

Disability as a Human Rights Issue: India's 'Invisible Minority' in the Policy Realm

*Javed Abidi
Dorodi Sharma*



What is urgently needed is the political will to ensure that disability is included across all policies, across all Ministries and Departments, and a time frame is fixed to make our facilities, schools, colleges, public places, etc. accessible for all people with disabilities

THE WORLD Report on Disability published by the World Health Organisation (WHO) and the World Bank says that 15 percent of the world's population or 1 billion people live with a disability. If we go by the 15 percent figure, India should be home to more than 150 million people with disabilities! Even if we take a conservative 7-10 percent, India is home to at least 70-100 million people with disabilities. This is a huge section of our population. And yet, we hardly see them in the mainstream. But this doesn't mean that these millions are not there, among us. It is just that we as a country have neglected to include them in the mainstream.

Another reason, equally important to note is that the concept of disability rights as a movement in India is still very young.

Cross-disability movement in India: Disability organisations in India have been in existence for many decades, some for more than 50 years or so. Yet, the concept of disability issues as rights was alien till as late as the 90s. It was only in

1993, with the creation of Disabled Rights Group (DRG), India's first cross-disability advocacy organisation, that the idea of 'all rights of all people with disabilities' gained currency.

Disability Act of 1995: The first thing that DRG realised was the absence of a law that ensured the rights of people with disabilities; which otherwise are available to any other citizen of the country. This was after nearly half a century after Independence. So during the crucial years of nation building, when we were building our schools, colleges and universities; our roads and public infrastructure; etc., people with disabilities were left out to remain in the confines of their homes – with no future, no dignity and no rights.

After an intense advocacy campaign by DRG, the Disability Law of 1995 was finally enacted. This forms the basis of whatever little advances India has been able to make in the area of disability, even today.

Enumerating the 'invisible minority': When DRG started its

Javed Abidi is a renowned disability rights activist. He is the Honorary Director of National Centre for Promotion of Employment for Disabled People (NCPEDP) and Convenor of Disabled Rights Group (DRG).

Dorodi Sharma worked with NDTV before joining NCPEDP as Programme Manager.

advocacy with the Government for a disability rights law, it realised that India never considered enumerating people with disabilities. India's Census operation dates back to the British era (1872) and has been conducted uninterrupted every 10 years. What is even more surprising is that till before Independence, a question on disability, though very crude, was always asked. This was then dropped in the Census after Independence and was included in 1981, which was the International Year for Disabled People. However, it was again dropped in the Census of 1991.

In 1999, DRG wrote to the Government to include disability in the 2001 Census. To our utter dismay, this was refused. This followed a vigorous campaign that went on for several months, where people with disabilities had to come out on the streets to protest. Eventually and at the very last moment, a question on disability was hurriedly included. It was not a well-framed question and left several disabilities out; and there was no sensitisation of enumerators either. We got feedback from across the country where enumerators did not even ask the question. Nevertheless, the Census data revealed that India was home to 21 million people with disabilities, or 2.1 percent of its population. The 11th Five Year Plan document admits that this was an underestimation and states, "It can be reasonably assumed that persons with disabilities constitute anywhere between 5 to 6 percent of our total population."

The next challenge was to get a more accurate enumeration of disability in the 2011 Census. National Centre for Promotion of Employment for Disabled People

(NCPEDP) and the National Disability Network (NDN) led a campaign in 2010 for improving the question on disability; prioritising the question on disability and making disability an integral part of the training and sensitisation programme of the enumerators in the Census of 2011. This time the Census Commission was also more sensitised and aware; and with their support, all of this could be achieved. It is now hoped that when the disability data under Census 2011 is revealed, it will show a substantial increase over last time.

Disability in the Five Year Plan: As is well known, the Five Year Plans set the tone for the development agenda and resource allocation for the nation. The extent to which disability was neglected in the policy realm can be gauged by the fact that for as long as the 10th Plan, there was almost no mention of disability whatsoever. During the formulation of the 11th Plan, DRG led a huge campaign for substantial inclusion of disability and for recognising the fact that it is a cross-cutting human rights issue. Again, after protracted advocacy that saw people with disability come out on the streets, disability found a significant mention in the chapter on 'Social Justice'.

The 11th Plan mandated a firm four-pronged approach to mainstream disability: (i) delineate clear-cut responsibilities between the concerned Ministries/Departments; (ii) concerned Ministries/Departments to formulate detailed rules and guidelines within six months of approval of the Eleventh Plan; (iii) ensure that each concerned Ministry/Department shall reserve not less than 3 percent of their annual outlay for the benefit

of disabled persons as enjoined in the Persons with Disabilities Act, 1995; (iv) set up monitoring mechanisms at various levels and develop a review system so that its progress can be monitored on a regular and continuing basis.

It is because of the 11th Five Year Plan that we now have a Department of Disability Affairs and the Indian Sign Language Research and Training Centre (ISLRTC).

Disability in the 12th Five Year Plan: Though the 11th Plan had a very substantial mention of disability, its implementation was extremely abysmal. The primary reason for the poor implementation was the fact that although disability was mentioned as a cross-cutting issue with clear mandates for several Ministries, the concerned section was hidden away as a part of the larger chapter on Social Justice. The result was that when NCPEDP filed Right to Information (RTI) applications with some 20 Ministries in 2010-11, none of the Ministries or Departments were even aware of the section on disability in the 11th Plan. They did not have any Disability Policy nor any budget for disability issues.

Learning from this experience, it was essential that in the 12th Plan disability was included in all relevant chapters of the document. In 2011, when the Planning Commission was setting up Steering Committees to formulate the 12th Plan, NCPEDP and DRG advocated for the inclusion of people with disabilities and disability experts in all relevant Committees in addition to the Steering Committee on disability. And for the first time in the history of the nation,

people with disabilities and experts were made part of the Steering Committee on Labour, Transport, Health, Women and Child Rights, Housing & Poverty Alleviation, Science & Technology, Youth, Literacy and so on. It was hoped that with this, all relevant chapters would have adequate mention of disability. Unfortunately, the 12th Plan document that was unveiled recently did not quite reflect this. In fact, it seems that the 11th Plan had a much more rights based approach towards disability and had more for people with disabilities than the 12th Plan.

CRPD and a new paradigm in disability: The Convention on the Rights of Persons with Disabilities (CRPD) is the first human rights treaty of the 21st century. It is also the fastest negotiated human rights treaty. It saw a record number of signatures on the opening day itself.

CRPD underlined the need to look at the human rights of people with disabilities who comprise some of the poorest and most vulnerable section of society. It firmly established disability as a cross-cutting human rights issue. It brought in a new progressive paradigm especially for those disabilities that have so far been neglected and marginalised.

In 2006, NCPEDP and DRG led a campaign for speedy ratification of CRPD by India. Finally, when all advocacy seemed to yield no result, Convenor of DRG announced an indefinite hunger strike from October 2, 2007 (Gandhi Jayanti). It was a happy coincidence that the Government ratified the Convention on October 1, 2007. By doing so, India became the 7th country in the world to ratify CRPD, ahead

of some of the other much more progressive nations in terms of disability rights.

India post CRPD: When India ratified CRPD, it made a commitment to its people with disabilities and the international community to protect, fulfill and promote all rights of all people with disabilities.

In fact, the 11th Five Year Plan recognises this and states, “India being a signatory of UNCRPD, it is now obligatory upon us to incorporate the essence of the Convention in our planning, implementation, monitoring, and review processes.” It also mentioned the General Principles of CRPD and stated, “There is an urgent need to review all the four disability legislations and to amend them suitably to bring them in consonance with UNCRPD.”

However, the progress on implementing the letter and spirit of the Convention has been painfully slow.

In 2009 when a new Social Justice Minister took over, the Government decided to amend the 1995 law. When NCPEDP and DRG looked at the proposed amendments, they realised that even with 100 plus amendments, the 1995 law would never truly reflect CRPD. The problem lay at the very core of the 1995 law – the fact that it was ridden with charity, and no amount of amendments would be able to change that. DRG then proposed that it was time for a new disability rights law that would reflect the letter and spirit of CRPD. After a year of advocacy, the Government constituted a Committee in April 2010 to draft a comprehensive disability rights law in consonance with CRPD. The process had its

own problems and delays. After 14 months of work, the Committee submitted its recommendations on June 30, 2011. The Ministry took another 14 months to finalise the recommendations and a draft Rights of Persons with Disabilities Bill was made public in September 2012. This draft Bill is not without its shortcomings. However, it is still several notches better than what we have today. If and when it is enacted by the Parliament, it will bring in a wave of change into the lives of millions of people with disabilities in the country.

Conclusion: In the past decade or so, disability issues have managed to get only a minuscule space in the mindspace of policy makers and decision makers, and certainly not as much as required. What is urgently needed is the political will to ensure that disability is included across all policies, across all Ministries and Departments, and a time frame is fixed to make our facilities, schools, colleges, public places, etc. accessible for all people with disabilities and adequate resources are allocated. There are all the usual noises, but the nation is not putting its money where its mouth is. A budget analysis from 2008-12 undertaken by NCPEDP found that India spent only 0.09 percent of its GDP on disability! This is definitely not adequate to not only address the mistakes of the past, but also to ensure that as the nation takes strides in development, we are not creating more and more barriers for people with disabilities. If we do not seize this opportunity to create an equal and just society, it will be a huge disappointment for a country aspiring to be a global leader. □

*(E-mail: chairperson.dpi@gmail.com
dorodi.sharma@gmail.com)*