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Invocation of RPWD Act in J&K and Ladakh : A Sociological Analysis

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Abstract

This article is a pioneering endower to document the developments in the newly formed Union Territories of Jammu and Kashmir, and Ladakh with regard to the promulgation of rights of persons with disabilities. It examines how a formation of new UT poses challenges in the governance of the People with Disabilities by retracing the initiatives and efforts being made in the past five years by these newly formed governments. Correspondingly, through the analysis of socio-demographic composition of persons with disabilities of these UTs, this article explores the modalities and challenges encountered by these UTs in reaching welfare benefits to the various categories of Persons with disabilities living in rural communities amidst hilly topography of this region.

Keywords

Persons with disabilities, Disability rights, Jammu and Kashmir, Ladakh, Revocation, Demographic composition.

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1. Background

On 31st of October 2019, two new Union Territories (UTs) were created under the federal structure of India. This formation was the outcome of revocation of the Article 370 of the Indian Constitution.

Retrospectively, on 5th of August, 2019 the Government of India, announced the abrogation of Article 370 of the Indian Constitution. The decision was accompanied by the revocation of Article 35A. Subsequently, on 6th of August, 2019 the Government of India enacted the Jammu and Kashmir (J&K) Reorganization Act, 2019, which created two separate Union Territories viz. J&K, and Ladakh. Correspondingly, on 9th of August, 2019 Government of India, issued the notification on revocation of the article 370 to declare the formation of two union territories. Ultimately on 31st of October, 2019 the reorganization came into effect, by implementation of the J&K Reorganization Act, 2019 which declared J&K as a Union Territory with legislative assembly and Ladakh as the Union Territory, without a legislative assembly. (J&K Reorganization Act, 2019, 2024). This reorganization marked a significant shift in the political and administrative landscape of the region. In this backdrop, engaging with social model of disabilities this article endowers to examine the impact of the reorganization on welfare and rights of Persons with Disabilities (PWD) in the newly emerged two UTs viz. J&K and Ladakh.

2. Socio-demographic Analysis of Persons with Disabilities

In fact, prior to the ratification of RPWD 2016 act, PWDs in India were recognized by 7 categories viz. Seeing, Hearing, Speech, Movement, Mental Retardation, Mental Illnesses and Multiple Disabilities, while those with disabilities not fitting in these categories were generally classified as others - across India. Correspondingly, the 2011 census provides data about PWD in all states and UTs of India along this categorization.

Table-1 : Distribution of Population by Type of Disability

Type of Disability	J&K	Ladakh	Total
In Seeing	65,189 (98.10) [18.45]	1,259 (1.90) [15.92]	66,448 (100) [18.40]
In Hearing	71,227 (96.13) [20.16]	2,869 (3.87) [36.28]	74,096 (100) [20.52]
In Speech	18,394 (98.46) [5.21]	287 (1.54) [3.63]	18,681 (100) [5.17]
In Movement	57,129 (98.27) [16.17]	1,008 (1.73) [12.74]	58,137 (100) [16.1]
Mental Retardation	16,326 (97.62) [4.62]	398 (2.38) [5.03]	16,724 (100) [4.64]
Mental Illness	15,512 (99) [4.39]	157 (1) [1.98]	15,669 (100) [4.38]
Multiple Disability	43,718 (98.37) [12.38]	723 (1.63) [9.52]	44,441 (100) [12.31]
Any Other	65,749 (98.20) [18.61]	1,208 (1.80) [15.27]	66,957 (100) [18.54]
Total	353,244 (97.81) [100]	7,909 (2.19) [100]	361,153 (100) [100]

Note : Values given in () indicate row percentage.

Values given in [] indicate column percentage.

(Source : Census 2011)

The above table portrays the distribution of PWD population of the UTs along 8 types of disabilities based on 2011 census. As the data delineates, there are certain apparent commonalities between these two UTs in terms of the proportion of different types of PWD. Evidently, people with visual impairment constitute 18.45% and

15.921%, with speech disability 5.21% and 3.63%, with locomotor disability 16.17% and 12.74%, with mental retardation 4.62% and 5.03%, with mental illness 4.39% and 1.98%, with multiple disabilities 12.38% and 9.52%, and with other forms of disabilities 18.61% and 15.27% in J & K and Ladakh respectively. Further, the data also elucidates the greater proportion of persons with hearing disability, visually impaired and other forms of disabilities in both the UTs. On the contrary both the UTs significantly differ in terms of proportion of persons with hearing disability i.e. while they constitute 36.28% in Ladakh, they are 20.16% in J&K. On the whole, the category viz. persons with hearing disability assume numerical preponderance in both the UTs. It is evident from the table that people with all forms of disabilities are found in both the UTs. Curiously the PWDs who fall out of the 7 categories constitute a sizeable proportion 15.21% in Ladakh and 18.61% in J&K, which is matter of serious concern both for the allocation of welfare facilities as well as for the provisions of amenities. Similarly the presence of persons of multiple disabilities in both the UTs at the proportion of 12.38% and 9.52% are of greater priority due to the uneven geographical structure replete with the barriers of mountainous terrain (Shah, 2014). Above all, while both the governments need to devote greater resources to the persons with hearing disability and visual impairment, Ladakh is in peculiar position of devoting greater resources to the persons with hearing disabilities as they constitute the significant proportion of PWD of this UT. Having analyzed the nature of disabilities and their demographic composition, it is essential to engage in the social analysis of the PWD population in both these UTs. For this purpose an attempt has been made to examine the gender and age structure as well as regional distribution of PWD in Ladakh, and J&K.

Table-2 : Age-wise Distribution of Persons with Disability in J&K and Ladakh

Age Group	J&K	Ladakh	Total
0-19 years	99,843 (98.44) [28.26]	1,585 (1.56) [20.04]	101,428 (100) [28.09]
20-59 years	170,717 (97.32) [48.33]	4,707 (2.68) [59.51]	175,424 (100) [48.57]

60 and above years	82,684 (98.1) [23.41]	1,617 (1.91) [20.45]	84,301 (100) [23.34]
Total	353,244 (97.81) [100]	7,909 (2.19) [100]	361153 (100) [100]

Note : Values given in () indicate row percentage.

Values given in [] indicate column percentage.

(Source : Census 2011)

The above table shows that the age is a significant variable effecting the survival and working capacity of people with disability. It is because those who are less than 20 years are to be provided with special education and training, and those between the age of 20 to 60 need to be offered employment opportunities. In this regard, the table 2 attempts to discover the age structure of the PWD Ladakh and J&K. As seen in the table there is a large proportion of PWD viz. 59.51% in Ladakh and 48.33% in J&K between 20 and 59 age category. As a matter of fact, they constitute potential working population and both the UTs need to create the employment opportunities or financial support to these people. Very particularly, it seems to be a pressing challenge to Ladakh as its majority PWD population 59.51% falls under this category. Another important priority of these UTs is to attend to the educational and rehabilitation needs of PWD below 19 years of age, as they are of a sizeable proportion in J&K (28.26%) and in Ladakh (20.04%). This also implies that special schools, special training centers and rehabilitation centers are greatly needed in both the UTs. Above all, for both the governments human resource development of PWD has to occupy greater priority as vast majority of its PWD population falls below 60 years of age in Ladakh (79.55%) and in J&K (76.59%) and at the same time a small proportion of PWD senior citizens deserves special attention in both the UTs.

Table-3 : Gender-wise Distribution of Persons with Disability in J&K and Ladakh

Gender	J&K	Ladakh	Total
Male	199,844 (56.57) [97.56]	4,990 (63.09) [2.44]	204,834 (56.72) [100]

Female	153,400 (43.43) [98.13]	2,919 (36.91) [1.87]	156,319 (43.28) [100]
Total	353,244 (100) [97.81]	7,909 (100) [2.19]	361,153 (100) [100]

Note : Values given in () indicate row percentage.

Values given in [] indicate column percentage.

(Source : Census 2011)

The above table presents data of gender wise distribution of PWD in J&K, and Ladakh Union Territories based on 2011 census. As depicted by the table majority of the PWD are male than female in both the UTs. Precisely, there are 56.57% of Male PWD in J&K and 63.09% of Male PWD in Ladakh. On the other hand female population of PWD in J&K is 43.43% and in Ladakh it is 36.91%. The presence of sizeable proportion of girls and women with disability assumes priority in J&K as they are likely to be circumscribed not only by physical barriers but also socio-cultural constrains and gender stereotypes. Therefore, both the governments need to craft strategies and institutions for gender mainstreaming and empowerment of the girls and women with disability.

Table-4 : Regional Distribution of Population with disabilities in J&K and Ladakh

Region	J&K	Ladakh	Total
Rural	267,459 (75.71) [97.62]	6,493 (82.09) [2.38]	273,952 (75.85) [100]
Urban	85,785 (24.29) [98.37]	1,416 (17.91) [1.63]	87,201 (24.15) [100]
Total	353,244 (100) [97.81]	7,909 (100) [2.19]	361,153 (100) [100]

Note : Values given in () indicate row percentage.

Values given in [] indicate column percentage.

(Source : Census 2011)

The above table presents the data of regional distribution of the PWD in rural and urban localities of the J&K and Ladakh based on

2011 census. As shown in the table majority of the PWD are found in rural areas than in urban localities in both the UTs. Precisely, 75.71% of PWD in J&K and 82.09% of PWD in Ladakh respectively are found in rural areas. On the other hand, a small proportion are found in Ladakh (17.91%) and in J&K (24.29%) in urban areas. This analysis reveals the presence of greater proportion of PWD living in rural Ladakh and rural J&K. On the whole, this analysis establishes the predominantly rural character of PWD in J&K and Ladakh.

Accordingly in these UTs, the rural character of PWD pose challenges to the provisions of facilities, access to various institutions for the persons with special needs. In this scenario, both the governments face predicaments in delivering welfare facilities and amenities to PWD. Consequently, PWD in both J&K and Ladakh, experience prolonged underdevelopment and lack of empowerment, consequent to being confined to the hilly terrain of the rural territory.

3. Reorganization and Transformation

Formation of UTs inaugurated promulgation of disability rights in both J&K and Ladakh. Indeed, the Rights of Persons with Disabilities (RPWD) Act, ratified by the government of India on 27th of December, 2016 (Chauhan, 2022) was implemented in UT of J&K after the reorganization in 2019. This implementation came through the J&K reorganization Act, 2019. Accordingly, in 2020, the Jammu & Kashmir Persons with Disability Rules were designed to implement the RPWD Act 2016 of government of India. Further, in J&K rules were also enacted on 15th of March 2021 based on the Section 101 of the RPWD Act, 2016. The department of Social Welfare of Jammu & Kashmir has been entrusted with to take charge of delivering welfare benefits to PWD. The JKRPWD Rules, 2021 are operationalized to implement the government of India RPWD act in this UT (News Agency, Kashmir Observer, 2020). However, the implementation of this Act encounters challenges due to non release of the prescribed fund which are meant for the well-being and well-fare of People with disabilities. In this regard, the Supreme Court has knocked the UT on the failure of the constitution of PWD fund, and accorded directives to the UT to frame the pertinent rules to enact the laws (Sharma, 2024).

On the contrary, although UT of Ladakh was formed in 2019, on 5th of February, 2024 Department of Social & Tribal Welfare under

the administration of Union territory of Ladakh issued a notification which pertains to the LRPWD (Ladakh Rights of Persons with Disabilities) Rules, 2024. This implies that after four years of long waiting, this initiative inaugurated the process and regulation for the RPWD in UT of Ladakh. The rules includes, formation of the Committee for research on Disability in UT, limited guardian ship, appointment of Appellate Authorities, issuance of Disability certificate along with UDID cards, constitution of the UT Fund for PWD. The LRPWD Rules, 2024 ensures the eradication of hurdles which leads to the social inclusion, protection and empowerment of PWD (Ladakh Rights of Persons with Disabilities Rules, 2024).

4. Conclusion

The revocation of Article 370 resulted in the formation of two new UTs in the federal structure of India. Such re-organization, though had political repercussions and cultural segregation, inaugurated the promulgation of disability rights in both the UTs of J&K and Ladakh. Indeed, the RPWD Act, although enacted in 2016 came into force in J&K in 2021 and in Ladakh 2024. Despite the procedural delay in the establishment of appropriate agencies and institution subsequent to the formation of the UTs, initiative crafted institutions and rules for the enunciation and protection of the entitlements of People with Disability in these UTs. Nonetheless, Consequent to such procrastination, the people with disabilities in these UTs had to undergo privations and had to forgo their welfare benefits.

In this regard, the forgoing analysis of socio-demographic characteristics of PWD in these UTs has indicated the priority issues and special needs that have to be addressed through good governance in these UTs. Amongst them, the first priority is taking cognizance of the rural character of the PWD and the predominance of PWD aged below 60 years of age. Corresponding to such locational disadvantage causing backwardness at the same time majority of population demanding human resource development through special education and special training pose challenges to the newly formed UTs. Moreover, the girls and women with disability have to be empowered through gender mainstreaming and capacity building. Above all the large proportion of persons with hearing disability and visual impairment call for special institutions for their development.

Therefore, engaging with the social model of disabilities, this article argues that it is imperative for both the UTs to gear up their institutions and governance to expedite the enforcement of RPWD act and facilitate to enable the PWD to avail the welfare benefits to accomplish empowerment and development similar to their counter parts in the rest of the States and UTs of India.

References

- “Central Law on Rights of Disabled: J&K Govt. Comes Up with Draft Rules.” *Kashmir Observer*, News Agency, 2020 <https://kashmirobserver.net/2020/07/14/central-law-on-rights-of-disabled-jk-govt-com-es-up-with-draft-rules/>
- Chauhan, A., Gender, Law, and Rights of Permanent Residents in Jammu and Kashmir: From the Lens of Article 370 and Beyond, *Springer Singapore*. (2022). https://doi.org/10.1007/978-981-19-8020-6_13
- “Ladakh Rights of Persons with Disabilities Rules, 2024”, *Legality Simplified*, April 6, 2024.
- Office of the Register General & Census Commissioner, *India, Population Census 2011*, Table C-20 : Disabled population by type of disability, age and sex, Jammu and Kashmir-2011 <https://censusindia.gov.in/nada/index.php/catalog/43370>.
- Shah, M. A., “Jammu and Kashmir: Understanding Identity and Difference”, *SSRN Electronic Journal*, Jan 2014.
- Shah, N. A., “Re-colonisation of Jammu and Kashmir and the Right to Self-determination”, *International Human Rights Law Review*, 11(2), 2022, 186-220. <https://doi.org/10.1163/22131035-11020005>.
- Sharma, V., “RPWD Act : Despite implementation, JKUT yet to constitute prescribed fund”, *Daily Excelsior*, 2024. <https://www.dailyexcelsior.com/rpwd-act-despite-implementation-jkut-yet-to-constitute-prescribed-fund/May 4, 2024> ★