



The politics of federalism and disability in Jammu and Kashmir

Mudasir Yousuf

Ph.D. Research Scholar, Department of Sociology, Indira Gandhi National Open University, New Delhi, India

Abstract

Social structural framework in India has remained historically non-egalitarian because of unequal distribution of economic resources, social status, political power, formal authority, caste-based atrocities, disability-based hegemonies, gender discrimination and ethnicity subjection. However, from last fifty years India has achieved good amount of growth rate and development index in terms of income per capita (per person), GDP (gross domestic product), life expectancy, education, employment, health and other basic requirements. But still disability based-social exclusion persists strongly in every corner of society. In India historically many groups face exclusion horizontally as well as vertically and disabled persons are one among them. In Jammu and Kashmir the situation is more pathetic and vulnerable for disabled persons. They have remained historically as well as currently invisible, helpless and socio-politically discriminated category. Attempt has been made in this paper to see the impact of federalism on disability policy and programs in J&K. At present in the state of J&K, Programs and Policies for persons with disabilities are limited. Proper planning is lacking in Jammu and Kashmir towards the upliftment and rehabilitation of persons with disabilities. Little awareness and sensitization is among the general population regarding the rehabilitation services of persons with disabilities in Jammu and Kashmir. The process of federalization in terms of 'total inclusion' of disabled persons within the J&K context has been focus in this paper. This paper critically explores the political culture and institutional structure of the federation.

Keywords: disability, social inclusion, exclusion, federalism, policies and programmes

Introduction

Disabled people are not only the most deprived human beings in the developing world, they are also the most neglected.

-Amartya Sen

Person with Disabilities experience a denial of social and economic opportunities due to combined impact of income deprivation, social segregation, isolation, cultural marginalization, political, educational, economic, health neglect and individual dehumanization, denial of access to the public sphere creates a cycle of deprivation and miseries for them (Addlakha 2010:17) ^[1]. In human history there are many groups and communities who are horizontally and vertically excluded, discriminated, suppressed and disabled women is one of them. They are highly vulnerable in Indian and other parts of the world. They are left out of family interactions and community activities. Because of practical social stigma they feel isolated, ashamed and marginalized. They are facing discrimination, domestic violence, and economic dependence, violation of right, inequality, exploitation, marginalization, powerlessness, and cultural imperialism. This leads to poverty and other vulnerability, invisibilities which leads them to feel devalued, isolated ashamed and finally fall in the cycle of social exclusion. The main focus of this paper is to examine the Centre-State relationship in terms of rehabilitation for person with disabilities in Jammu and Kashmir. This paper also analyzes critically the disability programs in Jammu and Kashmir. This paper address the situation of disabled person and how they are being victims of exclusion, discrimination in

connection with education, employment, healthcare, rehabilitation and socio-cultural construction of disability.

Disability: A Profile

Globally disability is growing day by day. In India according to census 2001 the number of persons with disabilities is more than two crores. The percentage of persons with disabilities in the USA is 12%, in the UK is 18%, in Germany is 9%, in Srilanka is 5%, and in Pakistan is 9%. This variation is due to the way we estimate disability. The 2011 Census showed a marginal increase in the total number of disabled population. It rose from 21.9 million in 2001 to 26.8 million in 10 years. In percentage terms, it has risen from 2.13 % to 2.21 %, as per the Census 2011. There are 14.9 million men with disabilities as compared to 11.8 million women in the country with the total number of disabled people over 18 million in the rural areas and just 8.1 million enumerated in the urban settings. The percentage of men with disabilities is 2.41 as against 2.01 in women (The Hindu 2013). 2001 census shows that 75 percent persons with disabilities lived in rural areas, 49 percent were literate and only 34 percent were employed. This leads extreme form of marginalization and loss of rights with long term loss of productive potential of the persons with disability due to lack of appropriate environment and access. Persons with disabilities and their families due to stigma of disability often suffer extreme isolation and experience higher rate of poverty and deprivation than non disabled people. The total disabled population of Jammu Kashmir was 3,02,670 lakhs in 2001 of which visually challenged persons

constitute 2.8 lakh followed by the physically challenged (0.38 lakhs), disability by speech (0.17 lakhs) and hearing disability (0.13 lakhs). Besides, a substantial number of 24,879 individuals were estimated as intellectual disability in Jammu and Kashmir. There has been an increase in disabilities in the state according to Census 2011. The total number of disabled persons is now 3,61,153, with an increase of more than fifty thousand disabled persons in the state. Out of which disabled person in hearing are (20.5 per cent), seeing (18.3 per cent), speech (5.1 per cent), movement (16.0 per cent), mentally retarded (4.6 per cent), mentally ill (4.3 per cent), other disabilities (18.5 per cent), and Multiple Disability (12.3 percent). At the national level the scenario of disabilities has shown an upward trend from 2001 to 2011. It has increased from 21 million to 26 million during the last decade from 2001 to 2011. Seeing disability has been seen dominating as it constituted 48.5 % followed by impairment of movement (27.9 %), Mental (10.3 %), speech (7.5 %), and hearing (5.8 %) disabilities. Census shows that seeing and hearing disabilities among females were higher as compared to males. 181 million populations recorded during the decade 2001-2011. 2.87 per cent of population was disabled in Jammu and Kashmir which is increasing with every passing day (Naik & Selvarajan, 2015:611) ^[15]. The proportion of disabled population in Jammu and Kashmir as compared to northern states like Punjab (1.74 per cent), Himachal Pradesh (2.56 per cent) and Chandigarh (1.72 per cent) were higher and has been increased rapidly during the period of 2001 to 2011 (Census of India, 2011).

Conceptual understanding of Federalism and Disability

The most popular idea of good government and governance is federalism (Saxena, 2011:1) ^[16]. In India historically centre-state relations remains characterized by political mobilization and great struggle towards significant federal set-up. The nature of the set-up (federation) is determined by the balance of these two seemingly contradictory forces. This makes the working of a federation dependent on the operation and interaction of these forces at a particulate time in a particular federal polity. While the very concept of federalism is dynamic and is dependent on the organisation, articulation and manifestation of centrifugal and centripetal forces, the working of a federation is largely determined by the nature of the society, for which these institutions have been devised (Kumar, 1988:9) ^[10]. The real nature of the federal institution varies from one society to another society. The matter of fact is that institutions alone do not determine the nature of a federation but there are social and economic forces as well in the society that make it possible on the various legal institutions to accommodate the federal sentiments. For example all state of India including the state of Jammu and Kashmir which has its own constitution work under the same constitution, call it federal or quasi federal, should have normally led to by and large, similar trends in the States in terms of Centre-State relations. Federalism is a system of government which tends to strike a balance between the regional and the nationalistic forces. It aims at accommodating the twin principles of unity and diversity. Federalism has also been ascribed various attributes such as democracy, pluralism, localism, regionalism etc. In its simplest form, federalism

means national unification with the simultaneous maintenance of sub-national system.

Federalism is one of the most important, effective and greatest political institutions of the contemporary world. Federalism, as a system of intergovernmental relations between the federal centre and the regions, provinces and states, develop out of need to reconcile the goals of regional and national development in multinational countries. Indian Federalism serves the second largest population in the world, comprising an unparalleled multiplicity of cultures, religions, languages and ethnicities. The federal system has served extremely well for India in terms of promoting democracy, strengthening the national unity and achieving a fair level of economic progress. The basic essence of federalism lies in maintaining unity in the presence of diversity in terms of accommodating, preserving and promoting distinct identities within a large political union. (Lobo, Sahu & Shah, 2014:1) ^[11]. Indian Federalism faces many issues and challenges in the emerging environment in term of changing policies and institutions. For example the contemporary debate on foreign direct investment (FDI) in retail trading, the goods and services tax (GST), right to food Act etc. Jaitly (1991) ^[7] points out that the freedom of the people has, by and large, remained confined to the ritualistic matters and processes of the ballot box and has thus for not adequately succeeded in expanding itself to all area of political life and its activities (pp.1).

Singh (2005) ^[17] holds that Federalism as a theory of development and governance, provides the best possible and practicable framework of good governance, particularly with regarded to the formulation of policies and there execution (pp.15). In Indian constitution there is no specific definition for federalism. Academically there is no federal theory that can be widely used. Burgess and Gagnon (1993) ^[3] pointed out that federalism is the accommodation of human associations in which unity and diversity are balanced and maintained. For Stevenson (2000) ^[18], federalism protects minorities. La Forest (1998) ^[12] argues that federalism is a form of partnership and friendship. Tully (2001) ^[21] pointed that federalism is an expression of democratic practices, which encourages autonomy within regions. Based on these definitions, it is clear that they are very vague in nature. Therefore, it is also argued that there can be two broad types of approaches, such as: the mono-national and multi-national approach. In this regard, many modern scholars have argued that there is no particular and unique or alternative theory or theories for all federal studies (Kumar and Kumar, 2016:5) ^[9]. Indian Constitution is a federal structure with a strong centre 'a dual polity'. There is constitutional distribution of power in the legislative and consequent executive spheres between Center and State (Srinivasavardan, 1992:33).

Federalism is a power sharing relationship between Centre-State. This relation divides power into different levels. The nature of the Centre-State relation is specified in the constitution. According to Mills (1963) "Power has to do with whatever decisions men make about the arrangements under which they live, and about the events which make up the history of their times (pp.1)". The interesting thing is that change in the constitution can be made by the consent of each level. The most important thing in this relationship is mutual trust and agreement to live together. But the matter of fact is

that, the relation has not been always become fruitful for the inclusive development especially for marginalised and excluded groups or communities. In India, federal instruments of inter-governmental cooperation have not been successful and effective because the required decentralization has not been made. This is mainly due to India's administrative centralization and central planning structures (Majeed, 2005: 4) ^[17].

On the other hand disability is the part of everyday life world in any socio-cultural milieu. Disability is indispensable part of the human condition and it has been a universal human experience in all socio-cultural structures of society. Disability is heterogeneous category not homogenous because there are many categories like physical, intellectual, multiple disabilities, visual, deaf-mute learning impairments etc. which may be either inborn or acquired. But the problems and challenges they face like, discrimination, humiliation, stigma, cultural violence, domestic violence, identity crises, denial from rights and lack of socio-cultural capitals in everyday life are similar for every disabled person throughout the global level. The understanding, existence and causes of disability vary from community to community, region to region, family to family, religion to religion, culture to culture and person to person because it depends highly on their own socio-cultural milieu, ethos and socio-economic backgrounds or infrastructure of society.

The word disability has multiple possible meanings and shades of meanings. Disability is not a fixed category but a fluid and shifting set of conditions. World Health Organisation (WHO) in 1976 made classification of disability on the basis of three-fold impairments, disabilities and handicap. "Impairment: any temporary or permanent loss or abnormality of body structure or function, whether physiological or psychological. Disability: any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being. Handicap: a disadvantage for a given individual, resulting from impairment or a disability, that limits or prevents the fulfillment of a role that is normal (depending on age, sex, and social and cultural factors) for that individual." Contemporary empirical studies points out that meaning of "disability" that is external to the body, encompassing systems of social organization, institutional practices, and environmental structures (Adams, Reiss and Serlin, 2015:37). National Human Rights Commission, 2005 defines that "disability is the disadvantage or restriction of activity caused by a society which takes little or no account of people who have impairments and thus excludes them from mainstream activities." Therefore, like racism or sexism, disability is described as a consequence of discrimination and disregard to the unique circumstances of people with disabilities (Human Right Commission, 2005:11).

Federal politics and disability policy in J&K

The Indian Constitution provides considerable degree of legitimacy and rationality in the performance of the federal relation (Chandrasekhar, 1988:7) ^[5]. The Constitution of India guarantees all its citizens fundamental rights to life, to dignity, to speech and expression, to education and information. J & K is situated in the northernmost part of India. Its summer

capital is Srinagar and winter capital Jammu. It shares borders with Pakistan in the west, China in the north and east, and the Indian states of Punjab and Himachal Pradesh in the south. The state has special autonomy under Article 270 of the Constitution of India. It consists of three distinct regions Kashmir valley, Jammu, and Ladakh. Presently in Jammu and Kashmir, the proportion of disabled population in Jammu and Kashmir as compared to northern states like Punjab, Himachal Pradesh and Chandigarh is very high and has been increased rapidly during the period of 2001 to 2011 (Census of India, 2011).

We have discussed so far the role and nature of the federalism which provides necessary institutional frame work for the state to transfer socio-political responsibilities to the society. Federalism on the one hand delimits the regulatory powers and authority of the State on the other hand it promotes the socio-cultural and socio-political perspective of development (Singh, 2005:16) ^[17]. However, in Jammu and Kashmir despite special status this relationship has brought positive changes in the structure of Kashmir society for example social, economic, political and cultural. This relation also becomes helpful for the security and welfare of the excluded and marginalised groups for examples women, SCs, STs, OBCs etc in J&K.

But Person with disability or disability related policies issues remained an excluding agenda of the federal relation. There are many reasons why this relation has not show any positive initiative towards inclusive development of person with disabilities. Policy and programs formulation its execution, achievements, targets and overall delivery system is highly pathetic. The bureaucratic culture and non seriousness in socio-political level has become strong crisis for the empowerment of disabled people. The federal relation has failed so far to bring constructive change in the lives of person with disabilities. The strong challenge before the Centre-State relation is address the fundamental question of decision making and policy implementation. There are some questions for example '*Who make the decision regarding the welfare of disabled persons? The abled people or the disabled people themselves*'. *Who has the right to decide, and who has right to Act. In other words, who may decide on what will be done and who may decide how it will be done (implementation).*

Disabled persons in J&K are subject to discrimination. Unfortunately, little or almost nothing has been done for the welfare of person with disabilities. Disability and exclusion is something imposed by structure and arrangement of society. They are unnecessarily isolated and excluded from full participation in society. In Jammu and Kashmir according to 2001 census the total disabled population is 302, 670 among them 130850 are females'; according to estimates the number has increased 605,340 among them 261708 are females (Dabla 2010) ^[6]. The J&K Persons with disability Act 1998 guarantees equal opportunity, Protection of rights and full participation. The Act emphasizes to promote various methods of preventing disabilities and provide facilities for training centers, education and full inclusion in employment, appropriate environment to fight violation of disabled rights and equality for every disabled person. But the ground reality is different; they are routinely excluded from every aspect of society, including education, employment, access of health

service, physical infrastructure. Recently Government of India has started composite Regional Centre (CRC) for Person with disabilities, which is insufficient; it is having limited resources and manpower (Iqbal 2010) [8].

Person with disabilities face serious challenges and discrimination in every sphere of life rehabilitation, health, education, training, employment, and social life, participation in decision making, security. They are neglected by the parents and family members which robs them of all opportunities in life, thereby hindering their overall social development. They remain one of the most excluded, neglected, discriminated, isolated groups in Kashmir society. The idea of inclusive society for example policies and schemes by and large remain on papers, which results they continue their life live in poverty and other vulnerability. The problems are not taken up seriously and schemes and programs are not also implemented sincerely. As a result they continue to face social exclusion that increases day by day. Due to this marginalised identity disabled person in J&K are generally considered unequal, inferior and weak. These notions are because there is positive socio-political attitude from government and non government agencies towards inclusion of disabled persons. They also become burden on family members which also contribute to the growth of inferiority complex with them which ultimately leads the destruction of self-confidence and development of dependence syndrome and also psychological trauma and sufferings. There is a general atmosphere of negative perceptions and attitudes towards people with disabilities. There has always been this belief among the “able-bodied” people that people with disabilities are helpless, are in need of protection, and cannot lead an independent life. Pity, condescension, embarrassment, or a mixture of the three, is the reaction most commonly encountered by men and women who have a disability, from abled people. When a child with a disability is born, the mother is often regarded as responsible for the disability and for giving birth to a supposed irritation and burden on the community. Development agencies, disabled groups, and funding agencies more often than not fail to consider the importance of the gender dimension of disability (Abu Habib, 1997) [2].

Conclusion and Discussion

In Jammu and Kashmir Indian constitution provisions are not applicable without the consent of state assembly. Jammu and Kashmir State has always assumed responsibility for providing the welfare of persons with disabilities. State never shows constructive approach to develop a comprehensive policy for persons with disabilities. In 1974 Government of India launched the Integrated Child Development Scheme (ICDS), the scheme was adopted by the Jammu & Kashmir State as well. However, the scheme has no provision for the disabled persons. In 1975, ‘Project Integrated Education for the persons with disabilities’, ‘Mental Health Act’ (1987) excluded persons with mental retardation from the definition. ‘National Policy on Education’ (NPE) (1986) and ‘Plan of Action’ (1992) advocated the policy of integrating the physically and mentally disabled. Number of schemes and Programs are being implemented in the State in order to bring structural socio-political change in the lives of person with

disability. Pension scheme for the persons with disabilities, inclusive or special institutions/schools for the persons with disabilities, scholarship and stipend to continue with higher studies, self employment Programs, reservation in jobs and educational institutions and reservation in poverty alleviation schemes are available in the State agenda. The deepest problem is implementation for the welfare of the persons with disabilities (Bashir and Ganie, 2013:224) [4].

In field of education Centre-State Government has initiated various schemes and programmes for providing better quality education among all sections of people for example “*Operation Blackboard*” Scheme was started in 1987-88 in Jammu and Kashmir to improve the classroom environment for all sections of people. Another scheme was “*Mid-Day Meal*” Scheme to universalization of primary education, by increasing enrolment, attendance, retention and improving the nutritional status of students. *Sarva Shiksha Abhiyan* was launched in 2002-2003 in the state. Schooling facility has been provided in almost all the villages. Many new primary and upper primary schools were opened. Another “*National Programme for Education of Girls at Elementary Level*” (NPEGEL) is gender specific programme. *Kasturba Gandhi Balika Vidyalaya*” (KGBV) scheme is also gender specific. This scheme aims at establishing one residential girl’s school for adolescent girls who are drop-outs at block level. Government of India launched enormous schemes and policies for the inclusion of marginalised sections after independence. But unfortunately these schemes not make any positive contribution in the lives of disabled people in Jammu and Kashmir. Recently Minister of Social Welfare says that over 24,000 children with special needs have been enrolled in government run schools. The authority has been instructed that make provisions for the disabled friendly environment in every institutions. He further adds that “as many as 30,237 children with special needs have been identified during 201516 and out of them, 24,363 have been enrolled in government schools,” 59 girls under children with special needs have also been enrolled in Kasturba Gandhi Balika Vidyalaya (KGBV). Besides this regular schooling, home based education is being provided to children with special needs, teachers engaged under Sarva Shiksha Abhiyan. He added that there are 18 schools for disabled children functioning in the state run by various nongovernment organisations (NGOs). Presently in J&K government has only one rehabilitative policy for disabled people that is ‘Financial assistance’ for example Intergrated Social Security Scheme (ISSS), Scholarship schemes, Aam Aadmi Bima Yojana (AABY) Scheme introduced by the Govt. of India to extend death and disability insurance to rural landless houseless of J&K State in collaboration Life Insurance corporation of India (LIC).

In Employment sector despite of these strong provisions, policies, initiatives, roadmaps of state, persons with disability more importantly women with disability in Jammu and Kashmir face enormous challenges, discriminations, and marginalisation in the field of employment. New development or neoliberal ideologies remain fruitless for disabled women at national levels and at local levels. In field, it has been observed that disabled women are living in pathetic conditions which exceed many difficulties in everyday life. Their living

conditions are vulnerable and miserable engendering their powerlessness, hopelessness, and poverty. Vocational training and skill development policies remained far away from disabled people in J&K.

The effect of federation is not just to create a new bargaining arena within which units of the federation compete and cooperate with one another. The act of federation results in a transformation of the units themselves (Sinha, 1987:4). But in Jammu and Kashmir federal management in terms of disabled person's inclusion has been ignored historically. J&K political culture has not facilitated any public sphere to develop political ethics, fruitful and purposive development for disabled population. This also accounts that the federation is frequently failure in political communication or empowerment for marginalized sections. There is need for progressive federal management which would improve disabled people life world socio-politically.

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