

Review Article



Legal Protect of the Deaf in International Documents and the Iranian Legal System

Afsaneh Ataee^{1*}, Valiollah Noori^{2**}, Zeinab Pourkhaghan¹

¹ Department of Law, Faculty of Law and Theology, Islamic Azad University, Najafabad Branch, Najafabad, Iran

² Department of Law, Faculty of Humanities, Islamic Azad University, Shahr-e Kord Branch, Shahr-e Kord, Iran



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Highlights

- The national laws of different countries that have rules of disabled rights
- law implementer himself cannot be a good judge and observer of the implementation
- International documents particularly address the rights of people with incapacities

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* Corresponding Author:

Department of Law, Faculty of Law and Theology, Islamic Azad University, Najafabad Branch, Najafabad, Iran.
afsanehatai4@gmail.com

** The author deceased prior to the publication of this paper.

ABSTRACT

Background and Aim: This article seeks to examine rights of deaf and unable to hear individuals in international documents as well as domestic Iranian law. In this review, supports in the mentioned documents are discussed and the weaknesses, strengths, objections, and challenges in the laws are analyzed and examined. Lack of access to community facilities lead to marginalization of deaf people. Access to community facilities is an important factor that creates equal opportunities and realizes rights of deaf people.

Recent Findings: Iran's accession to the Treaty on the Rights of disabled people, the Global treaty on Cultural, Public, Economic as well as Children's title, is one of salient points of these protection laws. By implementing Iran's national and global commitments regarding titles of the deaf, it is concluded that Comprehensive Law and its executive regulations have been adopted several years before accession to the Contract on the Disability, but they cover most of concepts of the Contract on Education.

Conclusion: Given the Senate and the convention, no significant legal action was taken and the program did not address deaf directly. The lack of an effective mechanism for laws protecting the disabled people right is an institutional as well as structural obstacle for realization of disabled people, especially deaf.

Keywords: Disability; hard of hearing; human rights; international law; low hearing loss



Introduction

We live in an era that the dignity of all human beings, regardless of their physical differences, is the best fundamental basics of civil-liberties. Moreover, the rights of the world's most vulnerable people, including children, women, minorities and the disabled, have been addressed and various international instruments have been adopted in support of these individuals. Therefore, paying attention to the titles of the deaf and unable to hear individuals, while protecting those rights of people with disabilities, does not seem far-fetched. It should be mentioned that in the present age one billion people live with disabilities [1].

These individuals are entitled to appreciate all financial, social, gracious, and political rights based on the guideline of the respect of all human creatures and the guideline of correspondence. This has been expressed within the all-inclusive Affirmation of Human Rights the Pledges (Pledge on Gracious and Political Rights and the Pledge on Financial, Social and Social Rights). It is up to all the governments of the world to enable these people to enjoy their inalienable rights without any discrimination regarding their disability, and to enable them to enjoy inalienable rights even by using positive discrimination [2].

Iran's accession to the Settlement on the Rights of People with Inabilities, the Worldwide Contract on Social, Social, Financial and Children's Rights, is one of the striking focuses of these assurance laws. By actualizing Iran's household and universal commitments with respect to the rights of the hard of hearing, it concluded that the Comprehensive Law and its executive regulations adopted several years before accession to the Treaty on the Disability, but they cover most of the concepts of the Contract on Education. However, there are cases in the laws and regulations of the Islamic Republic of Iran that has not referred to it. For example, Article 24 (3:A-C) of the contract on the rights of deaf [1] which is one of the most appropriate methods to enable the acquisition of symbols dialect in the deaf, and this issue is less common in Iran which deals with the issue of enabling the acquisition of symbols dialect for deaf persons as one of the most appropriate methods and this issue is less observed in Iran [2].

In this manner, the universal human rights educate, particularly the Joined Together Countries, have taken critical steps to advance the rights of these individuals and to advance the rights of these individuals as much

as conceivable. These incorporate the Statement on the Rights of People with Inabilities, the Worldwide Activity Arrange for People with Inabilities, and the Standard Rules on the Equalization of Openings for People with Incapacities, and at last, the Contract on the Rights of People with Inabilities and its Discretionary Convention in 2006. The victory of this contract was gigantic, and this report was acknowledged and modeled as the premise and motivation for all nations with respect to enactment on the rights of individuals with inabilities [3]. Fortunately, Iran has not been inattentive to this process and has become a member of this contract. Moreover, Iran has itself enacted a comprehensive law for the protection of the disabled, which is very promising and reflects the Iranian legislator's attention and to the rights of the disabled, including the rights of earless and unable to hear individuals [3].

This article deals with the issue of deaf people with a descriptive-analytical method by examining international documents in a brief overview of global people titles documents. As a whole, titles of deaf people can be presumed in worldwide human rights rebellious with archives such as the Constitution of the Joined Together Countries, the Pledge on Gracious and Political Rights, and the Contract on Financial, Social and Social Rights due to the truth that hard of hearing individuals are human. Besides, the premise for getting a charge out of the rights in these archives can be considered as the source of uniformity of human creatures within the respect of the rights and not based on separation on the premise of color, sex, race, etc. Given that these records are for all individuals of humankind, so the hard of hearing as portion of individuals with inabilities will too enjoy the rights recognized within the records in full [4]. Universal archives that particularly address the rights of individuals with incapacities, counting the hard of hearing, are Contract on the Rights of the Child, Statement of the Rights of People with Inabilities, Worldwide Activity Arrange for People with Incapacities, Standard Rules and Equalization of Openings for People with Incapacities, Tradition on the Rights of People with Incapacities and the Discretionary Convention [4].

Those rules governing the title of disabled people, like all human rights rules, have evolved over time, from the policy of disabled persons to the policy of looking after of them and, in the present age, the right to education and rehabilitation is considered for them. Advertising posters distributed by Non-Governmental Organizations, (Autonomous Organization for the Disabled) during the Preparatory Committee negotiations for the rest and the drafting of the Tradition on the Titles of People with

Disabilities sought to convince the policies of the representatives of the countries that deaf documents have been missing and neglected in the people's title tradition. Those deaf rights were not explicitly recognized in any binding international human rights documents [2]. In Iran, until a few decades ago, attention to the affairs of the deaf and their social welfare were limited to religious forms, and welfare services were provided only in the form of religious duties such as paying Khums (khums refers to the required religious obligation of any Muslims to pay one-fifth of their acquired wealth from certain sources toward specified causes) and Zakat (Zakat is an Islamic finance term referring to the obligation that an individual has to donate a certain proportion of wealth each year to charitable causes.), etc. The public welfare of the people in our country had not been seriously pursued by the government and it does not have a long history. The establishment of organizations and institutions to provide welfare services to the people dates back to pre-revolutionary development programs. For the first time in development programs, a chapter entitled "Social Welfare Measures" was predicted. After that, based on the experiences gained from the previous program, the social welfare provision was predicted. In the next programs, the social welfare provision was predicted and presented more comprehensively and with various programs [2].

The affairs of the deaf have been taken care by the Ministry of Cooperative, Labour, and Social Welfare for several years before the revolution, through a number of institutions, some of which were mentioned and for some time after the revolution, the deputy of the Health and Welfare Ministry continued these activities, in the form of rehabilitation services offices, protective services and programs and budgets. After the Islamic revolution, with the approval of the constitution and in order to fulfill principles 21 and 29 of this law and with the efforts of many experts, the bill to form the country's welfare organization was approved on June 15, 1980 [4].

This paper has a comparative approach and uses the descriptive-analytical method to examine the support available in international documents.

The need for protective laws: unfortunately, earless and unable to hear people, who are members of human family, have always been dealing with many problems. These difficulties are: wrong and incorrect conceptions of members of society towards their special situation, the absence of explicit or sometimes incomplete laws that cover all their rights and the lack of protective mechanisms to observe how their rights are real-

ized. All these problems and obstacles, which we have briefly mentioned, are not issues that have arisen all at once [5]. However, they have all been deeply rooted and institutionalized over time. Therefore, removing and overcoming these barriers cannot be solved quickly, but it is required to create a culture and the citizens of the society should correct and change their attitudes towards disability; moreover, comprehensive legislation should be enacted in all areas. In addition, it requires the efforts of all the people in the country, including all the citizens and the officials, so that the rights of these people would be exercised. It is worth mentioning that the support provided, both internationally and nationally, in protecting titles of the earless and unable to hear still has a long way to go before achieving the desired perfection. There is a lack of comprehensive laws to address all financial, public, cultural, civil, and political contributions of these individuals. These serve as among the most important mental, social and normative barriers that these people have always been struggling with supports in the international documents [5]. International documents that particularly address the rights of individuals with incapacities, including the deaf, include: WHO Global disability action plan [6], standard Rules on the equal conditions for disabled peoples [7], declaration of the disabled people rights [4], contract on the youth titles [8], contract of disabled people titles and their optional protocol [8].

Supports in Iranian law

Comprehensive rule for right assurance of the disabled [9], regulation on Inclusive (integrated) Education for Children, constitution.

Personal mobility

States parties should take compelling measures to guarantee individual portability with the most noteworthy conceivable autonomy for people with incapacities, counting by:

- a) encouraging the individual versatility of people with incapacities within the way and at the time of their choice, and at reasonable fetched [10], b) encouraging get to by people with incapacities to quality versatility helps, gadgets, assistive advances and shapes of live help and mediators, counting by making them accessible at reasonable fetched [11], c) giving preparing in versatility abilities to people with incapacities and to master staff working with people with disabilities, d) empowering substances that create portability helps, devices and

assistive innovations to require into account all perspectives of versatility for people with disabilities [12].

Education

1. States Parties recognize the proper of people with disabilities to instruction. With a view to realizing this right without segregation and on the premise of break even with opportunity, States Parties should guarantee a comprehensive instruction framework at all levels and lifelong learning coordinated to: a) the complete advancement of human potential and sense of nobility and self-worth, and the reinforcing of regard for human rights, crucial flexibilities and human differences [13], b) the advancement by people with disabilities of their personality, talents and inventiveness, as well as their mental and physical capacities, to their fullest potential [14], c) empowering people with disabilities to take part successfully in a free society.

2. In realizing this right, States Parties might guarantee that: a) people with disabilities are not prohibited from the common instruction framework on the premise of incapacity, which children with disabilities are not prohibited from free and obligatory essential instruction, or from auxiliary instruction, on the premise of incapacity [15], b) people with incapacities can get to an comprehensive, quality and free essential instruction and auxiliary instruction on an rise to basis with others within the communities in which they live, c) sensible convenience of the individual's necessities is provided, d) people with disabilities get the back required, inside the common instruction framework, to encourage their compelling instruction [16], e) compelling individualized bolster measures are given in situations that maximize scholastic and social improvement, reliable with the objective of full incorporation [17].

3. States Parties might empower people with disabilities to memorize life and social improvement abilities to encourage their full and rise to support: a) encouraging the learning of Braille, elective script, augmentative and elective modes, implies and designs of communication and introduction and portability aptitudes, and encouraging peer bolster and mentoring [18], b) encouraging the learning of sign dialect and the advancement of the phonetic character of the hard of hearing community, c) guaranteeing that the instruction of people, and in specific children, who are dazzle, hard of hearing or deaf blind, is conveyed within the most suitable dialects and modes and implies of communication for the person, and in situations which maximize scholastic and social development.

4. In arrange to assist guarantee the realization of this right, States Parties might take suitable measures to utilize instructors, counting instructors with disabilities, who are qualified in sign dialect and/or Braille, and to prepare experts and staff who work at all levels of instruction. Such preparing might join inability mindfulness and the utilize of fitting augmented.

5. States Parties might guarantee that people with incapacities are able to get to common tertiary instruction, professional preparing, grown-up instruction and deep rooted learning without segregation and on a rise to premise with others. To this conclusion, States Parties might guarantee that sensible settlement is given to people with incapacities [19].

Adequate standard of living and social protection

1. States Parties recognize the correct of people with disabilities to a satisfactory standard of living for themselves and their families, counting satisfactory nourishment, clothing and lodging, and to the ceaseless change of living conditions, and should take fitting steps to protect and advance the realization of this right without separation on the premise of disability.

2. States Parties recognize the correct of people with disabilities to social protection and to the delight of that right without segregation on the basis of inability, and should take suitable steps to defend and promote the realization of this right, counting measures: a) to guarantee break even with get to by people with disabilities to clean water administrations, and to guarantee get to suitable and reasonable administrations, gadgets and other help for disability-related needs [20].

b) to guarantee get to by people with disabilities, in specific ladies and young ladies with incapacities and more seasoned people with disabilities, to social assurance programs and destitution diminishment programs, c) to guarantee get to by people with incapacities and their families living in circumstances of destitution to help from the State with disability related costs, counting satisfactory preparing, advising, budgetary help and relief care [21], d) to guarantee get to by people with incapacities to open lodging programs, e) to guarantee break even with get to by people with disabilities to retirement benefits and programs [22], and Laws on the foundation of the welfare organization and the structure and obligations of this organization.

Discussion

Absence of an efficient and effective mechanism as laws for encouraging and conserving the titles of disabled serves as an institutional and structural barrier to the realization of disabled, especially those deaf and unable to hear. What is important after the law-making stage in supporting deaf disabled in general is existence of effective and efficient protection mechanisms, and at the same time practical in line with the components of laws to protect people with disabilities. After enacting laws to protect deaf people and also people with disabilities in general, it is essential to have effective, efficient and practical protective mechanisms to enforce laws to protect the disabled. The existence of these mechanisms makes the protection of the disabled come into force. Therefore, what seems obligatory and rational to governments that are side for Contract on disabled is this: If they already have mechanisms to conserve disabled individuals, they must pay attention to the principles in the Treaty and they must strengthen its weaknesses and reinforce its strengths. These are some of the principles that can be proposed in the framework of institutional and structural barriers and solutions can be considered for it.

These points are among the principles that can be proposed as institutional and structural barriers and solutions can be considered for them [10].

a) countries members to the tradition on the Rights of People with Inabilities ought to consider more central institutions to address problems on execution of Convention. Moreover, sufficient attention should be given for creation or design of a coordinated way in order to streamline the actions happening at different areas and levels regarding disability rights. Now these mechanisms themselves must be protected and supported by the government. The lack of a central institution for issues related to the implementation of the Treaty is an (institutional/structural) obstacle to the get of the rights of disabled, including deaf and hard of hearing people. This situation, in practice, calls into question the existence of the Treaty [11].

b) another important structural/institutional obstacle to the implementation of the disabled titles is that institution overseeing the implementation of laws for the protection of these people should not be the law enforcement officials who protect them.

Among other things, in the domestic law of our country, i.e. the comprehensive rule to conservation of the

disabled rights, unfortunately, a comprehensive and coherent mechanism for securing the rights has not been defined and, and only two articles have been provided. In a way, these two articles can be described as a supervisory mechanism [12]. The first one is Note 3 Article 2, which deals with adaptation. According to this article, the country's Welfare Organization is allowed to monitor the adaptation of government buildings and public places mentioned in the above article and request a report of their actions. The second one is Article 15 of the Comprehensive Law, which envisages the possibility of participation of the heads of the provincial welfare organizations in the meetings of the provincial planning and development council and their working groups as members. Moreover, the head of the country's welfare organization has been allowed to take part in the meetings of the Supreme Employment Chamber in order to provide the ground for the implementation of the provisions of the comprehensive law [13].

According to the two above-mentioned articles, we realize that on the one hand, the Welfare Organization oversees the implementation of the provisions of Article 2 of the law, and on the other hand, according to Article 15, it must provide the ground for the implementation of the provisions of the comprehensive law. In fact, the implementation of many provisions of the comprehensive law is within the competence of the welfare organization. Therefore, how is it possible for of enforcement mechanism and regulatory mechanisms be the same in it and expect the provisions of the law to be implemented quickly and correctly by the society [4].

If there are independent implementation mechanism and monitoring mechanism (in order to realize the rights of the disabled), there must be rules and regulations that predict the existence of these institutions; moreover, they must specify precisely and completely how these bodies (monitoring bodies and implementation bodies) can ensure the implementation of the Convention. For instance, if an organization refuses to provide the reports requested by the regulator or implementer, or does not take action to fulfill its obligations, what measures can be taken to ensure the implementation of the treaty? [2].

One of the other institutional and structural barriers that can be mentioned is that in order for the disabled rights, such as the deaf, to become more practical and effective, in addition to the existence of laws protecting the rights of individuals, governments must establish an independent institution to receive complaints from people with disabilities regarding the performance of monitoring and implementation bodies; such as the U.N. Com-

mittee on the Rights of Persons with Disabilities. The committee includes powers such as appointing an investigation team or requesting interim measures, as well as a mechanism for receiving complaints from members about other members and following up correspondence with victims [1]. If governments can equip themselves with such mechanisms at the national level and allow people with disabilities to complain about the performance of the observer and implementer of the treaty on the disabled rights, this would be a big step forward for countries to encourage the rights of its disabled citizens. When the monitoring and implementation bodies are aware of the fact that their performance will always be criticized and evaluated by the disabled and the institution handling the complaints of the disabled, they always oblige themselves to implement the laws better and more accurately [8].

There is no one law that covers as it were hard of hearing and difficult of hearing individuals. Or maybe, different laws address deafness and hearing misfortune as a incapacity, with a few laws being more imperative than others [15].

Tetra Pictures/Getty Pictures how do you cover early hearing detection and intervention (EHDI) guarantees each infant be screened for hearing misfortune earlier to taking off the hearing center. On the off chance that the introductory screening isn't passed, a demonstrative hearing assessment is to be completed by 3 months of age. In case hearing misfortune is show, enrollment in a state early mediation program will be completed by age six months [16].

Those Individuals with Disabilities Education Act (IDEA) offer free, suitable soon intervention services since delivery to three years and accounts for school years up to 21 years old. in case a student is allowed under IDEA or has a 504 design, the school should incur the hearing aids work suitably, the student has availability to helping technology (such as an FM system), and that those employing helping technology- including teachers - are learned suitably in the care and exploit of that device [17].

The Americans with Disabilities Act (ADA) has five segments. Title I centers on business and applies to businesses with 15 or more workers. The moment guarantees all state and neighborhood government exercises and programs are available to individuals with inabilities. Title III states that all businesses open to the open, notwithstanding of measure, must be open. Title IV made the across the country transfer benefit to form the phone

framework accessible to people with hearing impedance and/or discourse incapacities [18].

Whereas the ADA applies to open spaces, the Reasonable Lodging Act applies to private zones. The Reasonable Lodging Act forbids segregation against individuals with inabilities in open or private lodging. It guarantees lodging suppliers make sensible housing for get to and permit people with inabilities to form sensible alterations (in spite of the fact that this may be at their possess taken a toll) to lodging. This act moreover guaranteed modern secured multi-family lodging meet certain benchmarks of availability [19].

The 21st Century, Communications and Video Accessibility Act (CVAA) was ordered in 2010 by President Obama. The CVAA upgraded government communications laws and incorporates available get to the web for individuals with inabilities [20].

The hearing aid Compatibility Act requires that all phones, counting advanced remote phones, be hearing help consistent, clearly labeled, and ANSI appraised. A rating of 4 implies the phone is usable, 5 is suitable for typical utilize, and a 6 or superior rating shows fabulous execution with hearing aids [21].

The Air Carriers Access Act (ACAA) gives lodging for people with incapacities by U.S. and remote aircrafts. The individual with inabilities must let the carrier know of the incapacity and how they require communication to be passed on. This Act guarantees televisions are captioned within the air terminal and a benefit pooch can go with his or her proprietor. In a few cases, such as with deaf-blind travelers, the carrier may require a security right hand to go with the individual with disability [22].

Hard of hearing individuals have the same rights as hearing individuals; infringement cannot be endured [23]. The history of the Hard of hearing could be a history of human rights manhandle. Indeed, some time recently the time of Old Greece, Hard of hearing individuals were considered monsters unable of reason and unworthy of rights or regard. It was not until the 13th century that deaf individuals were permitted to wed within the Western world. Nowadays, numerous creating nations still prohibit hard of hearing individuals to be taught, to claim or acquire property, to vote, and to wed. The Sign dialect of the hard of hearing is still prohibited from the schools of many nations, counting Western nations [24]. All ponders of Hard of hearing individuals within the late twentieth century (phonetic, mental, physiological, and so on) have demonstrated that Hard

of hearing individuals are normal in each regard but that they cannot listen. Failure to listen does not legitimize infringement of a person's essential human rights [25].

Any human right that applies to the common masses must too apply to hard of hearing individuals. As set out within the Joined Together Countries Tradition on the Rights of People with Incapacities, these incorporate [26]. Bilingual hard of hearing children (sign dialect and English) have amazing communication aptitudes compared to their monolingual peers, and guardians ought to not see sign dialect as an obstruction to their hard of hearing child's learning [27].

Conclusion

According to the above, we can conclude as a suitable solution for this institutional-structural problem that:

The national laws of different countries that have rules of disabled rights must make a clear distinction between their implementation mechanism and their monitoring mechanism, since a law implementer himself cannot be a good judge and observer of the implementation of for his actions. An appropriate model for addressing the existing shortcoming can be found in Article 33 of the Treaty on the disabled rights. They also pay sufficient attention for creation or design of a concordant way to promote actions that take place in different areas and levels of disabled rights.

Ethical Considerations

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Authors' contributions

AA: Study design, collecting content, drafting and interpretation the manuscript, descriptive comparison of results; VN: Study design, Supervision and interpretation the manuscript; ZP: Supervising and drafting and interpretation the manuscript and editing.

Conflict of interest

The authors state that there was no conflict of interest.

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