



Monitoring the Human Rights of People with Disabilities Country Report India

July 2009

Disability Rights Promotion

International

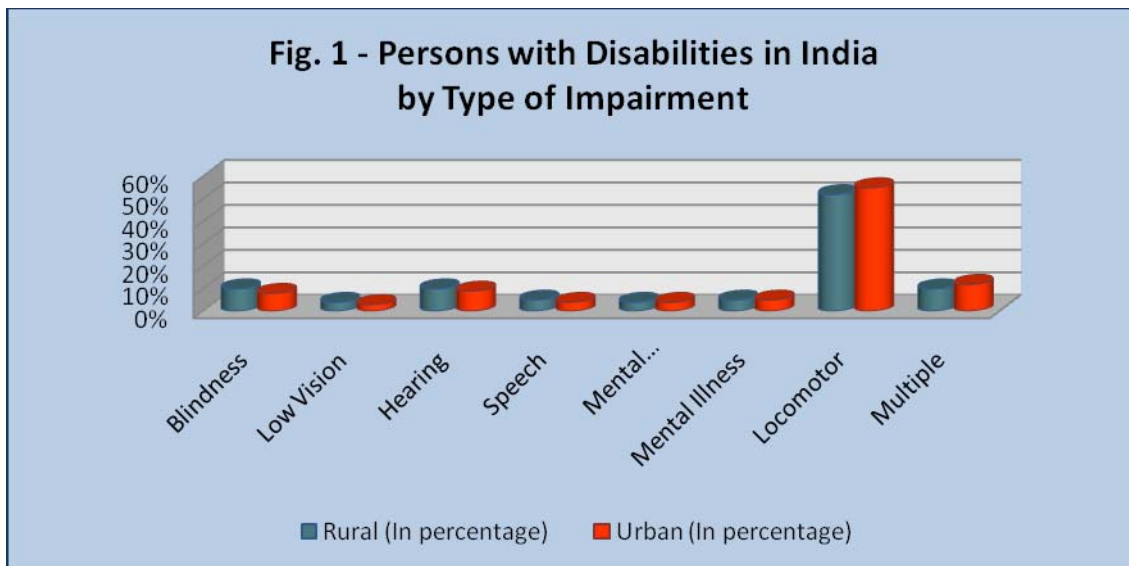
(D.R.P.I.) works to build capacity and systems to **monitor disability rights across the globe**. Country reports assess the status of rights of people with disabilities at the **systemic** and **individual** levels, and formulate **recommendations** to improve the human rights situation of people with disabilities in every country monitored. People with disabilities and their representative organizations lead all D.R.P.I. country monitoring projects, acting as managers, coordinators, monitors, and data analysts.

Key Findings:

- Over 2/3 of the interviewees reported incidents where they had been humiliated, insulted or injured on the ground of disability
- Disability-based discrimination was found to occur during social interactions in the community (57%), with public officials (53%) and in the family (47%), as well as in the workplace (27%) and in school (20%)
- Lack of access to systems of communication (40%) and in the physical environment (27%) were the most common forms of exclusion reported
- Despite this high incidence of discrimination, less than 2% of respondents pursued remedies through legal action. Most accepted disability and the discriminatory treatment received as a form of personal *Karma*.
- A gendered pattern exists in experiences of disability discrimination - women reported greater incidence of discrimination from family members and society, while men reported experiencing more discrimination from public officials and society.
- Despite legislation supporting disability rights and the ratification of several UN treaties, public authorities have been unable to bring about change to advance the human rights of many Indians with disabilities

Background:

D.R.P.I.-India, the first D.R.P.I. monitoring initiative in South Asia, is the result of a partnership between D.R.P.I. and Swadhikaar – an organization of persons with disabilities based in Andhra Pradesh State. D.R.P.I. and Swadhikaar worked in collaboration with the Center for Culture, Law and Society - NALSAR University of Law, the National Institute for the Mentally Handicapped, the AP State Legal Services Authority, the Asmita Resource Center for Women and Leonard Cheshire-South Asia. Project activities spanned from May 2007 to December 2008 and involved a review of disability law and policy in India and the analysis of 112 face-to-face interviews with persons with a range of impairments in the state of Andhra Pradesh.



Source: National Sample Survey Organisation, Government of India, 2002

Systemic Focus Findings:

Despite having a progressive Constitution, an enlightened judiciary, and a fast evolving legal regime with a clear disability focus, there is little impact on the ground of recent changes in law and policy. The small impact that has been made is limited to small pockets of urban India. The slow pace of change can be attributed to the social construction of disability that views it as an individual issue and considers family as the primary institution responsible for dealing with it.

- Since the 1950s, when the *Constitution of India* was written, to the modern day, India has enacted and been signatory to several national and international instruments (including the *Convention on the Rights of Persons with Disabilities*) which stipulate that each and every citizen is a rights-holder and, as such, is entitled to all the basic facilities and schemes implemented by the Government

- In 1993, India brought into force the *Protection of Human Rights Act*. This Act provides for the establishment of the National Human Rights Commission and States Human Rights Commissions, and provides a mechanism to monitor the implementation of various constitutional provisions and obligations under international covenants on different rights, including economic, social and cultural rights
- The *Equal Opportunities, Protection of Rights and Full Participation Act* (1995) is the most comprehensive statute protecting disability rights in India. Though revolutionary when it was enacted, the legislation is now in need of urgent amendments. The most significant weaknesses that have surfaced are related to the absence of a powerful implementing body
- Most of the work for the welfare of persons with disabilities has been taken up by charitable institutions and organizations. Over the last few years however, there has been an increasing contribution of organizations of persons with disabilities. The growing Indian **disability movement** is mainly focused on protection and attainment of citizenship rights for people with disabilities and advocates respect for human diversity. Both the State and society however, tend to accord greater importance to welfare-oriented service delivery. Therefore, obstacles in social attitudes and cultural myths, apathy, and sympathy that ignore the unique abilities of people with disabilities must still be

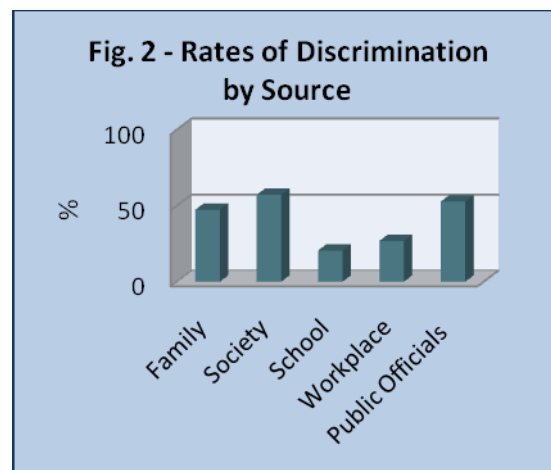
overcome through a paradigm shift from welfare to human rights.

Individual Focus Findings:

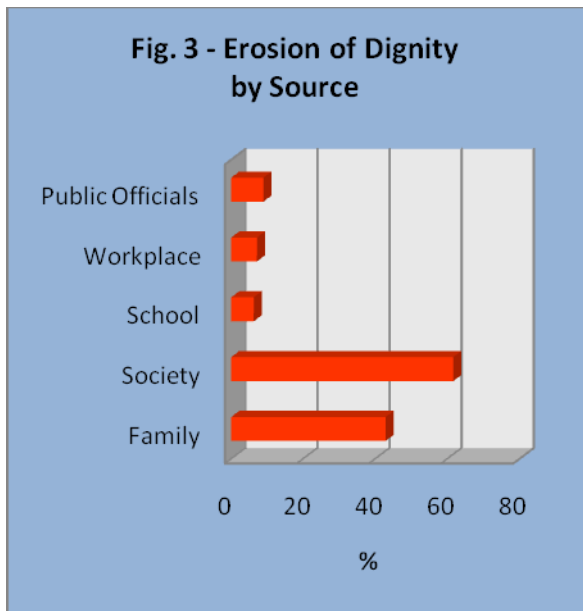
Interviewees were selected using the *snowball technique*, a non-probabilistic sample most used in qualitative studies to select hard-to-reach populations. During interviews, participants were asked to identify up to three recent events in their lives which illustrated the realization or denial of their human rights. 112 face-to-face interviews were conducted and analysed across three sites in Andhra Pradesh State: 59 from the villages of the Vishakapatnam District (Rural), 26 from Kurnool town (Semi-urban) and 28 interviews from Hyderabad City (Urban).

Results show a high incidence of human rights abuses, violations and disability-related discrimination among the population surveyed.

- As Figure 2 below shows, experiences of discrimination span all areas of social life but incidence is particularly high in social interactions in society, with public officials and in the family.

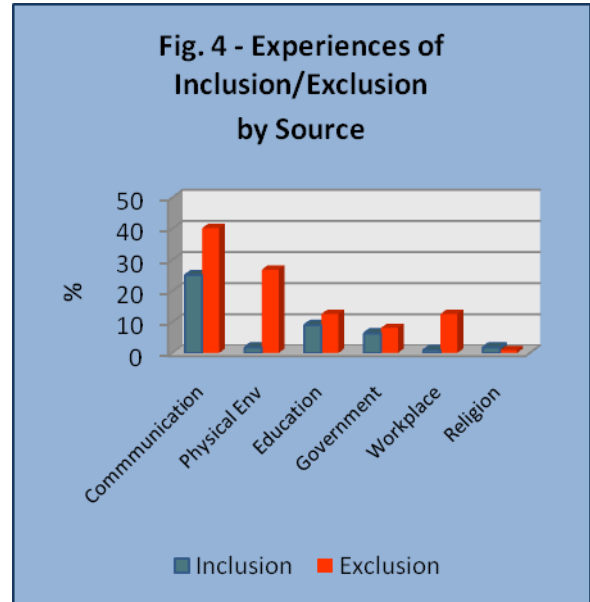


- **Human Dignity** is at the core of disability rights, as stressed under the UN *Convention on the Rights of Persons with Disabilities*. Figure 3, shows that in all spheres of social interaction considered in this study, persons with disabilities have had to face experiences of **erosion of their dignity**. Altogether, 69 interviewees, or more than half of the persons interviewed, reported incidents where their dignity had been insulted and injured.



- People with disabilities have the same right as anyone else to be fully included in the community and to be recognized as equal participants. Many interviewees however reported experiencing exclusion on the basis of their disabilities. **Communication systems** and the **physical environment** were responsible for

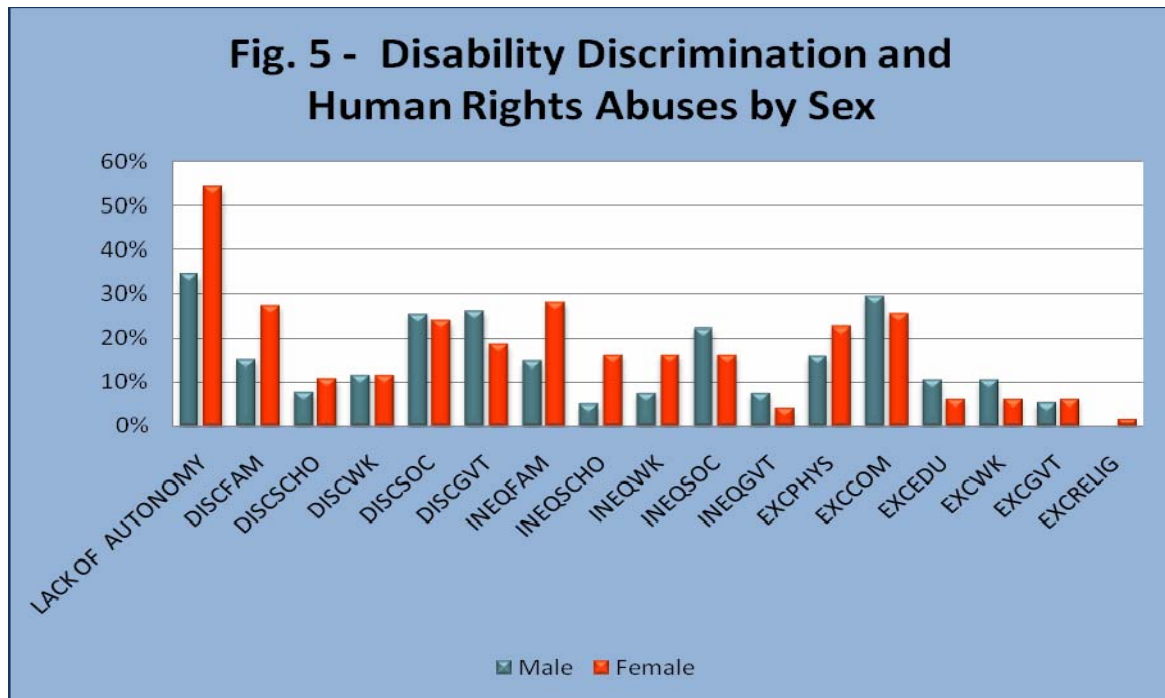
most frequent forms of exclusion reported by participants in this study (Fig. 4 below).



- Despite experiencing many forms of discrimination, abuse and violations of human rights, very few interviewees reported taking legal action to file a complaint and search for legal remedies. The concept of Karma or ordained fate is very strong in the Indian ethos and most participants expressed that it was their fate that they were born with a disability, that God had willed it and in fact others were justified in abusing them because they had a disability.

One person who was interviewed stated:

They call me a lame duck and say, "hey check out that cripple who is crawling by". I then think, "after all, they are not saying anything new. I have this disability so they will talk about it."



- As Fig. 5 above shows, this study found a **gendered pattern in experiences of discrimination and human rights abuse**: the Indian women interviewed for this study tended to face greater discrimination and inequality in the private sphere of family life, whereas the Indian men reported greater incidence of human rights abuses related to their participation in the public spheres of social life, work, and government. Overall, Indian women with disabilities were also found to be deprived of their personal autonomy and self-determination in higher rates than their male counterparts.

Recommendations:

The following are among the most important recommendations issued from this report:

Improve social and economic supports to people with disabilities in India to ensure a life with dignity.

Raise awareness of disability as a human rights issue beginning with the immediate family members of people with disabilities.

Review and amend existing legislation to ensure effective equal opportunities for persons with disabilities and greater stringency in the implementation of human rights principles

For more information and to read the complete report visit the D.R.P.I. website at www.drpi.ca