

PUBLIC HEARING

“ADDRESSING THE NEEDS OF PEOPLE LIVING WITH DISABILITY”

Max Mueller Bhavan, New Delhi

9th December 2003

11:00 a.m.- 2:15 p.m.

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Background

Increasingly there is a growing need that concerns of people with disabilities need to be mainstreamed within a rights based framework that guarantees them equality of opportunity in all respects.

A Public hearing organised to address the needs of people living with disability on 9th December 2003 at Max Mueller Bhawan, New Delhi sought to bring issues of people with disabilities within the ambit of a rights discourse. The hearing was presided over by Retired Justice K.N Saikia, former justice, Supreme Court of India and was attended by disability activists, organisations working on a range of disability issues and representatives from administrative echelons like the Ministry of Justice and Social Empowerment, Ministry of Human Resource Development and the Delhi Development Authority.

The Public hearing heard the testimonies of people living with disabilities in three critical areas of

- Education, vocational training, skill building and recreation
- Barriers free built environment
- Livelihood and employment

Attached are the testimonies of people living with disabilities, supporting submissions made by stakeholders engaged in responding to the concern and officials from concerned Ministries.

As far as employment is concerned, it is generated not only in the government sectors but also in private establishments, industrial concerns, banks etc. These organizations should be sensitized and made conscious to modify their jobs to suit the disabled persons. This aspect should be borne in mind also while imparting training to the disabled. This is an obligation, which the State has to fulfil and hence actions taken by the State should be assessed with this perspective.

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- 11.00 a.m. **Welcome Address**
- 11.10 a.m. **Thematic Address**
Ms. Rajwant Sandhu, Joint Secretary,
Ministry of Social Justice and Empowerment
- 11.20 a.m. **Keynote Remarks**
Justice K.N. Saikia, Former Judge, Supreme Court of India.

The Hearing

MODERATOR	MS. AARTHI PAI
PRESIDING JUDGE	JUSTICE K.N SAIKIA

- 12.00 – 12.45 p.m. **Area 1. – Education, vocational training, skill building, recreation – Responding to young people’s concerns**
Testimony - 10 min
Care givers speak - 5 – 10 min
Response from officials - 5 – 10 min
Remarks of Judge - 5 – 10 min
12. 45 – 1.30 p.m. **Areas 2. – Barrier free built environment**
Testimony - 10 min
Care givers - 5 – 10 min
Response from officials - 5 – 10 min.
Remarks of Presiding Judge - 5 – 10 min
- 1.30 – 2.15 p.m. **Area 3. – Livelihood and Employment**
Testimony - 10 min
Care givers speak - 5 min
Response from officials - 5 –10 min.
Remarks of Presiding Judge - 5 –10 min
- 2.15 p.m. **Vote of Thanks**

Judgement

Education, vocational training, skill building, recreation- responding to young people's concerns.

The central problem, it seems is the lack of a definite authority to whom people can register their complaints.

The following suggestions can be made:

- It is time for the central government to consider having separate portfolio for the disabled. This is one aspect. Another aspect is that ministries should have within themselves, a special wing to facilitate the cause of the disabled. For instance, the ministry of HRD looks after education. But education for the disabled should be placed under the charge of a separate minister.
- Another question is that of certification. Whenever the disabled visit a medical officer, they should be given a certificate or a token that is standardised and is applicable throughout the country.
- Another important observation, which can be made here today, is that after having finished their education, the disabled don't know where to go. So it is the obligation of the state to ensure some sort of a life long pension to the disabled so that if nothing is done, the person at least gets a means of sustenance. That gives some solace to the person that even if I am disabled, I can sustain myself. It is the responsibility of the State to provide the disabled with some measure of social and economic security.
- The banks and financial institutions have no right to disallow accessibility to bank account to a disabled person. Specific instructions have to be given to all the banks in this regard. It is not a problem because most of the banks today are nationalised banks and even the international banks follow the international law. Another important point that came out from the testimonies was a disabled person was denied the right to vote. Under the people's representation Act, it is the fundamental right of every person to exercise his franchise. Hence any authority conducting the elections has no right to deny this to a person whose name is there in the electoral rolls. This has a very demoralizing effect on the disabled who feel they have been eliminated from the society.
- So far as the school and college education is concerned all the universities have to be given some guidelines and directives. Educational institutions-general, technical and vocational have to equip themselves with disabled friendly measures. Educational institutions of all categories and levels must be required to reserve 3% seats for disabled students. Providers of distance learning must impart education suited to the needs of disabled students
- If a disabled is a candidate for an assistant teacher etc., he/she cannot be denied employment on the assumption that he or she is incompetent. The State has allocated separate revenue for such people and it is its duty to ensure that the disabled have the right to earn their livelihood. This not only depicts state responsibility but also shows that it attaches value to human life.

A Barrier Free Built Environment

Listening to the testimonies on this segment the following are the few inferences that can be drawn

- There is a need for appropriate local government authorities and business establishment.
- Adopting disabled friendly measures for the benefit of persons living with disability.
- Public parks and resorts should have disabled friendly arrangements. The builders, the HUDCO, development authorities and other building organisations are to be required to minimum fixed percentage of buildings for persons living with disability and allot those at concessional rates

- There is a need for the creation of a disability wing and posting disabled friendly personnel at important rail stations, airports and ports to render assistance to the disabled. The drivers and guards of passengers and express trains, pilots and other personnel of aeroplanes, drivers and conductors of buses and captains and crew of marine liners should be assigned the duty of assisting the disabled passengers in all possible ways throughout the journey. Disability friendly measures have to be provided on the railway platforms, toilets, compartments and entrances and exits.
- It is the duty of the state to ensure reservation of posts for disabled subject to availability of candidates in public services. Public sector units, banking and financial institutions should also be given directives by the state to implement similar proposals. A great relief is that the new master plans, disabled friendly measures as provided in the building by-laws have been incorporated. Other buildings based on other by-laws should try and adopt disabled friendly measures. The crucial question confronting the disabled is who to complain if the above-mentioned directives are not complied with.

Livelihood and Employment

As far as employment is concerned, it is generated not only in the government sectors but also in private establishments, industrial concerns, banks etc. These organizations should be sensitized and made conscious to modify their jobs to suit the disabled persons. This aspect should be borne in mind also while imparting training to the disabled. This is an obligation, which the State has to fulfil and hence actions taken by the State should be assessed with this perspective.

Retd. Justice K.N Saikia
(Presiding Judge)

Public Hearing on People living with disabilities

The Hearing

Inaugural statement by Retired Justice K.N Saikia

The Preamble to the Indian Constitution stresses on the equality of opportunity. Other articles 13,14,15 and article 31(a), 31A also emphasize this right. The constitution begins with the proposition that the ownership and enjoyment of rights is vested in an individual man or woman and in this respect, everybody has to be treated equally. But in fact those who are unfortunately disabled, and there are numerous varieties of them make them in this respect different from the normal human beings. If they are different, disadvantageous and handicapped for the purpose of enjoying the rights available to all men. So every body is entitled to an equal enjoyment of rights by the state. Hence any programme made comprehensively has to also keep in mind the disabled population of the country. The rights that the disabled are entitled to enjoy can be found both in the human rights agenda and the UN Convention. This discussion is confined only to the Constitution of India.

Constitutional rights of the disabled and subsequent obligations of the state and civil society.

It is the mandate of the Indian Constitution to spend the state revenue on enabling the disabled and hence should not be perceived as state benevolence. Since the disabled are themselves incapable of asserting their rights, it is the duty of the state to pick them up from their disabled position and to enable them to attain parity with others. The state need not sit back for the parents to come forward for helping the disabled child. It is the obligation of the state and this should not involve any sense of charity. How far it is practical is a different matter. The state must have a register with the name of each and every disabled in the country. This should also follow a proper categorization of the disabled. Once this is done the state should maintain a constant communication with the disabled with a view to device instruments to compensate their disability and to mainstream them. This would enable the state to keep in touch with the problems, demands and expectations of the disabled.

The government has passed several pieces of legislation, which are consistent with the nature of the problem. The organizers in respect to the affidavits have also referred to the provisions of the act. The concept of laissez faire must be given up and responsibility must be taken up by the state and local authorities. An attitudinal change is required for the disabled population of the country.

Area I

Petitions on *Education, vocational training, skill building, recreation- responding to young people's concerns.*

Testimony 1. Profile

Arti, a young woman of thirty years old and living with a down syndrome is currently training to be a receptionist at a hospital called Abhaas. Having studied in a number of schools like Bharti Vidya Bhavan, Greenfield and later in a special school called Amar Jyoti, she feels that she is neither being heard nor are her needs being recognised. She is gifted with unique creative talents and craves for acknowledgement and appreciation of her work. She makes New Year cards, rakhis etc for sale at Abhaas.

My name is Arti. I am 30 years old. I stay with my mother, my brother, my sister-in-law and my sister. I have studied till class 10. I first went to Greenfield school and then my mother got me admitted into Bharti Vidya Bhavan. However, after sometime I was admitted to a special school called Amar Jyoti. I wanted to interact with other people so I started working in Lady Irwin School. I was paid Rs 500 there. I feel very lonely. I want to work and be so busy that I don't feel lonely. My problem is how do I make friends? I find myself always depending on my mother. What will happen to me after she has gone? I request the government to make friendly spaces and shelters for people like me, a place that we can call our *home*.

I used to play football in the school team. It had both boys and girls. It was an integrated set up. I enjoyed playing with them, as I did not feel different or that they were making fun of me. They accepted me. I have won a number of medals in walking race even at national level. I like making cards and Rakhis. Thank you all for listening to me.

Testimony 2. Profile

Sonia is a forty-year-old woman and is a spastic. She would like to work but “no one will employ her”. Currently, she is teaching poor children at her mother’s school which is run from Sonia’s home. Sonia feels insecure and lonely and craves for a shelter where she can make and maintain friendships by just being herself. She is a very good public speaker and has once displayed her talents at singing in front of an audience of around one hundred people.

My name is Sonia. I stay with my mother, younger brother and Lata, a girl from Laddakh who stays with us. I was normal till I was three months old. One day I had a fall and suffered a head injury. I started walking a little bit when I was four years old. I have studied in an integrated school. I started my student life from Delhi Montessori school where I learnt a number of things. My mother says my progress was very rapid there. My mother then got me admitted into a normal school in Bluebells. I have always wanted to study in a normal school. However since I could not cope with Maths, my teachers asked me to leave. I was then admitted into Balwant Rai Mehta School. The school authorities later kept me as an assistant. I now teach two children. However, I don’t have any friends and there is no place for me to go. I do not want to be with my mother all the time. The city is not safe for us to travel. However once I went to Dehradun and Rishikesh and made good friends there. They told me about different religions. I also like travelling a lot.

Testimony 3. Profile

Sachin Sharma, a young man of thirty-five years is mentally challenged. Sachin has received training at Muskaan and is now employed in jobs like candle making, masala packaging etc. Sachin’s core concerns centre on gaining access to a more gainful employment and also finding avenues for social interactions.

My name is Sachin. I stay with my family that comprises of my father, mother and sister. I would like to stay in a home for mentally challenged that can take care of all my needs. I have no other avenue for social interaction except Muskaan. I would like to go to community centres where I can enjoy and meet people. I request the government to provide me with a playground. Although my physical requirements are taken care of by my parents, I feel that nobody respects me. Whenever kids who sometimes come to my place call me a lunatic, nobody objects to it. I feel very bad about it.

There is no provision for the mentally challenged to open a bank account. Those of us who can should be allowed to open a bank account. I went to vote but I was told that my vote would not be counted. I have always wanted to exercise my franchise but never got the permission to do so.

Testimony 4. Profile

Sunil Kumar is a twenty eight year old young man who has lived with visual impairment almost since birth. The highly qualified and courageous person that he is, Sunil has been repeatedly trying to get permanent employment in the public sector but has time and again failed in his attempt. Currently the Secretary of the Blind Youth Association, Sunil is striving to bring fundamental changes in the policies for visually impaired.

My name is Sunil Kumar and I come from a village in Bihar. I became blind when I was five. I was admitted in a blind school in Darbhanga after which I did my intermediate education from Benaras that has a free institute for the blind. I graduated from Delhi through correspondence. I could not continue my education in Darbhanga, because there was a dearth of specialised teachers there. There were no special provisions for visually impaired people. I could not engage in any play activities and could not aim at gaining any kind of utilitarian education. I did not go to a normal school because they had no facilities for the disabled.

Supporting Submissions

Rubina, Psychologist (Muskan): The need to be part of society is as great in them as in us. The problem that we face as caregivers is that once we have imparted the vocational training, what should the person do next? The wages provided by the institutes they work with are very minimal. There are reservations in the employment exchanges but that does not apply to all the disabled people. Furthermore this also requires particular educational and vocational skills, which do not apply to the mentally challenged. The world for people who come in our institute, is small. If they do not interact with the 20 people they meet here, they are alone. Special provisions need to be made for the recreation of special children. These are the issues that really trouble us and which we think should be brought to the notice of the government. We don't have solutions, if we had something we would have probably done something about them. Even if there are clubs and recreational centres, they are limited in scope and reach.

HS Phulka (Lawyer, parent of disabled child): I have experienced all the things that people giving testimonies are talking about. Even if we form one or two clubs, it would not affect everybody. The urban development ministry should ensure reservation and facilities for the disabled in existing clubs and community centres. The media should launch an awareness campaign in TV, radio etc like they have done for other social problems like HIV/AIDS. For example, like integrated education is compulsory in western countries, it should also be made mandatory in Indian schools so that sensitisation begins at the primary level. I would like to contribute free legal aid services in order that people with disabilities can access legal services.

Official submissions

Rajwant Sandhu (Joint Secretary, Ministry of Social Justice and Empowerment): It is the responsibility of the government and the community to provide the facilities for rehabilitation of disabled through education and vocational training that are relevant for the age group. It is also for the People with Disabilities (PWDs) and their families to avail of these facilities and lobby for their availability if they are not available.

Access has a number of connotations and we have to look at all those aspects. As far as access to education is concerned, I would suggest that more people should try to go for higher education, technical courses as our assessment is that the 3% quota is just not being utilised.

To help disabled education, the Ministry of Social Justice and Empowerment has introduced 400 scholarships for technical and professional courses at the post matric level. However, the greatest problem is access. In 2002 we had only 181 deserving applications when about 1700 persons had applied. The fund allocations for economic empowerment have also not been used. Data available with the Ministry of Rural Development shows that only one-third of the funds available in poverty alleviation programs implemented through the DRDS are being utilized. Hence there is a critical need to provide people with information about existing policies and schemes.

Anupriya Chadha (Department of Education, Ministry of Human Resource Development): I would like to share some of the work that the Ministry has done. Every village has a VEC (Village Education Committee) that keeps a record of all people living with disabilities in a single village. This record is maintained at the village level, bloc, district and the state level. So some kind of mapping is also happening at the grass root level. The Ministry has also launched the Sarva Siksha Abhiyaan (SSA). Under this programme Rupees One Thousand Two Hundred is given to every child with disabilities.

The district is allotted the total amount depending on the number of children with disabilities so that they can introduce various incentives for children with disabilities.

Another aim of the SSA is to assist special schools like Muskaan. The Ministry also invites NGO support on its projects. In states like Tamil Nadu, UP, West Bengal, a number of NGO and GO

partnerships are taking these programs to the grassroots. I would request NGOs present here to submit their proposals to us so that the Ministry can do the needful. The Secretary Mr S. C. Tripathy is open and receptive. So if you need any kind of help, he can be contacted.

Judgement on Area 1

The central problem, it seems is the lack of a definite authority to whom people can register their complaints.

The following suggestions can be made:

- It is time for the central government to consider having separate portfolio for the disabled. This is one aspect. Another aspect is that ministries should have within themselves, a special wing to facilitate the cause of the disabled. For instance, the ministry of HRD looks after education. But education for the disabled should be placed under the charge of a separate minister.
- Another question is that of certification. Whenever the disabled visit a medical officer, they should be given a certificate or a token that is standardised and is applicable throughout the country.
- Another important observation, which can be made here today, is that after having finished their education, the disabled don't know where to go. So it is the obligation of the state to ensure some sort of a life long pension to the disabled so that if nothing is done, the person at least gets a means of sustenance. That gives some solace to the person that even if I am disabled, I can sustain myself. It is the responsibility of the State to provide the disabled with some measure of social and economic security.
- The banks and financial institutions have no right to disallow accessibility to bank account to a disabled person. Specific instructions have to be given to all the banks in this regard. It is not a problem because most of the banks today are nationalised banks and even the international banks follow the international law. Another important point that came out from the testimonies was a disabled person was denied the right to vote. Under the people's representation Act, it is the fundamental right of every person to exercise his franchise. Hence any authority conducting the elections has no right to deny this to a person whose name is there in the electoral rolls. This has a very demoralizing effect on the disabled who feel they have been eliminated from the society.
- So far as the school and college education is concerned all the universities have to be given some guidelines and directives. Educational institutions-general, technical and vocational have to equip themselves with disabled friendly measures. Educational institutions of all categories and levels must be required to reserve 3% seats for disabled students. Providers of distance learning must impart education suited to the needs of disabled students
- If a disabled is a candidate for an assistant teacher etc., he/she cannot be denied employment on the assumption that he or she is incompetent. The State has allocated separate revenue for such people and it is its duty to ensure that the disabled have the right to earn their livelihood. This not only depicts state responsibility but also shows that it attaches value to human life.

Area II

Petitions on *A Barrier Free Built Environment:*

Testimony 1. Profile

Sunil Arora, a forty-two year old retired bank employee is living with muscular dystrophy. Sunil came across as a very enterprising and intelligent person who has faced heavy odds in life to create a position for himself in the society. Sunil is passionate about travelling and visiting new places but the means he has at his disposal are not sufficient to realise what he cherishes. Sunil wanted to continue his studies but could not do so on account of his disability. Sunil is a social person and likes being a part of social gatherings.

My name is Sunil Arora. I am forty-two years old and I am living with muscular dystrophy that is a progressive disease. I was admitted into a college. However I could not finish my college education, as the classrooms were very difficult to access. My father had to carry me to the examination centre. Since I could not study further, I realised there was no use wasting time. My cousin was filling the form for Bank clerical exams, and suggested that even I should apply for the same. I appeared for the exam and got through.

I have travelled to Mumbai and Bhopal and I wish I could travel more. The basic impediment that stops me from travelling is the inconveniences I face in the trains. The entrance door of the carriage is so narrow that it is difficult for the wheelchair to be taken in. Moreover there are no ramps connecting platforms on the railway stations. To reach the train you have to go through the track facing a bumpy ride. I need to be lifted two to three times at different junctures that is quite uncomfortable. The coaches do not have toilets that are wheelchair friendly. Trains that have special coaches are few and they too are beset with problems. I experienced this while travelling to Bhopal. The Nizamuddin station in New Delhi used to have ramp but that too has been removed. I suggest the railway ministry makes travelling easier for the disabled. Just providing concessions on travel tickets is not enough.

I took early retirement from bank because I could not continue working for long hours.

Testimony 2. Profile

Anuja, twenty, is affected by cerebral palsy. Anuja is currently receiving her education in Udaan, a school for special children. Anuja's core concern is the problem she faces in physically accessing public spaces. She wants a strengthening of the information disseminating machinery of the state so that she is aware of the disabled friendly programmes, which are launched from time to time.

(Presented by her father) My daughter faces a lot of problems in public spaces. The hundreds of subways that have been built in the city do not contain any provision for the disabled. A provision should be made to fix the quota of around 4-6 seats for the disabled in each train. They can be released later in case of non-occupancy but I think such a provision should be there. Whatever the govt. is doing is not being communicated to the people. The DD enjoys viewership throughout the country but it does not attempt to disseminate these vital informations to the people. It should fix up a time slot in which it telecasts all the information about the various schemes and provisions available to the disabled. For example, I recently came to know from somebody that the railways have launched new special coaches for the disabled. I did not know about any such train. Why can't the railway advertise these developments? The media should highlight the problems faced by the disabled.

Sonia: I find it very difficult to use public transport. I want that the buses should stop as soon as I ask them to. They don't have any special arrangements in public transport systems through which handicap people like me can board the buses. The stairs are so high. I have stopped travelling in buses altogether. The autorikshaw drivers charge a lot of money from me. Don't they have any sensitivity? I want the government. to take care of these basic difficulties faced by handicaps like me.

Anita Pal: I am an architect. When I got admitted in first year in college, I faced a lot of difficulties as my class was on the fifth floor. However this is reduced to insignificance in comparison to the problems I faced after I was out of college with decent marks and was out to vie with others for employment. I got myself registered in a handicap employment exchange in KG Marg. I wasn't anyways interested in a govt. job and neither did I get one. I think the extent of creativity that one can use in a private job can never be used in a govt. job. A friend who gave me his 1200 sq ft. residence to design gave me my first assignment. However the contractor doubted my potentials. Being a woman and that too handicap was reasons enough for people to question my capabilities and I had to constantly prove myself. I know of a family who are getting their house made for their handicap girl but the girl's name does not even feature in the registration of the house. Also the house has not been designed in a way that provides any convenience to the handicap girl. The handicapped children cannot always express their feelings. So I request the families to interpret the unsaid emotions of their children.

Supporting Submissions

EN Kardozo (Action for Ability, Development and Inclusion): As far as the DTC buses are concerned, the disability commission of Delhi has passed a notification, which says that any bus, taxi or rickshaw driver, who misbehaves while a disabled person is boarding a vehicle or disembarking from it, will be deprived of his license at least for six months. We have with a disabled person called Dinesh Gupta who first filed a case against DTC buses as he was pushed out of them a number of times. He is now happy to report that the bus drivers are sensitised and he can now travel safely in DTC buses. However, Dinesh did not get satisfied here. He now travels in blue line buses and due to a rough treatment by the drivers and conductors; he has got stitches all over his face and chin. However Dinesh remains committed to the goal of sensitizing even the crew of blue line buses.

Anybody who is treated badly in such situation, just needs to know the number of the bus, the date and day on which the incident happened and can easily file a complain with the disability commissioner of Delhi. She has made a promise that the license of these blue line bus drivers will be taken away for a minimum period of 5 months.

Dinesh Gupta has started a club for the disabled. Anybody wanting to know more about this club can take the information.

Rubina (Psychologist, Muskan): I think communication is a problem, which is faced by every disabled. The few recreational centres that are available are not easily accessible. We have given our students a list of places they can go to. However they often come back with the complaint that they faced ill treatment.

Official Submission

P. V Mahashabhai (Delhi Development Authority): I am in-charge for the third master plan of Delhi 2002. Of course, the master plan is very large and it covers the entire city In 1995-96, the Bureau of Indian Standards prescribed building by-laws. They have also been incorporated as part of Delhi building by laws 1993. Most of the buildings have to be in sync with those by-laws and probably the plans are also sanctioned accordingly. In Vikas Minar, we have made certain additions to make the building disabled friendly. Similar provisions have been made in Vikas Sadan. Undoubtedly, there are implementation flaws with the old buildings. In Delhi, there are 3 to 4 agencies operating (MCD, NDMC, DDA etc) whose operation areas are also different. But unified bylaws definitely prescribe the disability provisions for these buildings. We are trying to incorporate the new provisions. The rest are management problems.

George Abraham (Director, SCORE): Disability issue is a concern of the entire country. Right from highway projects to projects on governance to development of a railway station; everything has an impact on people with disability. So I think a small arm of government trying to solve the problems of

the disabled is not going to get us anywhere. I think when we are talking of formulating a development strategy, every citizen including the disabled should be incorporated. So whether it is an education system or creating environment or whatever, the disabled should be kept in mind.

Judgement on Area 2.

Listening to the testimonies on this segment the following are the few inferences that can be drawn

- There is a need for appropriate local government authorities and business establishment.
- Adopting disabled friendly measures for the benefit of persons living with disability.
- Public parks and resorts should have disabled friendly arrangements. The builders, the HUDCO, development authorities and other building organisations are to be required to minimum fixed percentage of buildings for persons living with disability and allot those at concessional rates
- There is a need for the creation of a disability wing and posting disabled friendly personnel at important rail stations, airports and ports to render assistance to the disabled. The drivers and guards of passengers and express trains, pilots and other personnel of aeroplanes, drivers and conductors of buses and captains and crew of marine liners should be assigned the duty of assisting the disabled passengers in all possible ways throughout the journey. Disability friendly measures have to be provided on the railway platforms, toilets, compartments and entrances and exits.
- It is the duty of the state to ensure reservation of posts for disabled subject to availability of candidates in public services. Public sector units, banking and financial institutions should also be given directives by the state to implement similar proposals. A great relief is that the new master plans, disabled friendly measures as provided in the building by-laws have been incorporated. Other buildings based on other by-laws should try and adopt disabled friendly measures. The crucial question confronting the disabled is who to complain if the above-mentioned directives are not complied with.

Area III

Petitions on *Livelihood and employment*

Sunil Kumar

After my graduation I joined a course being conducted by the Blind Relief Association. I also did my B.Ed thinking that being a vocational course, it would help me in getting employment. I wanted to compete in the civil services examination but could not do so because of financial stringency.

I had cleared the written examinations for job in Central Schools and was even called for the interview. However the interview board told me that since I had not done a general B.Ed (but a Bed course designed especially for the visually impaired), I could not teach the visually impaired and the post was given to a sighted person. I want to ask that why was I made to do the special course in the first place if ultimately it had to prove this futile?

There are umpteenth numbers of special employment exchanges for disabled. I have registered myself with so many of them but haven't got a call from even one. I would like to ask the government. who avails these special schemes if we are deprived of the same.

Mohit: I went to school till class one and then because I could not walk I started taking tutorials at home. Have done my class Secondary and higher secondary by the open school in Delhi. I am living with a progressive disease called Muscular Dystrophy. After a lot of struggle I managed to get a STD booth in a college. The college takes fifteen thousand free copies from the copier machine. I requested them to reduce but they said take it or leave it. I am wheelchair bound with nobody to assist me since I cannot afford a helper. I also have to pay Rupees 250 as electricity bill to the college. This leaves me little profit. My mother is a widow, and I am the only earning member. Even the

private organisations that provide loans for the disabled were unhelpful. I had no access to information schemes and was therefore forced to take up this, as there was no alternative.

Vijay: The time allotted is not sufficient to speak about all the problems that we face. My colleagues won a case in High Court in 16 January December 2002. We are entitled to around 500-600 jobs under the Delhi govt. When we tried to convince the university to implement the directives of the court vis-à-vis employment for the disabled and went on strike, section 308 was imposed upon us. We camped there for around three months but all that we got were dates. So if we cant get our legal rights, then who needs any sympathy? When the Janata govt. was there then 3% seats were reserved for the handicaps. Now that the population of disabled has swelled to 8% of the total population how can a 3% reservation suffice? These days blind people are getting the permission to sit for the bank PO exams. However, the questions asked are figures based and hence we cant answer them. Even in the central school exams, questions asked are such that the blind can not do them.

Sonia: I would like to ask everybody here that when we handicaps are employed in places like schools etc. why are we given such a small stipend? I get only Rs 200 as stipend and I am made to do so much work. What explains this injustice?

Supporting submissions

Kiran Sahni (Arti's mother): My daughter received the training for assistant teacher from various schools and NGOs. I am grateful to them. They even gave a stipend after keeping her for three to four years. After a certain time, they ask her to look for employment. Where do they go to look for a job? I request the government to suggest some solution to this problem.

Hemani Devi (Teacher, Muskaan): I am Himani Devi. My daughter Kavita is 14 years old. She is a slow learner. Till my husband came to know about Muskan, we had no idea as to what should we do with our daughter. There was a lack of information about everything. I got her train pass made after braving a lot many difficulties. I still do not know what will happen to her future after we are gone. I haven't got any information from any TV program or otherwise as to what are the provisions available for children suffering from my daughter's disability. I ask the government. to provide us with mechanisms to help our child. Had it not been for Muskan, I do not know what my daughter would be doing. We could not afford any of those expensive schools. If we can get some doctors to help Kavita improve her speech, I would be grateful to the government.

Sudha Agrawal: My husband expired two years back. I came to know that under EPF, disabled children are entitled to life long pension. I have applied eight months back but till now nothing has been done and no one in the department knows what has to be done. They say they want a 100% disability certificate. When I gave them a 90% disability certificate from AIIMS. The file has been lying in the department since the past so many months. Ultimately I just wrote to them that I don't want any special benefits but just give my other daughter (normal) and myself the pension amount. I don't know whom to approach.

Vikram Dhar: The Prime Cooperative Bank of Surat has launched a special loan scheme of Rs 30000. The national handicap association will disburse this loan. A five-member committee has been formed in this regard whose members are Dr Umatulli, Mrs Banerjee, Sanda Rouse from Chennai and myself. If you give your request to this committee, they will process a loan of Rs 30000. The rate of interest on this loan amount will be 4%.

Official submissions

Rajwant Sandhu: I can see that employment is a major issue. It is really important that employment is given due weightage because it is sometimes associated with the self respect of the person. Here this issue has been raised especially for the mentally challenged and the visually impaired. I think to some extent we ourselves are responsible for the current situation We support so many NGOs for

vocational training but this training has no connection with reality. After all life cannot be spent making candles and file covers. I can't say that things can change overnight but definitely we can launch programmes which are oriented towards independent living and which increase employability. The National Institute of Handicaps has taken a small initiative, which is imparting practical training through workstations. Swayamkrishi is one institution about which you might know. It works in Hyderabad. They have entered into an agreement with a large departmental store called Food World. This store outsources practical work to disabled people like packaging of garlic etc. maybe we should provide these kinds of training rather than the stereotypes ones which we are working on continuously. We need to interact with the community at large. Whenever I go out to the field I talk to deputy commissioners, collectors etc. and ask them to mobilise the community. Organisations like rotary club, lions' club etc can develop a linkage between persons who need work and persons who can give work and in some places this is working.

Sharing information about what is available is also very essential. Prof Vinod Sena has developed *Shruti*, a website on which he is trying to put all information which may be of use to persons who are visually impaired. We have taken up the issue of railway access with the Ministry of Railways. As far as the ministry is concerned we have 107-district disability rehabilitation center where we have put some staff dealing with rehabilitation issues. This store outsources practical work to disabled people like packaging of garlic etc. Maybe we should provide these kinds of training rather than the stereotypes ones. We need to interact with the community at large. Whenever I go out to the field I talk to deputy commissioners, collectors etc. and ask them to mobilize the community. Organizations like Rotary Club, Lions' Club etc can develop a linkage between persons who need work and persons who can give work and in some places this is working.

The data available with the Ministry of Rural Development shows that only one-third of the funds available in the Poverty Alleviation Programs implemented through the DRDS are being utilized. Even the national Handicap Finance and Development Corporation which has been set up for funding self employment ventures has large funds at its disposal. Today's figure is about 36 Crore. They are sitting on a fund of 36 Crore. But accessing of these by state govt. agencies and NGOs is still very low. Actually NGOs can take the funds from NHFDCs for micro credit purposes. But now NHFDC has developed a partnership with the Oriental Bank Of Commerce as well as Punjab and Sindh Bank to provide for direct lending. Overall, my observation is facilities are available to some extent but certainly there are gaps in many parts of the country but they are often not accessed by PWDs and their families perhaps due to lack of information or simple due to plain and simple apathy. I hope nobody takes objection to this but this is the scenario. The media particularly the electronic media has a role to play in this as they can inform people, help attitudinal change and also help PWDs and their families to highlight success stories.

About the visually impaired, the point was made again and again about the failure of government to provide jobs. Yes the government is not providing jobs, as there is a constant downsizing going on. The jobs being generated are very limited in content. Persons with disability should also keep in mind the skills they should acquire if they want jobs. The All India Confederation of Blind has brought out a book that I read when I attended the international conference of visually impaired women which identifies new job opportunities in IT sector, call centers, medical transcription services etc. The visually impaired can also learn certain skills in computers and then can be employed anywhere. So we have to tailor our skills for the world of work. I interact a lot with NGOs. Last year Blind Relief Association came and asked for more funds. We discussed the practical uses of the training they are imparting for the long-term employment of people. The result of this conversation was very positive as they later on tied up with the Vandana Luthra center and trained 6 people for massage. For six months those persons are going to be trained in massage. So people have to be trained according to changing needs and requirements.

Judgement on Area 3

As far as employment is concerned, it is generated not only in the government sectors but also in private establishments, industrial concerns, banks etc. These organizations should be sensitized and made conscious to modify their jobs to suit the disabled persons. This aspect should be borne in mind also while imparting training to the disabled. This is an obligation, which the State has to fulfil and hence actions taken by the State should be assessed with this perspective.

Annexure:

Introductory session:

Rajwant Sandhu(Joint Secretary, Ministry of Social Justice and Empowerment): Our guiding document is the constitution of India that guarantees equality of opportunity and fair treatment to all our citizens and the persons living disabilities act 1995. The latter as you all know is a very forward looking piece of legislation which provides certification of disabilities, assures free education for persons with disabilities under the age of 18 years. Identification of jobs in govt. and semi govt. undertakings, reservation of 3% vacancies in respect of such jobs for persons with disabilities, reservation on poverty alleviation programmes reservation in education courses. Along with many provisions of an affirmative nature that have been implemented while others still need to be followed up.

A heartening feature that emerges is that the incidence of hearing and visual impairment has gone down substantially in 2002, vis-a-vis 1991. This is perhaps an indicator of the improvement in health related facilities in the country. Unlike the previous sample surveys this sample survey has covered all the states and UTs. This report will facilitate the govt. in planning for the delivery of different kinds of services. For example it is estimated that there are around 1.5 lakh children suffering from blindness in the age group of five to 18 years. Surely we should be able to provide education in the appropriate mode, special or integrated or inclusive for this number of children. Why I am mentioning this is because numbers often overwhelms us. When it is said that 10% of India's population suffers from disability, we think that since 10 Crore people are suffering from this disability, the problem is insurmountable and nothing can be done about it. But when we break it up, then we feel that we can address the problem. Against this figure of 1.5 lakhs, which is of course an estimate, number of schools running special education programmes, is 18000. This gap has to be bridged. An early intervention of therapeutic nature is vital since it is well known that it plays a direct role in the reduction of the impact of disability. A child in the age group of 5 to 14 years will need access to an appropriate education programme and those in the higher age group of 14 to 18 years, if they had not had primary education will need vocational training. An elderly person with disability may need a system device, perhaps a hearing aid or high powered spectacles and may also need some maintenance craft. Those without housing can benefit through programmes like Indira Awas Yojana in the rural areas since there is a reservation three per cent for persons with disability in poverty alleviation programmes. Those in the working age group may require appropriate training, access to work or credit for facilitating self-employment activities. those with severe locomotive disabilities may need a tricycle or fitting of artificial limbs .So it must be understood that it is necessary for each area to have detailed data on the name, age, address and nature of disability for each person with disability so that the targeted facilities can be provided. Rehabilitation programmes can best be run at the district level with the support of district administration, health functionaries, NGOs etc. and we have to ensure that each district completes its detailed survey of persons with disability and then proceeds to deliver services to the entitled person. To facilitate this the ministry of social justice and empowerment has developed a handbook titled 'What You Can Do' to so that the important functionaries of the district administration are sensitized about disability related issues and are also prepared to fulfill their own roles in the same. This will also help in the convergence of different programmes as it is my firm belief that the resources for rehabilitation are rendered inaccessible inspite of availability.

The redressal of the problems of disabled requires a multi-pronged approach and one of the most important of them is creation of barrier free environment. We came across an interesting instance in Luknow where in 10 blocs, we are running a UNDP assisted program for school children. The idea is zero rejection. Every child with disability should have access to education in the appropriate mode. We found that okay we make the schools barrier free and we also gave the severely disabled children that are those suffering from locomotive disabilities, tricycles. But then the roads are so bad that they could not use them. Access means many things and we have to look at all those aspects.

Akhila Sivasdas (Executive Director, Centre for Advocacy And Research): We are not a mature society. We seem to forget issues and concerns so quickly; we show such vacillations and fickleness for any cause. We are not able to as a society converge and make a difference and I think today is one of those days when we can renew commitments. Nothing sort of strengthens our resolve more than listening out people who are actually experiencing it.

Merry Baruah: There should be a change in the state's role in promoting companionship for the disabled and in the attitudes. For instance, there is a need to censor what is shown on T.V. in terms of sensual content and perhaps the state should look at it not merely in terms of sexual content but also how people who are different from the main stream are viewed. I would think that would play a more important role for the health of society. Because the sexual content is something that families if they truly care can screen to some extent but when our children repeatedly grow up seeing programs which say that anybody who is different whether in terms of ability, culture, religion, or any other has to be rendered unacceptable till there is a change in this attitude, I do not think we can help the disabled. But the lead has to be taken up by the state.

Anita Ghai (Reader, Delhi University): A large part of our discourse is structured on medical terminology. I think, it is high time we get out of this mode of viewing the person or the family as the prime target. I think we have got to look at the society around us and understand that disability is actually a social oppression.

Dr Mukherjee (Udaan): Justice Saikia had just talked about every citizen of India having the need of equality of opportunity. In the field of disability, I think it is not so. Among the disabled, there are abled disabled and disabled disabled. All the programs of the government, including the latest book we have received from the ministry of social justice and empowerment, they have got all the parameters laid down. Every provision is made for the abled disabled and the severely disabled who are left marginalised.

In order to address this problem, we are doing multi mode intervention therapy. But we are reinventing the wheel. This therapy has been lauded world-wide. Udaan was a special invitee in the international symposium held in July. However I find the government lacking in such initiatives. Yes the ministry of education has given Hamdard University a grant for developing Ayurveda but that is not sufficient, I don't see anything in the government literature, which aims at helping the severely disabled poor child.

Vikram Dutt: "Barrier free built environment" is what is needed . Barrier free environment means naturally accessible but what we want is an built in structure.

Alok(free lance journalist): Some disabled can wheel themselves but are forced to have an assistant as the roads and other structures hamper his movement.

Arti: I don't like people repeatedly saying that we are handicapped. It taxes my self-confidence.

List of participants:

Justice KN Saikia (*Presiding Judge*)

Sunil Arora	Anuradha Naidu (Action Aid)
Virendra Kalra	Sunil Kumar (Blind Relief Association)
Ankur Dhir	Pankaj Kapoor(SSNI)
Arti Sahni	Dr Mukherjee (Udaan)
Mrs Kiran Sahni	Mr Singh
Sachin Kumar	Sudha Vohra (Aastha)
Rubina (Muskaan)	Hemani Devi
Anita Ghai	HS Phoolka
Vikram Dhar	Bharat Bhushan
Aloop Mittal	Ms Rajwant Sandhu (Ministry of Social Justice and Empowerment)
Anita Pal	Mr. PV Mahashabdey (Delhi Develoment Authority)
Alok Sicca	Anupriya Chadda (Consultant , Inclusive Education For Disabled Technical Support Group)
Sonia Gulati	Puja (Amar Ujala)
Sunil Arora	George Abraham (Director, SCORE)
Sumit Arora	BP Arora(MSSI)
Anuja Singh	
Sangeeta Agrawal	
K Kannan (The Hindu)	
Alok(Free Lance Journalist)	
Ms Akhila Sivadas(Executive Director, Centre For Advocacy and Research)	
Ms Aarthi Pai(Programme Coordinator, CFAR) Sujata Goenka(CFAR)	
Minal Hazarika (CFAR)	Sandhya(CFAR)
Surabhi Saral(CFAR)	Sangeeta (CFAR)

**Overarching Provisions
Constitution of India**

- Article 14:** The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- Article 15:** (1) The State shall not discriminate against any citizen on grounds of only religion, race, caste, sex, place of birth or any of them.
- Article 16:** (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
(2) No citizen shall, on grounds of religion, race, caste, sex, descent, place of birth residence or any of them, be ineligible for, or discriminated against in respect of any of , any employment or office under the State.

The Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995

Access to transport

44. Establishments in the transport sector shall, within the limits of their economic capacity and development for the benefit of persons with disabilities, take special measures to-

- a. adapt rail compartments, buses, vessels and aircrafts in such a way as to permit easy access to such persons;
- b. adapt toilets in rail compartments, vessels, aircrafts and waiting rooms in such a way as to permit the wheel chair users to use them conveniently.

Awareness measures

25. The appropriate Governments and local authorities shall

- g. Educate the public through pre – schools, primary health centres, village level workers and anganwadi workers
- h. Create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted.

Barrier free environment –

18. (1) Subject to the provisions of this Act, the function of the State Coordination Committee shall be to serve as the state focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.

(2) In particular and without prejudice to the generality of the foregoing function the State Coordination Committee may, within the State perform all or any of the following functions, namely:-

- a. Review and coordinate the activities of all the Departments of Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to persons with disabilities;
- b. Develop a State policy to address issues faced by persons with disabilities;
- c. Advise the State Government on the formulation of policies, programmes, legislation and projects with respect to disability;
- d. Review, in consultation with the donor agencies, their funding policies from the perspective of their impact on persons with disabilities;
- e. Take such other steps to ensure barrier free environment in public places, work places, public utilities, schools and other institutions;
- f. Monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;
- g. To perform such other functions as may be prescribed by the State Government.

8. (1) Subject to the provisions of this Act, the function of the Central Coordination Committee shall be to serve as the national focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.

(2) In particular and without prejudice to the generality of the foregoing, the Central Coordination Committee may perform all or any of the following functions, namely :-

- a. Review and coordinate the activities of all the Departments of Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to persons with disabilities;
 - b. Develop a national policy to address issues faced by persons with disabilities;
 - c. Advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to disability;
 - d. Take up the cause of persons with disabilities with the concerned authorities and the international organisations with a view to provide for schemes and projects for the disabled in the national plans and other programmes and policies evolved by the international agencies;
 - e. Review in consultation with the donor agencies their funding policies from the perspective of their impact on persons with disabilities;
 - f. Take such other steps to ensure barrier free environment in Public places, work places, public utilities, schools and other institutions;
 - g. Monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;
- to perform such other functions as may be prescribed by the Central Government.

Concessions on aids

42. The appropriate Governments shall by notification make schemes to provide aids and appliances to persons with disabilities.

Recreational Facilities

43. The appropriate Governments and local authorities shall by notification frame schemes in favour of persons with disabilities, for the preferential allotment of land at concessional rates for -

- a. House;
- b. Setting up business;
- c. Setting up of special recreation centres;
- d. Establishment of special schools;
- e. Establishment of research centres;
- f. Establishment of factories by entrepreneurs with disabilities.

Vocational training facilities

S 26. The appropriate Governments and the local authorities shall -

- a. Ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years;
- b. Endeavour to promote the integration of students with disabilities in the normal schools;
- c. Promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools;
- d. Endeavour to equip the special schools for children with disabilities with vocational training facilities.

Employment

Appropriate Governments shall -

- a. Identify posts, in the establishments, which can be reserved for the persons with disability;
- b. At periodical intervals not exceeding three years, review the list of posts identified and update the list taking into consideration the developments in technology.

33. Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability of which one per cent each shall be reserved for persons suffering from -

- (i) Blindness or low vision;
- (ii) Hearing impairment;
- (iii) Locomotor disability or cerebral palsy,

37. (1) Every employer shall maintain such record in relation to the person with disability employed in his establishment in such form and in such manner as may be prescribed by the appropriate government.

(2) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorised in this behalf by general or special order by the appropriate Government.

38. (1) The appropriate Governments and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide

- a. the training and welfare of persons with disabilities;
- b. the relaxation of upper age limit;
- c. regulating the employment;
- d. health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;
- e. the manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and
- f. constituting the authority responsible for the administration of the scheme.

39. All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats for persons with disabilities.

40. The appropriate Governments and local authorities shall reserve not less than three per cent in all poverty alleviation schemes for the benefit of persons with disabilities.

Vocational Training

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- g. The training and welfare of persons with disabilities;
- h. The relaxation of upper age limit;
- i. Regulating the employment;
- j. Health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;
- k. The manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and
- l. Constituting the authority responsible for the administration of the scheme.

Loans, strengthening micro enterprises, access to buildings and public transport

Government Schemes

38. (1) ... Governments and local authorities shall formulate schemes that provide for

- m. The training and welfare of persons with disabilities;
- n. The relaxation of upper age limit;
- o. Regulating the employment;
- p. Health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;

- q. The manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and
- r. Constituting the authority responsible for the administration of the scheme.

39. All Government and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats for persons with disabilities.

Access to Buildings

46. ...Governments and the local authorities shall, ... provide for -
- a. Ramps in public building;
 - b. Adaptation of toilets for wheel chair users;
 - c. Braille symbols and auditory signals in elevators or lifts;
 - d. Ramps in hospitals, primary health centres and other medical care and rehabilitation institutions.

Education

30. Without prejudice to the foregoing provisions, the appropriate Governments shall by notification prepare a comprehensive education scheme which shall make provision for -

- a. Transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools;
- b. The removal of architectural barriers from schools, colleges or other institutions imparting vocational and professional training;
- c. The supply of books, uniforms and other materials to children with disabilities attending school;
- d. The grant of scholarship to students with disabilities;
- e. Setting up of appropriate fora for the redressal of grievances of parents regarding the placement of their children with disabilities;
- f. Suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision;
- g. Restructuring of curriculum for the benefit of children with disabilities;
- h. Restructuring the curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

Access to education and integration to regular schools

S. 26. The appropriate Governments and the local authorities shall -

- a. Ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years;
- b. Endeavour to promote the integration of students with disabilities in the normal schools;
- c. Promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools;
- d. Endeavour to equip the special schools for children with disabilities with vocational training facilities.

S. 27. The appropriate Governments and the local authorities shall by notification make schemes for -

- a. Conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis;
- b. Conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above;
- c. Imparting non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation;
- d. Imparting education through open schools or open universities;
- e. Conducting class and discussions through interactive electronic or other media;

f. Providing every child with disability free of cost special books and equipments needed for his education.

28. The appropriate Governments shall initiate or cause to be initiated research by official and non-governmental agencies for the purpose of designing and developing new assistive devices, teaching aids, special teaching materials or such other items as are necessary to give a child with disability equal opportunities in education.

29. The appropriate Governments shall set up adequate number of teachers' training institutions and assist the national institutes and other voluntary organisations to develop teachers' training programmes specialising in disabilities so that requisite trained manpower is available for special schools and integrated schools for children with disabilities.

Prevention and early detection of disabilities

S. 25. With a view to preventing occurrence of disabilities the appropriate governments shall

d. Provide facilities for training to the staff at the primary health centres

e. Sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation

g. Educate the public through the pre – school, primary health care centres, village level workers and anganwadi workers.