple factors."70 One of the main disabilities caused by neurological problems is dyslexia. According to the National Institute of Neurological Disorders and Stroke, "Dyslexia is a brain-based type of learning disability that specifically impairs a person's ability to read." Dyslexic people need special methods compatible with their condition to be able to read. Today there are technologies, which provide dyslexic persons read by the use of text-to-speech. The visually challenged and the visually impaired community deserve equal enjoyment of accessible formats of copyrighted material or standard printed materials.

The present article deals with the unsatisfactory access of the blind and visually impaired persons to accessible copyrighted materials and to protect and ensure their full freedom and their right to intellectual property. Several Human Rights Groups and their efforts to help the visually

challenged are being studied. After examining the series of protests by the Human Rights groups to provide copyrighted standard materials, my paper investigates the World Intellectual Property Organization Draft Treaty for Improved Access for the Blind, Visually Impaired and Other Reading Disabled Persons to Copyrighted Materials. It also examines the Organization's contribution to human rights and right to intellectual property. My article supports the Draft Treaty as a useful tool of better access for the visually impaired community, and offers a hybrid solution to the legal clash of human rights and right to intellectual property in creation of a human rights framework for intellectual property rights.

Throughout the world, less than five percent of the books published annually are available to the blind and visually impaired persons. Further, they are deprived from accessible formats such as Braille, audio, and large print. To reproduce these works under copyright protection for the blind and visually impaired persons requires a sanction from the copyright holder and this bears high expenses to undertake the procedure. So the situation is dismal and discriminating. While the visually impaired persons ask for prompt measures, the development of the new technologies and internet facilitates an emergence of Access to Knowledge Movement as if the VIPs are highlighting the concerns of the blind community. To equalize the opportunities for VIPs in 2009 the Draft Treaty for Improved Access for the Blind, Visually Impaired and Other Reading Disabled Persons to Copyrighted Materials, WIPO was proposed and has been negotiated since then.

My article while raising the question of inadequate and unsatisfactory access of the blind and visually impaired people to copyrighted material pleads better access for visually challenged while respecting enforcement of VIPs' human rights, through the WIPO Draft Treaty to achieve the goal. Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

The principle of universality of human rights and freedom is the cornerstone of international human rights law. This principle is reiterated in numerous international human rights conventions, declarations, and resolutions. Also, the 1993 Vienna World Conference on Human Rights notes that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems. All States have ratified at least one, and 80% of States have ratified four or more, of the core human rights treaties, reflecting a concrete expression of universality. In short fundamental human rights enjoy universal protection by customary international law.

The principle prohibits discrimination on the basis of sex, race and color and so on. The principle of equality, as stated in Article 1 of the Universal Declaration of Human Rights is: "All human beings are born free and equal in dignity and rights." However, a Systematic segregation of visually

challenged children from mainstream schools leads to discrimination and denial of access to education.

A case study shows visually challenged students are being denied admission in Intermediate/ UG as they usually fail to compete with the abled. With drop in pass & many colleges gradually stopped admitting visually challenged students. A college in the city of Hyderabad which usually admitted 40 to 60 VC students continued BA course but eventually stopped admitting VC students when the overall result of the college was affected. Later there was a complete close down of admissions and the VC students had to join BJRGDC in HPP- TM. It was appalling when the audit inspecting groups from Osmania University and Commissionerate of College Education raised objections over the failure of the college to provide basic infrastructural facilities and academic aids like CD players, audio lessons, and access to computer education and Internet to the VC students. The VC students were not even provided special voice based mobile phones to record the lessons. Here, Educational institutions play an important role. They must come forward to run, support, make adjustments and give opportunity to the VC students which is their right as equal to the abled and allow the Visually challenged to develop fully in their life.

The main rights to be focused for the VC are the allocation of resources and human rights education. Though there has been a significant shift in advancement and empowerment of the blind and visually impaired persons on the principle of equality which forms the core of the human rights vision, the Right to education gives them right to equality and right to progress. The rights of persons with disabilities defined by (United Nations, 1975) are persons with disabilities are entitled to 'measures designed to enable them to become as self-reliant as possible (Para. 5); to provide "medical, psychological, and functional treatment, including prosthetic and orthotic appliances (Para. 6); to provide social rehabilitations, educational vocational training, counseling, placement services, and other services to assist in social integration (Para. 6); to provide economic and social security and a decent level of living. People with disabilities have the right to secure and retain employment or to engage in a useful, productive, and remunerative occupation and to join trade unions (Para. 7); live with their families and to participate in all social, creative, or recreational activities (Para. 9); to protect against exploitation and treatment of a discriminatory, abusive, or degrading nature (Para. 10).

However the circumstances proposed in the declaration on persons with disabilities particularly the visually challenged, are often sabotaged by people in power. As a result social workers & Human Rights groups find their job frustrating. While VC persons do not get the needed services, they face interstate and interregional differences, besides poor access to health and health services. VC women, children and aged are the most vulnerable groups and need more attention. Most VC children are deserted or abandoned by their parents. If the child is a girl the desertion is more. The families sometimes leave the child at welfare schools to claim Governmental scholarship. Abandoned, VC children usually end up in hostels and are exploited. Their human rights are violated at every stage of their growth.

It is deplorable that only 1% is reserved under PHC for the VC students who have to compete with the abled ones. If they succeed in school and college education, they have less scope in higher education for the situation is even bleaker. The needs of Visually Challenged are:

1. Need for Braille and training in Braille to pursue professional studies.
2. Hygiene is a major concern. Need for special physical facilities, like hand bars in restrooms and privacy. Also need for special transportation facilities in bus/ rail.
3. Girl students need a safe environment and support staff to assist in sanitation activities. Girls' hostels need to be guarded by security from sexual exploitation (after a recent case of a staff recording the girls in washroom on his mobile and circulating the mms. It was reported on a TV channel in a sting operation). The situation is worse when the girls being sexually exploited are not even aware of what's happening.
4. New colleges with Special courses/VC friendly curriculum must be provided
5. Audio based CBT is recommended for VC students at UG level as the existing Gen English advantages the abled students.
6. The Govt. of AP provides CD players and MP3 players for VC students with the content prepared by University/ State Board. Interestingly, one NGO, Samrita trust, headed by Mr. Sharma, a retired air force officer, prepares audio CDs for the VC students to read, play, replay and revise their lessons simultaneously.
7. VC students need scribes to write their exams, which is a major problem. In mega cities single announcement on FM radio solves the problem, but it is unresolved in towns and villages. Besides scribes do not usually choose to go to towns and villages.
8. After Graduation What? As most VC students stay in hostels they prefer to fail rather than complete their Degree as they have no place to go and must vacate the hostels. Hence the majority VC students discontinue their studies in final year. They take a break and seek admission in a college in another district under the same university.
9. With little support coming for VC students pursuing school education, Radio Mirchi came forward to customize the content of the school syllabus as part of its Corporate Social responsibility. Many readers were invited to read, the response being good, it recorded lessons from 6th to 10th in both Telugu and English media and handed over the CDs to a VC Trust of Devnar School. When Devnar School produced exemplary results of the pass % from 40% to 80% many other schools adopted the mass media method to cater to the needs of VC.
10. There is great need to increase Vocational training institutes for VC persons so that they become economically independent. Govt. is making Higher Education possible to the VC students if the student has less than 70% blindness. But in spite of increasing educational opportunities to the VC students, employment marriage, settlement, self-reliance, self-sustenance appears bleak. It is the collective effort of

every citizen to help this vulnerable group of VC socially, culturally and morally.

2. Conclusions

'Knowledge famine' of blind and visually impaired to copyright materials as a result of clash of copyright and VIPs' has been analyzed in the present paper. The general interaction of intellectual property and human rights being narrowed down due to the clash of copyright and human rights and consequent limited access has been dealt in the second part of the article. Since the main aim of the paper is to explore the role of the WIPO Draft Treaty required for such evaluation has been analyzed in next part of the article. A number of human rights groups and their significant role in VIPs' lives have been referred to. The facts have been effectively established and commented on. The General Comment No. 17 as one of the key elements of A2K (ACCESS TO KNOWLEDGE) movement with its guidelines was specifically underlined.

Finally, WIPO Draft Treaty and its advantages both for the visually impaired as well as the alleviation of the general human rights and intellectual property by creating a human rights framework was examined. The research paper illustrates that the Draft Treaty works as an umbrella encompassing all the human rights of VIPs infringed by lack of access to copyrighted works.

Finally as Lawrence Lessig suggests in *Free Culture* it is the time to stop fighting the 'copyright wars' against what Internet has changed in our lives in the sense of culture. Let us give the vulnerable group of VC persons Right to Education, employment, marriage, settlement, self-reliance and self-sustenance. It is the collective duty of every abled citizen to protect vulnerable citizens.

Some human rights advocates and critics dislike the separation of particular groups for special treatment. This violates the notion that because human rights apply to everyone, no individual or group merits special attention. In theory, that makes sense. In reality, however, without providing additional protection to certain groups, it becomes too easy to discriminate or otherwise exploit those groups. For that reason, human rights principles have created the concept of vulnerable groups.

3. Future Scope of the Study

The researchers can look into the exploitation and injustice encountered by the visually challenged in particular and other vulnerable groups in general not only in higher education but in basic education, placements and workplace and in different fields and their deprivation of access to knowledge.

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