

“A Comparative Study on People with Disabilities in India: A Framework”

Nandini Gautam

Research Scholar, Mahatma Gandhi University, Meghalaya

Abstract – *There are 600 million persons with disabilities in the world today. Eighty percent of them live in developing countries. A staggering 90 million people in India are disabled. That's almost one in every ten. These figures in the very beginning of this article are not mentioned to create any sympathy for persons with disabilities. The aim of mentioning these figures here is to illustrate that still 600 million persons with disabilities are being prevented from contributing to the world society (whether socially or economically) because of the barrier called disability. However, there has been a shift in international thinking on disability from largesse-based perspective to rights-based perspective. The world for and of the disabled is changing at a rapid pace and the aspirations as well as expectations of people are also changing as fast. Advances in medical and surgical sciences, breakthroughs in technology, greater understanding of the causes of disability and improved methods of coping with it, increasing consciousness of civil rights and the emergence of people with disabilities displaying skills and knowledge to improve their own lives, are some of the factors which have contributed to the new thinking. It is now recognized that the disabled deserve a dignified status in society on the same terms as the non-disabled. Disabled people are a vast minority group, which has been subjected to direct and indirect discrimination for centuries in most countries of the world, including India.*

INTRODUCTION

Throughout centuries, the disabled have been oppressed marginalised and stigmatized in almost all societies. They constitute a section of the population, which is most backward least served and grossly neglected. Person with disability are the poorest of the poor and weakest of the weak, who have been socially, educationally and economically disadvantaged; thus having customarily denied their right to self-assertion, identity and development. Now where is this victimisation more glaring than in matters of education, employment and physical access. Disability is not all alone sometimes impairment and handicap was used interchangeably, but these terms has different meanings and describe different concepts. To promote appropriate use of these terms, in 1980 the World Health Organization established the international classification of impairment, disability and handicap, which define these concepts: Impairment – refers to the loss or abnormality of psychological, physical, or anatomical structure or function at the system or organ level that may or may not be permanent and that may or may not result in disability. Disability – refers to an individual limitation or restriction of an activity as the result of impairment. Handicap – refers to the disadvantage to the individual resulting from an impairment or disability that presents a barrier to fulfilling a role or reaching a goal (Ahmad, 2001). Disability is a relative term in so far as different cultures

define their norms of being and doing differently. Conceptions of disability are therefore highly contextual and subjective.

As per 2001 census, 21.9 million or 21,906,769 people are disabled in India, who constitutes 2.13 per cent of the total population. Out of the 21,906,769 people with disabilities, 12,605,635 are males and 9,301,134 are females (Allen, Robert 1997). This includes persons with visual, hearing, speech, loco-motor and mental disabilities. Seventy five per cent of persons with disabilities live in rural areas, 49 per cent of disabled population is literate and only 34 per cent are employed. The earlier emphasis on medical rehabilitation has now been replaced by an emphasis on social rehabilitation. The experience of disabled people in rural India suggests that this medical model does not adequately capture the phenomena of disability. What prevents disabled peoples in villages from living a life like anyone else, going to school, participating in family celebrations and working in fields is not individual's impairment, but how society interpreted and reacts to it. Life is made difficult not so much by the individual's medical condition, but mainly by a hostile physical and social environment which excludes disabled people from all spheres of social life. It is not the medical impairment, but the way in which society reacts to it, that exclude disabled from taking part in celebration, political decision-making or religious worship.

Persons with disabilities make up nearly 15-20% of poor in developing countries. Disability, poverty and poor health are inter-related. Poverty leads to poor nutrition, lack of access to health, unhealthy and unsafe living and working conditions, which can lead to impairments and disease. After the onset of a disability, barriers to health facilities, education, employment, and other aspects can trap people in a cycle of poverty. Many a times, the health of caretaker in the family too becomes an added concern, but is often neglected. Family resources get depleted as parents move from one hospital / doctor/'tantrik' to another, in search of a cure, treatment or rehabilitation for their disabled child.

There is a huge gap in terms of health services available for disabled and non-disabled people in the country. Issues vary from inaccessible buildings and diagnostic equipments, negative/stereotypical attitude of health professionals or their ignorance, lack of training to communicate with people with hearing/speech impairment or intellectual disability, inaccessible transport to reach the health centre, or sheer expense of treatment/rehabilitation. Health services need to cater to all, including people with disabilities. Services are required for people with various disabilities, including those with deteriorating conditions, leprosy, multiple disabilities, deaf-blindness, haemophilia, spinal injuries, intellectual disabilities, hydrocephalus, range of syndromes, and many more.

In order to translate the aspirations of Persons with Disabilities into reality it becomes imperative to take stock of what is the current situation with respect to the 'excluded populations' and then plan to build on the same. The Indian 11th Five Year Plan (FYP) places strong emphasis on inclusive and rapid poverty reduction and among the key strategies proposed by it, is the accelerated support to decentralized and outcome based planning. It expects to improve the effectiveness of development programmes and to facilitate inclusive growth, the latter by ensuring equitable participation and benefit sharing by disadvantaged social groups.

In 2008, UNDP, India in partnership with the Planning Commission launched the Livelihood Promotion Strategies Project in the country focused on seven states. The project recognizes that the seven UN focus States (Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Odisha, Rajasthan and Uttar Pradesh) have relatively higher concentration of poor and disadvantaged groups than other States. These disadvantaged women and men have limited livelihood options and are highly dependent on agriculture and the informal economy.

Empirical evidence also shows that 'Disabled people living in poverty' have always suffered from double disadvantage and are also at a higher risk of becoming even poorer. The same is true for all people living in

poverty, who have a higher risk of facing a disabling condition due to their limited access to basic services such as health, education, and sanitation and higher rates of exposure to hazardous working conditions.

Disability summarizes a great number of different functional limitations occurring in any population due to impairments. People of all ages and ethnicities have impairments - intellectual, psychiatric, physical, neurological, or sensory which may be temporary, intermittent or ongoing.

One common experience faced by person with disabilities is that of various forms of discrimination and social exclusion. They continue to face physical and attitudinal barriers to their full participation in society and equal and effective enjoyment of all human rights.

The framers of the Indian Constitution were well aware of the fact that in the process of providing true equality some benefits would have to be given to certain sections of the society. Articles 14, 15 and 16 of the Constitution of India clearly recognize this concept. Under the Directive Principles of State Policy, Article 41 of the Constitution of India states that the State shall, within the limits of its economic capacity and development, make effective provisions for securing unemployment, old age, sickness and disablement, and in other cases if undeserved want. Concomitant to these provisions "THE PERSONS WITH DISABILITIES (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995" was brought into force from the 1st of January, 1996.

This legal provision was also necessary to give effect to the "Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region" of which India is a signatory and UN Convention on Rights of Persons with Disabilities (UNCPRD) which was ratified by India on 1st October 2007.

CONSTITUTIONAL FRAMEWORK IN INDIA

The Constitution of India applies uniformly to every legal citizen of India, whether they are healthy or disabled in any way (physically or mentally) and guarantees a right of justice, liberty of thought, expression, belief, faith and worship and equality of status and of opportunity and for the promotion of fraternity. To safeguard the interests of the disadvantaged sections of the Society, the Constitution of India guarantees that no person will be denied 'equality' before the law (Article 14 of the Indian Constitution). Relevant Articles in Indian Constitution providing constitutional guarantees to all including disabled are: Article 15(1): It enjoins on the Government not to discriminate against any citizen of India (including disabled) on the ground of religion, race, caste, sex or place of birth. Article 15(2): It states that no citizen (including the disabled) shall be subjected to any disability,

liability, restriction or condition on any of the above grounds in the matter of their access to shops, public restaurants, hotels and places of public entertainment or in the use of wells, tanks, bathing places (ghats), roads and places of public resort maintained wholly or partly out of government funds or dedicated to the use of the general public. Article 17: No person including the disabled irrespective of his belonging can be treated as an untouchable. It would be an offence punishable in accordance with law. Article 21: Every person including the disabled has his life and liberty guaranteed. Article 23: There can be no traffic in human beings (including the disabled), and beggar and other forms of forced labour is prohibited and the same is made punishable in accordance with law. Article 29(2): The right to education is available to all citizens including the disabled. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds. Article 32: Every disabled person can move the Supreme Court of India to enforce his fundamental rights and the rights to move the Supreme Court.⁷

ACTS FOR DISABILITY

The legislative framework for the protection of the rights of disabled people is covered by given acts:

The Rehabilitation Council of India Act 1992: Act sets out to regulate the training of professionals in rehabilitation and sets out a framework for a Central Rehabilitation Register. In order to give statutory powers to the Council for carrying out its duties effectively the Rehabilitation Council of India Act was passed by the Parliament which came into force with effect from 1993. The amendment in the Act in 2000 gave the additional responsibility of promoting research to the Council. The major functions of the council include the recognition of qualifications granted by Universities in India for Rehabilitation Professionals and also the recognition of qualification by Institutions outside India.

The Persons with Disabilities (Equal Opportunities, protection of Rights and full Participation) Act 1995: This act provides 3% reservations for disabled people (blind or low vision, hearing impairment and locomotor disability or cerebral palsy in poverty alleviation programs, government posts, and in state educational facilities, as well as other rights and entitlement). The specific objectives of the Act are: Prevention and Early Detection of Disabilities, Education – all Government educational institutions reserves more than 3% seats for disabled. Employment – with 3% reservations the disability vacancies not filled upto be carried forward for next three years and after that the vacancy will be filled by a non-disabled person.

Schemes for ensuring employment of person with

disabilities are: Training and welfare, Relaxation of upper age limit, Regulation the employment, Health and safety measures. Affirmative Action – Preferential allotment of land for certain purpose – government or local authorities for: House; Setting up business; Setting up special recreation centers; Establishment of special school; Establishment of research centers; Establishment of factories by entrepreneurs with disability.

Criticism of Person with Disabilities Act 1995: The Persons with

Disabilities Act (PWD), 1995 has been landmark legislation for the disabled in India. This Act that is related to mental illness (MI) and provides recommendations aimed at making it an official instrument for equal opportunities, participation and protection of rights Act in its true sense. But there are some serious flaws in the Act that have to be set right to ensure equitable distribution of benefits to all. The Act defines a disabled person as one who is “suffering from 40% or more disability”.

However, as far as MI is concerned, this quantification is a mystification because such a tool is unavailable. The PWD Act unfortunately, turns out to be an instrument of injustice and discrimination albeit unwittingly. According to the chairperson of the Amendments Committee, MI missed this opportunity for employment rights because of the absence of a well-informed advocacy platform that coalesced into a lobby.

The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999: This Act provides for the constitution of a national body for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities. The main objectives are: To enable and empower persons with disability to live as independently and as fully as possible within and as close to the community to which they belong; To strengthen facilities to provide support to persons with disability to live within their own families; To extend support to registered organization to provide need based services during the period of crises in the family of persons with disability; To deal with problems of persons with disability who do not have family support.

National Policy for Persons with Disabilities Act 2005:

The National Policy, released in February 2006 recognizes that Persons with Disabilities are valuable human resource for the country and seeks to create an environment that provides them equal opportunities, protection of their rights and full participation in society. Its aim is to ensure better coordination between various wings of the State and Central Governments. The focus of the policy is on the following: Prevention of Disabilities, Rehabilitation Measures, Physical Rehabilitation Strategies, Early

Detection and Intervention, Counselling & Medical Rehabilitation. In addition to the legal framework, extensive infrastructure has been developed in India for disabled persons under this Act and includes the establishment of the following institutions: Institute for the Physically Handicapped, New Delhi, National Institute of Visually Handicapped, Dehradun, National Institute for Orthopedically Handicapped, Kolkata, National Institute for Mentally Handicapped, Secunderabad, National Institute for Hearing Handicapped, Mumbai, National Institute of Rehabilitation Training & Research, Cuttack, National Institute for Empowerment of Persons with Multiple Disabilities, Chennai. A 2004 survey in India revealed the following: Limited information on the definition of disability; Limited information on access to education to disabled people; No mention on disability in the Indian constitution; No standardized sign language.

The Disability and Rehabilitation WHO Action Plan 2006-2011: Document provides the overview of WHO's future plan of activities, which will be carried out or coordinated by the Disability and Rehabilitation team located in the Department of Injuries and Violence Prevention, in the Noncommunicable Diseases and Mental Health.

Ministry of Social Justice and Empowerment, in pursuance of the provisions of Section 32 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 {1 of 1996}, had constituted an Expert Committee on the 30th December, 2010 under the Chairmanship of Additional Secretary, Ministry of Social Justice and Empowerment. The Expert Committee, with the help of three sub-committees, made an in-depth study of various jobs performed in Government of India Ministries/Departments, public sector undertakings and autonomous bodies including Universities. The Sub-committees also reviewed jobs notified in 2007 and prepared a detailed list of Groups A, B, C and D posts which were identified suitable for persons with disabilities. The Expert Committee submitted its report on 24th January, 2012. The Central Government accepted the report and the list of posts identified for Persons with Disabilities has been published vide Notification No.16-15/2010-DD-III dated 29th July 2013.

DISABILITY RIGHTS MOVEMENT IN INDIA

In the pre-independence era, disability related work got underway in India on a charity, or at the most on a welfare mode. Some institutions and homes were setup for persons with disabilities where some sort of training, education, and/or sheltered employment was sought to be provided to such persons.

The post-independence period first witnessed the emergence of organizations for persons with disabilities.

Incidentally, there is a huge ideological divide between organizations *for* and *of* persons with disabilities. These were, by and large, uni-disability organizations meaning that they were working primarily to promote the interests of persons belonging to a given category of disability.

The late '60s and early '70s of the last century saw the uprise of organizations of persons belonging to certain specific categories of disabilities. The organizations for persons with disabilities are managed, run, controlled and led either by the non-disabled or by both the disabled and the non-disabled; whereas, the organizations of persons with disabilities are managed, run, controlled, and led by persons with disabilities. In other words, these organizations are organizations of the disabled, for the disabled, and by the disabled.

The late '80s and early '90s saw the emergence of cross-disability organizations but they were by and large urban centric and led by the so called creamy layer amongst the disabled.

The current century has witnessed the emergence of a movement of the poor disabled coming mostly from rural or semi-urban areas. This movement is slowly gaining momentum under the banner of Vikalang Manchās. Currently, such Vikalang Manchās are operating in about ten or eleven states of the country and efforts are on to ensure convergence of these Manchās under the banner of Rashtriya Vikalang Manch.

While it is both appropriate and desirable that persons with disabilities should speak for themselves as they have the expertise of lived experience of disability, it is also true that like all other marginalised and excluded groups, they need active support and solidarity from the larger civil society.

It is in this sense that organizations for persons with disabilities can play a significant role. Contribution of such organizations in matters of delivering services must also be acknowledged. It is desirable that organizations for persons with disabilities should also play their part in promoting and strengthening organizations of persons with disabilities.

SOCIAL SECURITY FOR PERSONS WITH DISABILITIES

The International Labour Organisation (ILO) defines Social Security as "the security that society furnishes through appropriate organization against certain risks to which its members are perennially exposed. These risks are essentially contingencies against which an individual of small means cannot effectively provide by his own ability or foresight alone or even in private combination with his fellows. The mechanics of social security therefore consists in counteracting the blind injustice of nature and economic activities by rational planned justice with a touch

of benevolence to temper it.” This definition of ILO clears and centers on provision of support to an individual or to his/her family to protecting them falling into contingent poverty which is that the individual is not otherwise poor but for the contingency. These contingencies as per ILO are sickness, medical care for the worker, maternity, unemployment, work injury, death of worker, invalidity and widowhood. The contingencies however are the work related contingencies and the individual and his family will be protected only in the case the individual is working before becoming a subject of the contingency. Thus being employed is a precondition for becoming eligible for social security benefits. Ironically, this definition does not cover the protection that has to be provided for the people who are already poor and therefore the Social Assistance programmes cover them.

The concept of social security is as old as the history of man. Stories of Bible tell us how, during the years of famine, Joseph tried to tide over the situation by making use of surplus stocks of grain which he had stocked during the earlier years of plenty. The oldest institution of social security is family that includes the extended family. Industrial revolution in the Europe has seen the growth of urban and industrial centers that affected the rural joint families thereby disturbing the institution of social security in the joint family system. When individual was unable to take care of his own needs, the society realized the importance of protecting the individual and his family. In great Britain the poor laws were enacted to provide minimal food and shelter in a workhouse to the poor.

Private savings, compensation by employers medieval guilds, mutual aid or mutual benefit societies, private insurance and life insurance are some of the evolutionary forms of social security efforts.

Article 43 of the Constitution speaks of state's responsibility to provide social security to the citizens of this country. In India, we find all the above strategies in practice. For the purpose of discussion, we may categorize the social security schemes available in India as Preventive Schemes, Promotional Schemes, and Protective Schemes.

A. Preventive Schemes

Preventive Schemes are the Schemes aimed at risk prevention. In the strategy of social management of risks, preventive approach tries to prevent poverty and helps people under below poverty line to come above poverty line. Preventive health care, vaccinations against diseases forms part of the preventive strategies. Majority of the schemes are of social assistance in nature.

B. Promotional Schemes

Promotional social security schemes are mainly of Means

tested Social Assistance type, where to guarantee minimum standards of living to vulnerable groups of population, the Governments at the State and Center draft schemes financed from the general revenues of the Government. These are the strategies of risk mitigation. These guarantee:

- Food and Nutritional Security by ensuring per capita availability of food grains, access to food, developing agriculture sector, targeted Public Distribution system etc.
- Employment security by ensuring employment by generating employment, redeploying the surplus manpower in any sector, creating rural employment opportunities, encouraging technological up gradation.
- Health Security by ensuring availability of medical facilities, maintaining standards of sanitation and drinking water, eradication and control of communicable diseases, timely vaccination of children and child bearing women, health insurance, old age homes and social insurance for the elderly.
- Education Security by ensuring opening of schools, Encouraging children to attend classes, making education compulsory upto certain age, opening adult learning centers or formulating schemes like Sakshara, running schemes like mid day meals etc.
- Women Security: by empowering women, encouraging women literacy, banning dowry, designing widow pension schemes.
- Assistance to the disabled by undertaking programmes to promote health and education among the disabled persons, providing rehabilitation services and reservations in services so as to enable them to participate in social and economic activity.

All the above form part of promotional social security schemes where State Governments are more involved than the Central Government. Examples of schemes in the promotional social security area include: Food for work, Jawahar Rojgar Yojana, Antyodaya, Rural Landless Labourers Employment Guarantee Schemes, programmes of Integrated Rural Development Project, Drought prone area Programmes, Sakshara, Integrated Child Development Scheme (ICDS), Public Distribution System, reservations for the disabled in services, special educational institutions for the disabled persons etc.

C. Protective Social Security Programmes

The protective social security programmes help the poor in removing/reducing contingent poverty. In India, the protective social security programmes have been designed to address the contingent poverty or the contingencies defined by the ILO.

These programmes take care of old-age income needs (Old age pension), survival benefits (Provident Funds), medical need of insured families (Medical Insurance), widow and children/dependant economic needs (Widow/Children/orphan, and dependent pension), maternity benefits, compensation for loss of employment and work injury benefits.

Having discussed the social security concepts and strategies and programmes available for the vulnerable groups, the need for the Social Security programmes for the persons with disabilities can hardly be overemphasized. However, we need to understand that the family has been the primary producer of welfare even before the birth of a welfare state on the lines of modern welfare approach. Later community, membership institutions, markets, and finally States provided welfare facilities. Particularly in democratic states, it has been the political necessity to produce and distribute welfare for the vulnerable groups in the society. The magnitude of the woes of the persons with disabilities is vast and its impact on the individual, family and community is severe. The most vulnerable groups among the persons with disabilities include very young children, women and the aged with disabilities. Their existence and livelihood requirements have to be taken care of by some agency in the society-that agency could be the state in the absence of benevolent markets and communities and more so when the families of the persons with disabilities cannot do so. Further it is apart of social justice that a State may assure to its subjects.

CONCLUSION

In India, the numbers of disabled are so large, their problems are complex, available resources also scarce, social stigma still attached and people attitudes so damaging. Attitudinal barriers engrained as part of India's historical response to disability must be changed through education programs for both teachers and the general populace. These programs require financial and collaborative commitment from key national and state education stakeholders, and partnership with universities to support research-based initiatives. It is only legislation which can eventually bring about a substantial change in a uniform manner. Although legislation cannot alone radically change the fabric of a society in a short span of time, it can nevertheless, increase accessibility of the disabled to education and employment, to public buildings

and shopping centres, to means of transport and communication. Therefore, in country like India mainstreaming of these people is challenging issue.

For achieving this task it's necessary to change public attitudes, remove social stigma, provide barrier free environment, needs reformation in the area of policy and institutional level.

Disabled persons in India are the most vulnerable group. Unfortunately, disabled persons irrespective of their economic status are subjected to social exclusion in the society. Economic, psychological and social confidence building is therefore immediately necessary. Social Security programmes for the disabled, to some extent will relieve the pain of being dependent. Comprehensive administrative arrangement, pooling up funds from various sources and delivering the benefit under professional supervision and control are the other immediate requirements. Lack of information and dissemination and absence of a single window approach make persons

with disabilities often unaware of what benefits and schemes are available to them. Besides ensuring that available benefits reach them, more resources from local state, national and international agencies, Government and Non-Government Organisations need to be mobilized.

REFERENCES

- Ahmad, E. (2001). "Social Security and the Poor : Choice for Developing Countries", in *The World Bank Research Observer* 6(1).
- Allen KC, Robert AK. (1997). "Cognitive disabilities measuring the social consequences of Mental Disorder. *J Clin Psychiatry*; 48(5) : pp. 185-90.
- Chelliah, R. J. and Sudarshan, R. (1999). *Income Poverty and Beyond: Human Development in India* (New Delhi, Social Science Press).
- Datta, R.C. (1998). "Public Action, Social Security and Unorganized Sector", in *Economic and Political Weekly* , 33(22)
- Government of India (1995). Persons with Disability (Equal opportunity, protection of Rights and Full Participation) Act, New Delhi: Govt. Press. www.ccdisabilities.nic.in. Retrieved on 25.02.2014.
- Hasanuzzaman M, Khan S. (2011). "Disability and access to higher education in India. *Int J Res Commerce Manage*; 2(11) : pp. 107-10.
- Mohit A, Pillai M, Rungta P. Rights of the Disabled, 2006. National human right commission,

<http://bhrc.bih.nic.in/Docs/Rightsof-the-Disabled.pdf>. Retrieved on 25.02.2014.

National Sample Survey Organization (2002). Disabled Persons in India: NSS 58th Round. Report No. 485. New Delhi: Ministry of Statistics and Program Implementation, Government of India.

UN Enable (2009). Convention on the Rights of Persons with Disabilities and Optional Protocol. Available at <http://www.un.org/disabilities/default.asp> retrieved on 25.02.2014

United Nations ESCAP the Asian and Pacific Decade of Persons with Disabilities 1993-2002 Resource Materials.