CHAPTER - 2
DISABILITY AND THE INDIAN SCENARIO:

Perception of disability in Indian Social History

Indian society from its ancient times is philanthropic in nature; love, compassion, and sympathy for the poor and needy and considering them as fellowmen was an inherent characteristic predominant in this society. Most of these feelings is generally found for the seniors or aged persons in the family. But persons who are suffering from any fatal disease or are crippled or so as to say disable, for them the outlook of the Indian society had always been varied. On one hand there was compassion for them and on the other there was the feeling of regret of having such a member in the family. We come across many disabled characters when we trace back in history. According to Dr. G. N. Karna\(^1\) ‘In the Hindu doctrine of *Karma Phala* disability is sought to be linked with the retribution for the sins committed by individuals in the past’. He also stated that in a third world country like India, where maximum population is illiterate and narrow minded in their outlook, even disease is also associated with disobedience to natural or religious principles. In India,

Hinduism is the most accepted religion of the people, and according to Hindu religion a person takes birth for several times and it depends upon the deeds and activities he performs in one life. Disability occurs when one leads a very sinful life and as a result is subjected to the wrath and vengeance of God or Goddess.

According to V. Finkelsten\(^2\) in the lower class people of our society the most common belief is that their misfortune or ill-fate are caused due to the disabled individual staying in their families. So it is not that disability is associated only with the bad-luck of the disabled individual but also to every person in their family. In this respect a chronological study of the position or status of the disabled person in the Indian society is necessary.

According to Usha Bhate\(^3\) in primitive societies there was the Darwinian concept of ‘survival of the fittest’. The primitive


tribes often use to abandon their children who were physically disabled. Even the tribal chiefs supported the killing of these unfortunate children. It is worthwhile to mention here that what we mean by the term disability may not have been there in those primitive societies. The concept of disability or handicap person was little different from what we conceive of today. Mere illness or any deviation from the expected normal behavior of an individual was thought to be disability. It is very strange that today the modern societies recognize that discrimination should not be practised against the disabled and take steps to minimize such discrimination, the pre-modern societies on the other hand not only discriminated against the disabled but also justified such discrimination. Such discrimination against the disabled was perhaps, because it was justified as religious\textsuperscript{4}. Hinduism, Islam as well as Christianity discriminated against the disabled at different times. Broadly discrimination against the disabled may be divided into the following categories.

a) \textit{Physical disability} - Blind, deaf, dumb and the deficient in any vital body limb such as hand and foot constituted this category. This category also included the impotent males.

b) *Mental disability* – This category include the idiots and the lunatics.

c) *Disability due to disease* – This category specially includes the victims of leprosy because the disease resulted in ugliness and impairment of limbs. It was considered to be contagious in all its forms.

d) *Assumed physical disability* – Sexual intercourse outside legal wedlock in certain circumstances disinherited women but not men.

In a research conducted by Journal of Social Issues\(^5\) shows that 47% of the countries practiced infanticide.\(^6\) Among them 13 societies in Asia, Africa, Oceania and America reported infanticide of disabled infants. Still there are many societies where disabled infants are well looked after just like the normal ones. Inspite of this the most common superstition during this primitive age was the belief that there is a connection of evil

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\(^5\) *Supra* n.4.

spirit with disability. It was believed firstly that women having physical relation with near blooded relations has gives birth to disabled child. Secondly disabled unfortunate children represent hippopotamus who has mistakenly taken birth to human parents and the parents thereafter throws them to river water to return them to its proper home. These were the common belief in the pre-industrial Europe and America. 

In the Indian context from ages of the epics of Ramayana and Mahabharata we have seen the characters having any disability or any deformity were normally associated with something negative or persons having with malafide intention. For example character of Manthra, the maid servant with a

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7 Plato by Bertrand Russell, History of Western Philosophy: And its Connection with Political and Social Circumstances from the Earliest Times to the Present Day (London: George Allen & Unwin Ltd., 1971), p128 and also : George H. Sabine, A History of Political Theory (New York: Henry Holt, 1937); G. L. Dickinson, The Greek View of Life (London: Methuen & Co. Ltd., 1957), 23rd ed., p.143-44; Elizabeth Rawson, The Spartan Tradition in European Thought (Oxford: Clarendon Press, 1991), p.5. Ironically, both Plato and Aristotle sought to legitimize the then tradition of liquidation of persons with disabilities by maintaining that the body and soul should be regarded as the two aspects of a defect. Plato himself asserts in his masterpiece The Republic: Surely then, to him, who has an eye to see, there can be no fairer spectacle than that of a moral beauty in his soul with out-ward beauty... No, not, if it is only a bodily blemish, he may so bear with it as to be willing to regard with complacency as cited in G.N. Karna United Nations and Rights of the Disabled Persons, A study in Indian perspective, A.P.H. Publishing Corporation, New Delhi, 1st ed., 1999

8 Ibid

9 Basham, A.L.; The Wonder That was India, London: Sidgwick and Jackson Press, 1924, p.310-311
hunchback in the epic Ramayana was a woman having shrewd and revengeful attitude. There were three queens to king Dhasharatha. It was due to her interference that Ram and others were sent to exile. This can be related to the French Novel ‘Hunchback of Notre Dame’ by Victor Hugo where the central character Quasimodo had a hunch and was very much ugly looking. He was even rejected by the gypsy girl he loved; later on he became crooked and all that he did seems to be manifested in the hunch or in the ugliness of his physical appearance. Even in Mahabharata¹⁰ we find the King Dhitarashtra was completely blind. He may not be associated with the evil spirit but the most common belief is that he was solely responsible for the war of Kurukshetra as he couldn’t perform his duty as a King. Even his younger brother Pandu was sexually incapable which is another form of disability and is still not accepted as an inability in our society. Even the characters of Shakuni, the maternal uncle in Mahabharata who instigated the war also had a limping leg. Therefore it can be well understood that any kind of deformity, ugliness, disability, handicapped persons were thought to be incarnation of something bad or evil. Even in Mahabharata it

¹⁰ It is interesting to note that during the Mahabharata period, the kings were expected to provide sustenance to the war disabled and their dependents.
was said that blindness or any form of disability can disqualify any heir from inheriting the throne.

In the Indian society there exists the custom of joint family system. In such joint families there were certain values and principles. There we find the seniors or elders in the family were respected; the aged, sick persons or any handicapped persons all were well taken care of. Such traditions we find in Smrities and Dharmashastras.\textsuperscript{11} In the Bhagvad Gita charity is accepted and importance has been given on the concern for needy and disabled persons.

But it is not always that the disabled in the ancient period were associated with evil. We find that Lord Vishnus’ appearance as a dwarf (Baman Avatar) or as Narasimha (that is the features of lions and human being together) was to eliminate the ‘Raksas’ or the evil. Even our perception of Goddess Durga is of having ten hands’ because she was created to kill the demon ‘Asura’ and therefore, needed additional strength and power. On the contrary we perceive ‘Ravana’ in Ramayana as having ten heads which gives him the supernatural power. This evidently shows that whenever there is some abnormality or supernaturality or

\textsuperscript{11} Kane, P.V.; History of Dharmashastra, Vol. II, part I, Poona: Bhandarkar Oriental Research Institute, 1974, p. 297-298
deviation from the normal behaviour, it is often associated with evil spirit or with some God and Goddess.

In this regard Goddess Manasha must be mentioned who was also one-eyed. Her revengeful attitude, vengeance and wrath is well portrayed in the story of Behula- Lakhinder.

Hindu law discriminated against the disabled on two grounds
a) According to Baudhayana because they are incapable of transacting legal business.  

b) There was discrimination against the disabled because they were unable to perform religious ceremonies. But that discrimination was not on religious ground as shudras who were not required to perform Vedic rites were also excluded from inheritance on grounds on disability.  

In Hindu law there is clear relation between right to succeed to property and obligation to offer pinda. The fact that the shudras are not obliged to perform Vedic rights and still they also discriminate the disabled. But it does not prove that discrimination against the disabled is based on religious grounds for it is quite possible that Hindus may discriminate against the disabled on mundane

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12 Supra n. 3
13 Dutt, Ramesh Chandra; A History of Civilization in Ancient India, Delhi: Vistar Publishers, 1972, 1st Indian rep., p.59
and religious grounds whereas the shudras may practice such discrimination only on mundane grounds.\textsuperscript{14} Even dominant religious ideologies affecting mundane practices influence subservient groups though they may be debarred from performing religious rites associated with such ideologies. That is why the Shudra, though they are not allowed to perform Vedic rites, may follow the twice born Hindus in discriminating against the disabled\textsuperscript{15}

Though there is a long tradition in India of caring for the weak and vulnerable by family members at a great personal sacrifice, yet the role of the family as a sole support for the disabled grew out of the failure of colonial rulers in maintaining social safeguards that were available throughout ancient and medieval India. In fact, the concept of charity got introduced in India during British rule, basically to tackle problems of destitution, beggary, crime, and delinquency, which grew out of proportion with the diminishing of social safeguards that existed earlier.\textsuperscript{16}


\textsuperscript{15} ibid

For instance, Kautilya, the renowned political economist of the Maurya period and author of Arthashastra\textsuperscript{17} said that the king should provide the orphans, the aged, the infirm, the afflicted and the helpless with maintenance.’ For their self reliance and economic independence he suggested awarding work on priority to women who are widowed, single, crippled and abandoned. He also recommended earmarking certain jobs exclusively, such as spinning, weaving and cutting of wool, cotton, and flax, for the disadvantaged and vulnerable to help them socially and economically as well Emperor Ashoka had developed an elaborate public health system. His edicts\textsuperscript{18} record that ‘the king made hospitals along the highways and deputed physicians and made arrangements for medicines, food and drinking water. At the village level records were maintained of birth, death, caste and also to provide for the ill, infirm and those in needs of help. In comparison the reign of Chandra Gupta Maurya stands to be unique in its arrangement of workshops for the rehabilitation of the physically disabled as well as other socially and

\textsuperscript{17} Shamasastry R. (trans.), Kautilya’s Arthasastra, Mysore: Wesleyan Mission Press, 1923, 2\textsuperscript{nd} ed., 1923.

\textsuperscript{18} Smith, V.: Asoka: The Buddhist Emperor of India, Oxford: Clarendon Press, 3\textsuperscript{rd} ed., 1920, p.66, 162
economically disadvantaged members.\textsuperscript{19} Even during the Mughal period, institutions established for welfare continued to survive under Zakat, a system by which part of the income was set apart for the central fund for maintaining social institutions. In fact, the Mughals instituted a special department with a head to supervise and manage Zakat.\textsuperscript{20}

Apart from these realities, the foreign authors often suggest that disabled children in ancient India were often thrown into the Ganges. Even it is known that the blind, deaf, crippled and the idiots had to perform the ritual of ‘Bandhayana’ where the kings were suppose to provide footing, clothing and shelters to these incapable persons.\textsuperscript{21} These rituals proves that though compassion and sympathy was shown to such disabled persons yet their right of equality with other able persons in the society was never recognized. The ‘Charak Sanhila’\textsuperscript{22} regards diseases

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\textsuperscript{19} National Human Rights Commission Disability Manual 2005, National Human Rights Commission, New Delhi, p.34-35
\textsuperscript{20} Chopra.P. N., B.N. Puri & Das; A Social, Cultural & Economic History of India, Macmillan, Volume I & II, 1974, p.50-63
\textsuperscript{22} Mukherjee, P.R. and Atul A. Waheli-'Integrated Approach towards Drug Development from Ayurveda and others Indian systems of Medicines'-Journal on Ethno Pharmacology, vol. 103, issue 1, 3rd Jan 2006, p.25
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or any misfortune to be the result of misdeed or wrong action done in previous lives and this belief is not true of those days only. Even in the so called modern world with advancement and rapid development of science and technology, the people still consider disableness as punishment given by God for any sin committed in previous lives or in this life only. Even the elders in the family often warn the younger one giving the examples of the disabled members saying that if they do any wrong in this life they will be punished like the disabled ones in their next life. Thus the younger generations are taught to look upon the disabled people as persons' convicted of some wrongs in their past lives and not as normal human beings having some physical inabilities. So these youngsters have a strong belief that the penalty for any mischief is to be born or become disabled. The most dark side of this aspect is that there is a tendency among the able individuals in the society to make fun or to crack jokes regarding these physically challenged persons.

The most common victims of them are dwarfs, deaf and dumb persons. The vulnerable group among them are the dwarfs. This is a kind of disability which is not recognized by law as it has been done in case of other disability. In this regard it is
noteworthy that in the times of Gupta's especially in the reigns of Samudragupta, the coins used were engraved with the figure of dwarf standing beside the throne of the emperor. Undoubtedly it proves that the dwarfs were given a special status in the Gupta dynasty.\textsuperscript{23} If we relate this incident to present times it can be said that only one state in India that is Haryana, the then Chief Minister had announced a pension scheme for the disabled whom are considered with the category of physically challenged persons\textsuperscript{24}. Otherwise dwarfism is not regarded as a form of disability. But unfortunately we see that inspite of being physically fit, their mental ability has been ignored by the society; mostly dwarf persons are involved in circus to play the role of the joker. They are often treated as funny persons the only reason being their less height than the normal persons. In this regard mention can be made of a Tamil film remaked in Hindi named 'Appu Raja' where among the two brothers one was normal and physically able person but the other was a dwarf with all other normal physicality. The dwarf one 'Appu' was rejected unknowingly by his beloved and also laughed at by the society.

\textsuperscript{23} Supra n. 1, p.30
\textsuperscript{24} The Statesman (Kolkata Issue), 15\textsuperscript{th} June 2007
If we trace back to 400 AD, in the writings of Fa-Hein, a Chinese pilgrim, the city of Pataliputra (now Patna) had hospitals where the crippled and the disabled were specially treated. During this time when Fa-Hein came to India this unfortunate class was well cared off.  

According to Buddhist Philosophy health and happiness are interlinked with each other. Physical fitness and health are important ingredients of life; similarly mental health and hygiene are of equally required. Mental health and nervous disorders are found less in India than in Western Countries, and one of the major reasons has been the influence of spirituality on people’s life and thinking. Nonetheless, there has been steady increase in such disorders because of growing tendency of materialism. Mankind is thus becoming narrow-minded, unaccommodating and intolerant. So role of spiritualism, in general, and Buddhism, in particular- in minimizing tension and other mental health plays an important part. Apart from being a subject of theoretical discourse, development of wisdom is a pragmatic approach towards salvation from human sufferings.

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25 Supra n.21
27 ibid
and misery. Contradictorily, in Medieval India during the rule of the Muslims except the Mughals, we find that there were hardly any instances which show that the Muslim rulers had any compassion for the disabled or did any social work for them.\textsuperscript{28} In this connection it may be said that few rulers in Medieval India did anything for the under-privileged. The noted historian R. C. Dutta wrote ‘The Muslim who formed an important element of the population from the thirteenth or fourteenth century onwards were inspired by the same spirit of social service and particularly in the fields of religion and education. To render help to our less fortunate brothers was almost an essential feature of Islam, as is proved by the payment of zakat or tax by every Muslims. The building of mosques with attached school and colleges, was regarded as a pious act as in the case of Hindus. Some special forms of social work are illustrated by the activities of Firoz Tughlaq\textsuperscript{29}.

Even among the Mughals it was seen that during the reign of Akbar, Shajahan or Aurangzeb there were many charitable institutions and endowments. But nothing was specially formed or instituted to help the crippled or the disabled. During the time

\textsuperscript{28} \textit{Supra} n. 13
\textsuperscript{29} \textit{ibid}
of Mughal Emperor Humayun, a simultaneous power was created by Sher Shah who ultimately dethroned Humayun. Sher Shah who was well known for his developmental activities was also one-eyed. These were mainly charitable institutions set up for the welfare of the society. But these efforts was not a systematic plan to introduce social security in those times. It can also be pointed out that the amount of time money and energy exerted by the Mughals in the field of art and architecture has always been praised but in comparison to it not much has been done for the poor crippled or even for the disabled persons in the society.

Thereafter in the British India initially in the eighteenth and nineteenth century we find that there was not much concern for these unfortunate people of the society; the reason may be that in the earlier stage the British Government was busy in putting their foot firmly on the soil of India. They had no interest or even concern for the welfare of the Indians and hence social security measures for persons with disabilities does not arise. Yet during this time there was few legislations made by the British Government in twentieth century like the Lunatic

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Asylums Act 1858 which was the very first Act of this kind to deal with the disability issues and was a weak effort on part of the British Government to provide protection mechanism for unprivileged class. Apart from it the other Acts during those times which had provisions relating to the persons with disabilities was Indian Penal Code 1860, Indian Contract Act 1872, The Lunacy Act 1912 or The Lepers Act 1898 and the like.

It is only after 1947 that the Government of India took positive steps in various areas from physical to vocational rehabilitation for the disabled citizens. Inspite of Legislations like Persons with Disabilities Act 1995, National Trust Act 1999, the general attitude of the society towards the disabled did not yet changed. As in the ancient times even in modern days we find that the disabled are ostracized from the society; sadness, pity, sympathy are always associated with disability. This sympathetic attitude has got various manifestations. It is a general outlook or perception that we always shower sympathy or show softness for the disabled whether it is required or not. This attitude of the general mass is often misused by some class. For example when we walk on the roads we often give some money to the disabled
beggar or poor person whereas these persons may not be disabled in reality but only pretending to be so. Yet this physical inability draws much attention of the public and we often sympathize or pity them. In modern society some try to take advantage of the physical inability. This has been very well pictured in the Hindi Film ‘Debsishu’ directed by Utpalendu Chakraborty. In the film a child with more than one head was born to poor parents. Unable to bear the shock they gave the child to the priest of a temple. Later on, after a number of years the parents find that the child has grown up and the priest is making a business through the child by demonstrating that the child is God’s incarnation in the world. The director of the film has very well portrayed how the poor parents lamented for giving up the child as they could have made profitable business through the child too. What has been depicted in the film is also evident in real life. The two sisters named Ganga-Jamuna whose lower part of the bodies were so attached with each other that they had two heads and upper portion of the body but from the abdomen onwards was not detachable since birth. As they were also born in a poor family and due to poverty and for their livelihood, their parents also makes money through this two sisters by presenting them in public places.
As persons with disabilities are treated as objects and not subjects in the society, cannot be brought under the mainstream of the society because objects can never become subjects. When we trace back in history we do come across a number of characters either in reality or in fiction who are either disable or crippled persons. Rarely, it has been found that they are socially accepted, most of the times, they are socially outcast on the belief that they have evil associations; But in both cases they are very much a part of the society; from the ancient period to the modern times the physically and mentally challenged persons forms a considerable part of the society which is unfortunately increasing day by day. Therefore, it becomes next to impossible to ignore these persons for long either by the government or by other able persons in the society. We find that the concern for the protection and security of these disabled persons began in India during the British period; they were legally protected and had recognition in different legislations enacted by British Government.

Coming to the independent Indian scenario as per official estimates, there are about 60 million disabled people of different age groups in the country. Unofficial estimates however put the figure much higher, at about 100 million, which comes to about
10% of the Indian population. What is worse is that this enumeration takes into account only four categories of the disabled—visually handicapped orthopaedically handicapped, hearing impaired or deaf and dumb, and the mentally impaired. The figures would be much larger if some of the other categories of disabilities such as those suffering from depression, schizophrenia, asthma, HIV/AIDS, etc are taken into consideration.

In India, Census 2001 has revealed that over 21 million people (approximately 2.1%) suffer from one or the other kind of disability. This is equivalent to 2.1% of the population. Among the total disabled in the country, 12.6 million are males and 9.3 million are females. Such proportion has been reported between 57-58 percent for males and 42-43 percent females. The disability rate (number of disabled per 100,000 populations) for the country as whole works out to 2130. This is 2369 in the case of males and 1874 in the case of females.\footnote{Government of India, A Report on Disabled Persons, No. 393 of the National Sample Survey Organisation (July- Dec.2009); A Report on Delayed Mental Development among Disabled Children, No. 391.}

Among the five types of disabilities on which data has been collected, visual disability is 48.5% and emerges as the top
category. Others in sequence are mobility (27.9%), mental (10.3%), in speech (7.5%), and hearing (5.8%). The disabled by sex follow a similar pattern except for that proportion of disabled females is higher in the category a Visual and hearing impaired.\cite{32}

Across the country, the highest number of disabled has been reported from the state of Uttar Pradesh (3.6 million). Significant numbers of disabled have also been reported from the state like Bihar (1.9 million), West Bengal (1.8 million), Tamilnadu and Maharashtra (1.6 million). Tamilnadu is the only state, which has a higher number of disabled females than males. Among the states, Arunachal Pradesh has the highest proportion of disabled males (66.6%) and lowest proportion of disabled female.\cite{33}

In the year 2007 on International Day of Disabled Persons the government focuses on how to ensure decent work for persons with disabilities. The recently adopted U.N. Convention on the Rights of Persons with Disabilities 2006 recognized in Article 27 the rights of persons with disabilities to work and employment on an equal basis with others; it stresses on the right of persons with disabilities to earn a living from freely

\cite{32} Supra n 31

\cite{33} www.disabilityworld.org
chosen work and to work in an environment that is both accessible and accepting.

But in India it is often seen that employers normally resist employing a disabled person because it is believed that they will be unable to perform their roles and would be too expensive. This attitude is almost like questioning the incapacibilities disabled person rather than on their abilities of the individual. Empirical study, however, shows that persons with disabilities have high performance ratings than their colleagues without disabilities.\(^{34}\)

Ensuring decent work for persons with disabilities will vary in each country. Business groups, governments and persons with disabilities should work closely together. This liberal attitude towards the disabled persons is less found in India than in other foreign countries. It is unfortunate that in the developing countries, a majority of the disabilities are preventable and are generally related to poverty, disease, malnutrition and ignorance. Most of the population in these countries is rural, agrarian-based. Poor sanitary standards, crowding and insufficient resources for medical prevention and care result in a high prevalence of infections and disability. Particularly, in the

\(^{34}\) Singh, Ramindar, The Handicapped Getting their Due, India Today, p. 187, November 30, 1998
remote areas, even basic services such as clean drinking water facilities are unavailable.\textsuperscript{35}

The origin of the movement to protect persons with disabilities in India can be traced back to the year 1981. The disability movement in India started only when the year 1981, was declared as the International Year of Disabled People. Till then sporadic attempts were being made to rehabilitate the disabled persons. It is true that international pressure, made the government in India to respond to the demands of the persons with disabilities and generate consciousness among them. But demonstrations by single disabled group could not be termed as movement. The real movement of persons with disabilities and consciousness for them in India started in the early 1990s with the formation of the cross-disability advocacy group, namely ‘Disabled Rights Group’.

Governmental actions during this period was mainly restricted to giving and extending reservations to the persons with disabilities in the educational institutions and steps were taken for identifying jobs to be reserved for orthopaedically disabled and hearing and visually persons with disabilities in group A, B, C and D; The Lunancy Act of 1912 was repealed at this time

and it was replaced by the National Mental Health Act 1997. Also in 1987, Justice Baharul Islam Committee was appointed to make a draft legislation emphasizing rights, equal opportunities and full participation of persons with disabilities. NGOs working for the disabled persons began to show awareness regarding strategic policy. The NGOs and their actions raised awareness in the society. Finally, the new National Educations Policy, implemented in 1986, provided for education of disabled children and in this way gradually the concern for the persons with disabilities in India began to grow.

Gradually, also a growing consciousness was emerging to protect the rights of the disabled persons in the international sphere, and India being a signatory to International Covenant on Civil and Political Rights (1966) together with the next two other human rights documents like Optimal Protocols to International Covenant on Economic, Social and Cultural Rights (1966) International Convention on Elimination of all Forms of Racial Discrimination (1965), Convention on All Forms of Racial Discrimination Against Women (1979) and Optional Protocol to the Convention (1999) has actively engaged herself
to make a comprehensive domestic legal framework for protecting the rights of the persons with disabilities.

Discussion about the perception of the society towards the persons with disabilities indicates that such category of people was grossly neglected and since India for a long time had been under foreign rule, foreign rulers did pay only scant attention towards this community. But when India got independence the national government began to pay serious attention towards persons with disabilities and took various administrative and legislative measurers for the upliftment of the condition of disabled persons. Next two chapters i.e. chapter 3 and 4 an effort has been made to highlight these legislative developments.