

Disability, Rights and Citizenship in India



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Abstract

The notion of citizenship has become a shorthand device for talking about the relationship between individuals and their societies. Politicians, policy makers and professionals have rediscovered the notion of citizenship in their own way. At the same time, disabled people have begun to redefine disability not as personal tragedy but as collective oppression requiring political action. Thus, for the former group, the history of citizenship can be seen as the achievement of certain political, social and civil rights for everyone. For the latter, disability is nothing less than the denial of basic human rights to certain groups within society.

Within this backdrop, this article intends to discuss different rights including social, political, economic and educational rights and responsibilities of the people with disabilities in India. In this context, it explores various causes and barriers that prevent them to enjoy their rights and opportunities along with different measures taken by the state for the protection of their rights and citizenship. This makes an attempt to analyze the gaps between the promises and performances in terms of policy formulation and implementation and also tries to find various means and ways to protect the rights and citizenship of the disabled people in the state.

Keywords: Disability, Rights, Political, Social and Civil, Responsibilities, Citizenship

Introduction

Commentators from all political persuasions lay claim to some definition of citizenship. The traditional liberal view is focused upon individual rights based in legislations, whilst the New Rights locate individual 'freedoms' not in law but in the choice to operate more in the 'informal' or private spheres than in state institutions. A new development in this regard is a definition of citizenship based upon needs. This is informed by an appreciation of 'difference', and underlined by an understanding of societal power and how certain groups have been marginalized (Taylor and Bishop, 1991, P. 5). It was briefly revived in the middle of the twentieth century through the influential work of T. H. Marshall (1951). While he was working on the question of citizenship, he was greatly influenced by the then British social system. According to him, the history of citizenship can be seen as the achievement of certain rights such as political, social and civil rights. He argued that the achievement of these rights was evidence of the way all were integrated into British society.

In recent years, the idea of citizenship has been used not simply to consider the social integration of the majority into society but also as a yardstick to measure the extent to which certain groups are not socially integrated. One example of this is the poor and the relationship between poverty and citizenship. Lister (1991) had pointed out that the world is in danger of entering the twenty-first century with a growing number of people being excluded from the full enjoyment of the rights of citizenship. She argued that it is time to go on the offensive and restate the case for effective citizenship rights for all, regardless of class, race, gender, age, disability or employment status (Lister, 1991, P. 2).

Before arguing for effective citizenship rights for disabled people, it is necessary to demonstrate that, at present, disabled people are not citizens, at least, not in Marshall's definition of the term. They have been excluded from enjoying almost all kinds of rights i.e. social, political and economic, as enjoyed by their normal counterparts. Significantly, in India, a number of initiatives have been taken to bring the disabled into mainstream by providing them equal opportunities along with their normal counterparts. For this purpose, different policies and programmes have been worked out

by the Indian Parliament. The policies such as the Rehabilitation Council of India (RCI) Act 1992, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, National Trust for the Welfare of the Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999 and most recently, the Rights of Persons with Disabilities Act 2016 have been enacted in the Indian Parliament having the provisions of equal opportunities, full inclusion in social as well as political activities, social security, four percent reservation in employment (both in public and private sector) and accessible physical environment for the disabled people in the country. Besides this, the disabled people have also been included in all the welfare programmes such as the Swarnajayanti Gram Swaroggar Yojana (SGSY), National Rural Development Programme (NRDP) etc. But the result remains negative. In Indian society, the disabled people are still considered as the non-productive elements of the society. Besides, these people also face social, political and economic barriers in their day to day life.

Though a number of attempts have been made to empower the disabled, but the conditions of the disabled people remains unchanged. They have been still excluded from social, political and economic activities. They are denied to enjoy the rights and to participate in the socio-political and economic activities of the society which confined them within the margin of the mainstream.

Aim of the Study

- a. To discuss different rights including social, political, economic and educational rights and responsibilities of the people with disabilities in India.
- b. To explore various causes and barriers that prevent persons with disabilities to enjoy their rights and opportunities along with different measures taken by the state for the protection of their rights and citizenship.
- c. To analyze the gaps between the promises and performances in terms of policy formulation and implementation.
- d. To identify various means and ways to protect the rights and citizenship of the disabled people in the state

Political Rights and Participation

It is commonly assumed that universal suffrage in India has been achieved but it has recently been shown that many disabled people are denied the opportunity to exercise their political choice through the ballot box. Some disabled people do not enjoy this right because they do not appear on the electoral register for a whole variety of reasons. Others who do appear are denied the opportunity to exercise political choice because of problems of access to polling stations, access to transport to take people there or access to information to make an informed choice.

There are a number of other ways in which disabled people find it difficult to participate in the political process, not solely concerned with voting. To

begin with, many local political parties hold their meetings in inaccessible premises and hence joining a political party is often not without difficulty. In addition, few political meetings provide signing facilities and little thought is given to making political information accessible to people with visual impairments. Even if these difficulties are overcome, campaigning is difficult for oneself or on behalf of others, because of difficulties in the physical and communication environment. Hence there are very few disabled people who are active at the party political level either within local or central government. It has been suggested that party politics have failed disabled people and further, that they have been inadequately supported by voluntary organizations and single issue pressure groups supporting to act on their behalf (Oliver, 1990).

Social Rights and Social Participation

In talking about social rights and citizenship, Marshall's own definition is an appropriate yardstick to consider whether disabled people can claim to be social citizens. By the social element, he meant the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being, according to the standard prevailing in the society (Marshall, 1952, P. 11). Hence there are a number of elements to Marshall's notion of social citizenship such as the right not to be poor or live in fear of poverty, to use social facilities in the same way as every one else and to have a standard of living or lifestyle compatible with current social expectations. Finally when freedom from the fear of poverty is considered to be a right of social citizenship then very few disabled people would be in this position. On top of this, social rights to use the same facilities as everyone else are not accorded to disabled people, whether these be rights to move around the built environment, to travel on transport systems which claim to be public or to have access to public information of all kinds. In many areas of their lives, disabled peoples' experiences do not accord with the lifestyle expectations of their contemporaries.

In addition to education and employment other important dimensions in the lives of young people are those related to "developing a healthy life style, beginning a family, and exercising citizenship" (World Bank, 2006). While concerns related to education and employment get acknowledged in legislation and sometimes in practice, people with disabilities remain excluded from other important areas of social participation such as their rights to be an individual, a parent and to companionship. For example, evidence suggests that health care services have a very poor record in responding to the need of young people with disabilities. Mainstream sexual and reproductive health programmes do not consider their needs in the information provided and/or in the training of health workers. Groce notes that often health professionals refuse to provide reproductive health information to young people with disabilities because it is felt that they do not need it (Groce, 2004). The health system seems to operate with a

notion that people with disabilities are non-sexual. This perception of people with disabilities as being asexual is widespread and their sexual and reproductive rights continue to be overlooked.

According to the NSSO data, 43 percent of people with disabilities have never married, while 39 percent are currently married, 15 percent are widowed and around 1 percent are divorced or separated. No differences between urban and rural areas were reported. Significantly, 27.8 percent and 32.4 percent of people with disabilities were never married in the ages above 15 years in rural and urban areas respectively in 2002. Information related to the current living arrangements of people with disabilities suggests that nearly 40 percent of people with disabilities were living with their parents without spouses (Zutshi, 2004). More than 45% of the disabled people depend upon their parents for their daily living (NSSO, 2003). These people are vulnerable to exploitation or may be left at the mercy of the community after the death of their parents. While Zutshi does not analyze the NSSO data from a gender perspective, it seems likely that young women with disabilities are more vulnerable than young men. Not only is there greater likelihood of a young woman with disabilities not getting married, but there is overwhelming anecdotal evidence to suggest that if a woman becomes disabled after her marriage, in most cases the husband will leave her for another wife, or if she has children she will be judged as incapable of looking after them and they will be placed in the care of grandparents (Rajah, quoted in Mohapatra & Mohanty, 2004).

In fact due to various vulnerabilities, young women with disabilities are most prone to sexual assault and exploitation. Quoting a strategy paper written by Rao for the National Commission for Women, Mohapatra and Mohanty noted that "women and girls with disabilities are particularly vulnerable to violence within their home situation. Sexual abuse is quite common, especially among women with mental and/or hearing disabilities. Abuse by physicians and caregivers, for example forced sterilization, is common" (Mohapatra & Mohanty, 2004, p. 8). For each disability type, different dynamics of abuse come into play. Certain commonalities exist across disability groups, such as economic dependence, social isolation, and the whittling away of self esteem on the basis of disability as a precursor to abuse" (Mohapatra & Mohanty, 2004, p. 35).

Civil Rights

For Marshall, civil rights were beyond a narrow conception of legal rights and included not only property rights and the right of contract but also rights to the freedoms of thought and speech, religious practice, and of assembly and association. In theory, disabled people are accorded these basic civil rights although in things like the right of contract, they may experience severe difficulties such as in buying goods on hire purchase, taking out a mortgage or obtaining life insurance. Those disabled people living in residential establishments may also experience a denial in terms of their rights to freedom of assembly

and association. In the narrower area of legal rights, there are a number of ways in which disabled people are disadvantaged. In other areas, legal regulations, usually through the operation of by-laws, are used to deny disabled people the right to use facilities that other people take for granted. Finally, in some areas, disabled people are denied legal rights accorded to other groups. This occurs most notably in terms of legal rights not to be discriminated.

In the PWD Act 1995, it has been assured that three percent and as per rights of persons with disabilities Act 2016, five percent seats will be filled up by the disabled students in all educational institutions in the country. It also provides the provision for four percent reservation in all government jobs to the disabled people as per RPD Act 2016. But all these provisions have been remained only on paper. For example, Data gathered from the NSSO 58th round survey (Jul-Dec 2002) suggest that about 45 percent of people with disabilities are literate (NSSO, 2003) and as per 2011 Census literacy among disabled population is only 54.52 percent. The census report 2011 data highlighted that 13.26 percent of the literate population of people with disabilities had received education up to the primary level, 9.13 percent up to the middle level, while a mere 4.65 percent continued up to or beyond the graduation level. Interestingly, though not surprisingly, enrolment ratios for children with disabilities aged 5 to 18 years in a mainstream school were higher in rural areas than in the urban areas. This is not surprising because there is some empirical research to support the fact that children with disabilities in rural areas are more likely to attend the mainstream, Miles refers to this as 'casual integration' (Miles, 1997). This casual integration might be a result of the fact that considering there tends to be only one government school in a village, there is an assumption that all children will attend it, without any alternative provisions being made. While this might be a useful inference, it does not question the quality and/or relevance of education that these children might be receiving in such settings. Moreover, it is also possible that with the advent of increased bureaucratic reporting children may get listed on the enrolment register but never attend school. The classroom may remain an alien space in which they are not seen as equal participants.

While enrolments have seemingly increased for those with disabilities, data also suggest that only very few of them complete the primary cycle of education and even fewer make it to the secondary, let alone higher levels of education. This has a notable impact on their employment opportunities later in adult life, especially in the context of a rapidly changing market economy. Tilak notes that "while primary education gives the basic three rights, rarely does it provide skills necessary for employment—self employment or otherwise—that can ensure a reasonable level of wages and economic living" (Tilak, 2005, p. 3). This exclusion of children and

youth with disabilities from education unarguably results in their exclusion from some very significant opportunities for further development, particularly reducing their access to vocational training, employment and involvement in other income generation activities.

Thus, even though enabling legislation exists, its implementation is likely to be slow, and faced with weaknesses such as the lack of political will, financial support and excessive bureaucracy. Additionally, not only is there a lack of awareness of the Act amongst the general population, but this ignorance is prevalent even in government departments. There is also an absence of strong monitoring mechanisms for its implementation. Finally, the absence of strong advocacy groups makes it even more difficult to influence decisions and policy makers on this front.

The Responsibilities and Obligations of the Citizens

So far, the rights to citizenship have been considered and are of the opinion that disabled people are not accorded the full range of rights that one should accord to citizens. However, all definitions of citizenship consider duties and obligations as well as rights and entitlements. The law places on citizens a wide range of duties, including obedience to the criminal law and such civil laws as the laws of negligence and contract. Whilst personal moral codes may differ, the law sets out a common code of conduct binding on all members of society. The duties, responsibilities and rights of citizenship are defined within a framework of national and international law. They include such basic human rights as freedom of thought, belief and expression, freedom of association, freedom from discrimination on the grounds of race or sex, the right to a fair trial and to the due processes of law. They also include rights to which citizens are entitled by virtue of the laws of particular countries, such as consumer and employment rights. Having suggested that at one level citizenship is nothing more or less than a shorthand device to consider the relationship between individuals and society, the precise nature of that relationship is clearly a complex one. One of those complexities is that the relationship is not one-dimensional; as well as providing rights and entitlements; citizenship also imposes duties and obligations. Another complexity is the fact that definitions of citizenship are influenced both by the historical circumstances and the current context in which they are formulated. A final complexity concerns the ways in which national and international laws influence these formulations of citizenship.

Definitions of the duties and obligations of citizenship are also influenced by current political ideologies. Hence, one group has tended to portray the idea of citizenship as the obligations of the state to its citizenry. The duties and obligations of the citizen are thus seen as the contribution of the individual to the collective welfare of all. On the other hand, few others have tended to portray the idea of citizenship as protection of the individual from the intrusions of the state; hence the development of the idea of the

active citizenship and the proposing of a citizens' charter. The duties and obligations of the active citizens are to contribute to their own individual welfare because, only in this way, can the welfare of all be maximized.

However, neither collectivist nor individualistic notions have been wholly successful for Citizenship has not been realized for excluded groups either through the false collectivism of social democratic welfare, or through the consumerist democracy of the market (Taylor, 1989, P. 19). As already mentioned the poverty of disabled people, their lack of access to public transport, housing, employment etc., can be regarded as evidence of this lack of success of either collectivist or individualistic approaches to welfare. And the same case can be made in respect of people with learning difficulties. Therefore, failing to achieve full citizenship rights may call into question the idea of citizenship as a means to the social integration of individuals into society in that it is rooted in a conception of what it is to be a full member of a community and the social rights that are necessary to protect and reinforce that membership (Marshall, 1952, P. 11).

Conclusion

From the foregoing analysis of the problems of disabled, one thing is clearly discernible is that, the problems which disabilities are confronted with, are exacerbated by the social environment. On the other hand, a disabled person cannot live away from society. Indeed, the disabled persons need support and understanding from fellow human beings something, which is rarely obtainable. Therefore, utmost necessary is an attitudinal change, which involves the question of their human rights and dignity. It is clear that the disabled persons are first and foremost human beings, with the same basic needs like the rest of the people.

India is yet to evolve a viable alternative to the system of social security provided by the institutions of caste/community and the joint family. Legislation is an important tool of social change, but one should not forget that social legislation in India has not proved to be adequate to solve many of the problems. Legislation for the disabled is considerably influenced by socio-economic conditions, cultural patterns of life, social security system, administrative structure, and by the level of people consciousness. Socio-economic changes in favour of the disabled can be brought about not by legislation alone, but by provision of adequate funds, creation of consciousness and professionalism in tackling the vexed issues.

Despite all the shortcomings, the issues related to the disabled are being noted and debated in wider fora. Political parties and advocacy groups, irrespective of their ideological differences, do support the legislations meant for helping the disabled. The real problem is the implementation part of the well-intended legislations. The implementation part will also become a reality when the general awareness about the disability issues grows both among the general public and the political circles. This awareness can be created only when the enlightened

sections of the society work closely with the disabilities having necessary sensitivity, understanding and commitment.

The obvious difficulties in good policy measures are related to a low degree of democratic culture and to the poor awareness of those who talk about full participation and equal rights of the disabled. The other difficulties are related to finding resources and professionals in different spheres areas of disability. Here too workable strategies can be evolved. Those who first got interested in the disability issues derived inspiration from the developed countries, but their models have not yielded much result because the implementation of alien models becomes very expensive and often irrelevant.

This is to be realized that the disabled are not second- class citizens. The disabled are social beings with the same hopes, aspirations and rights as others have. Every effort should be made to ensure the persons with disabilities about their right to participation in socio-economic and political life. Only through integration of the disabled persons into the mainstream of social life, a society would be restoring to them their basic human dignity. Keeping them apart is tantamount to treating them as second-class citizens. This integration would help society understand better about the potential of the disabled citizens. The problem of disability, however, is of such a colossal magnitude in India that as of now any worthwhile effort to meet the challenge does not seem to be in sight. Nevertheless, there is enough scope for optimism. Let us hope for the day when with all the necessary changes in social perceptions and with greater opportunities available to them, the disabled would feel that they are no longer disabled.

References

- Ahluwalia, H.P.S. and Singh, J.P. (Eds), "Summit of the Mind", New Delhi: RCI and Kanishka Publishers.
- Groce, N.E., (2004), *Adolenscents and youth with disability: issues and challenges*, "Asia Pacific Disability Rehabilitation Journal", 15 (2), 13-32.

- Lister, R. (1991), "The Exclusive Society: Citizenship and the Poor", London, CPAG.
- Mani, M.N.G., *Inclusive education in India: Policies and Practices*, ICEVI Educator, Jan-June, 2003.
- Marshall, T.H., (1952), "Citizenship and Social Class", Cambridge University Press.
- Mitra S. and Sambamoorthi, U., (2006b), *Employment of persons with disabilities: evidence from the National Sample Survey*, "Economic and Political Weekly", 41 (3), 199-203.
- Mohapatra, S. and Mohanti, M., (2004), *Abuse and activity limitation: a Study on domestic violence against disabled women in Orissa, India a research report of a project funded by the Oxfam (India) Trust, Bhubaneswar, Orissa, Swabhima.*
- Morris, J., (1991), "Pride against Prejudice", London, Women's Press.
- NSSO, (2003), *Disabled persons in India, NSSO 58th Round, (July-December, 2002), Report No. 485, New Delhi.*
- Oliver M., (1996), "Understanding Disability", New York: Pal Grave.
- Oliver, M., (1990), "The Politics of Disablement", Basingstoke, Macmillan and St Martin's Press.
- Sen Amartya, (1999), "Development as Freedom", New Delhi: Oxford University Press.
- Taylor G. and Bishop J., (Eds.), (1991), "Being Deaf: the experience of deafness", London, Pinter Publishers.
- Taylor, B., (1989), *Citizenship and Social Power, "Critical Social Policy", No. 26.*
- Tilak, J.B.G., (2005), *Post -elementary education, poverty and development in India, paper presented at 80th UKFIET International Conference on education and development: Learning and livelihoods, Oxford.*
- Zutshi, B., (2004), *Disability status in India: a case study of Delhi Matropolitan region, Report of a study funded by Ford Foundation, retrieved 25 November, 2015, from <http://www.disabilityindia.org/statusbookframe/cfm>*