

Education as means of Social Justice in the Indian Constitution

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Social justice means maintaining justice to the society. It simple means equality in society, socially just society or enjoys equal benefits in the society. However, social justice has many definitions. Andrew Haywood defines that: "Social justice thus stands for a morally defensible distribution of benefits or rewards in society, evaluated in terms of wages, profits, housing, medical care welfare benefits and so forth." John Rawls' principles of social justice are "they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation."

David Miller has classified social justice into three: Social justice 'to each according his needs', 'to each according to rights' and 'to each according to deserts'. Many writers and thinkers have related social justice with distribution of wealth and property. Knowledge could be treated as property as well as wealth too. Robert Natick has rightly said that justice must address that wealth has to be justly transfer from one responsible person to another. Wealth (knowledge) needs to be transfer to one responsible (minorities and backward classes) person. In Indian society, some weaker section like minorities and backward classes is neither equally enjoying their rights, nor are they treated equally. They need to be given a special status to uplift themselves so as to enjoy their rights in the society. So, empowering the weaker section of the community is one of the most important ingredients of social justice.

The Indian government has been using education to preserve social justice to the weaker section of the community. The best technique to uplift the backward and minority sections is bringing them into the mainstream, and helps them to come up with their own way. Besides the constitutional provision, Indian government has directly aimed to bring social justice through education. Under the National Policy on Education 2020, emphasizes the need to ensure equitable access to quality education for all learners, regardless of their social or economic background. It promotes the use of technology and innovative approaches to reach marginalized and disadvantaged groups, including children from economically weaker sections, rural areas, and socially disadvantaged communities.

Planning Commission of India also rightly said that, "Education is the basic requirement and the most effective instrument of social empowerment. This has clearly portrayed how the Indian government has been using education to bring social justice to the people. The basic liberties what Rawls calls include:

- Political liberty (the right to vote and to be eligible for public office)
- Freedom of speech and assembly
- Liberty of conscience
- Freedom of thought.

So, if one needs to assign the rights and duties in the society, education has a crucial role to play. If there could be a distribution the benefits and burdens of society; educating the masses is very important. Hamartia Seen suggested fighting for social injustice through development. He said that “Development requires the removal of major sources of freedom: Poverty as well as tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or over activity of repressive states”. J.P Nail said that, “One of the principal purposes underlying educational development is social justice and the provision of equality of educational opportunity for all”. So, to established and maintained the social justice, education is one of the best processes.

In India, there is great division in accordance with caste, religion and culture based. The weaker section is broadly divided into two: minority (religious based) and backward classes (caste and economic based). Each section needs to be taken care so that they enjoyed the social equality. The challenge of bringing social justice in India is very high. India government has provided unique provisions and programmes to boost up the socially disadvantages. Education could “provide a forum in which a society can examine its problems and identify appropriate solutions”. Education has facilitated the weaker section to come up with their own way. This special provision has help to preserve their social, cultural, economic, and religious interest. Social justice is one most important ingredient to the civil society. The Indian constitution has provided a special provision to the weaker section of the communities to established civil society. To sustain the constitutional provision, the India government provided special educational provision to weaker section.

Constitutional Values and Education (Preamble, Fundamental Rights and Duties)

“The preamble of Indian Constitution is the soul of Independent India.” Our Constitution is here to ensure that all the people of India are considered equal. All have equal rights to express themselves without fear and prejudices, all have equal access to justice and all have equal rights to access the opportunities along with provisions of equity to facilitate those, who need it. You can say, equality and equity are among key core values of our Constitution.

A democracy must ensure that individuals have certain rights and that the governments will always recognise these rights. During our freedom struggle, the leaders of the freedom movement had realised the importance of rights and demanded that the British rulers should respect rights of the people. There were no two opinions on the inclusion and protection of rights in the Constitution. The Constitution listed the rights that would be specially protected and called them ‘fundamental rights.’ Fundamental Rights of citizens given in the Constitution have established the spirit of quality and have helped to preserve individual liberty. These rights act as limitation (with certain exceptions) on the powers of the Legislature and the Executive. The following Articles in the category of Fundamental Rights have a special bearing on education in India.

ARTICLE 14 Strives for ensuring ‘Equality before Law’. It states “The State shall not deny to any person equality before law or equal protection of the laws, within the territory of India”. Modern States exercise powers over the individual. The Right to Equality is intended to ensure that the powers of the State are not used in any discriminatory way. In relation to education it is invoked to regulate rules of admission and thus it acts for ensuring reach of education to all.

ARTICLE 15 This Article guarantees prohibition of discrimination on grounds of religion, race, caste, sex or place of birth by the State. It also ensures equality in educational opportunities in India. ARTICLE 15(4) enabled the government to make special provisions for the advancement of backward classes including the Scheduled Castes (SCs) and Scheduled Tribes (STs).

ARTICLE 16(1) guarantees equality of opportunity for all citizens in matters relating to employment or appointment to any office under State. ARTICLE 16(4) the government can make reservations in favour of any backward class of the citizens.

ARTICLE 21A It grants Right to Free and Compulsory Education to all the children of the age six to fourteen years in a manner as the State may, by law, determine. Inserted by the 86th Amendment in December, 2002, this Article has accorded education the status of right for ensuring quality in educational expansion at elementary level. At the commencement of the Constitution, education was included as a Directive Principles of the State Policy in Article 45 under Part IV of the Constitution.

ARTICLE 24 states that no child below the age of fourteen years shall be employed in work in any factory or mine or engaged in any hazardous employment.

ARTICLE 28 The institutions run by the State will not preach any religion or give religious education nor will they favour persons of any religion. This has been done to sustain and nurture the principle of secularism. Under provisions of this Article, neither the State nor any other agency can impart religious instruction in any school wholly managed by State funds. However, there is an exemption for the institutions established under any trust or endowment which requires that religious education be imparted in such institutions. The Article further provides that no person, attending State recognised and aided school, can be compelled to take part in any religious instruction without parental consent. This implies that while institutions established by minority communities are eligible for grant in aid from the State, they cannot compel students to follow the religious instruction imparted in the institution. They are allowed to maintain their religious character without imposing their religious ideology on any unwilling student.

ARTICLE 46 of the Constitution clearly states that the State shall promote with special case the educational and economic interests of the weaker sections of the people, and, in particular, of the SCs and the STs and shall protect them from social injustice and all forms of

In a democratic country like India, where people are divided in terms of religion, language, caste, race, culture and socio-economic factors, one of the tasks of the framers of the Constitution of India was to devise safeguards for the country's different minorities. The aspirations of minorities, their specific identity and rights were often suppressed under the pretext of majority decision. In such a situations pacific consideration of minorities was a prerequisite of democracy.

Article 29 of the Constitution of India provides explicit guarantees for protecting the interests of minorities:

(1) Any section of the citizens residing in the territory of India or any part there of having a distinct language, script, or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on the grounds only of religion, race, caste, language or any of them.

Article 30 details this right along with protection against discrimination in the receiving of government grants for education are as follows:

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. (1A) In making any law providing for the compulsory acquisition of any property of any educational institution established and administered by a minority, referred to in clause 1, the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause. The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language. This final clause does not keep the State from regulating for educational standards, but does protect against regulations concerning medium of instruction, a provision for minorities that has also been upheld in the courts.

Article 350 guarantees the right of all people to use a language they understand in "representations for redress of grievances." In the Seventh Amendment to the Constitution made by the Constitution Act of 1956, two articles were added addressing linguistic minority issues:

(2) Article 350A facilities for instruction in mother-tongue at primary stage. It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

(3) Article 350B -Special Officer for linguistic minorities.

1) There shall be a Special Officer for linguistic minorities to be appointed by the President.

2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned.

DIRECTIVE PRINCIPLES

Directive Principles of State Policy are included in Articles 36 to 51 in Part IV of the Constitution. There are three guiding provisions under this category which provide the basic framework for national policies and priorities in education. These are:

ARTICLE 41: It directs the State to make effective provision for securing the right to work and right to education for all within the limits of, its economic capacities and development.

ARTICLE 45 being a very significant Article in the Directive Principles, this Article laid down the foundation of free and compulsory education in the country. Before 86th Constitutional amendment, this Article has stated that “the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years”.

Article 21 A, making elementary education a fundamental right of all children between the age group of 6-14 years, Article 45 has been amended so as to restrict its scope to pre-primary education up to 6 years of age. No article in the Constitution works in isolation. Article 29(2) according to which admissions cannot be denied to anyone on the basis of race, caste, language in any institution maintained by the State. Article 21(A) which makes free and compulsory education to all as fundamental right attaches utmost importance to Article 45.

Also, the five Articles -15, 29(2), 15(3), 46 and 29(1) entrust responsibility of equalisation of educational opportunity in all parts of the country to the Government of India and to that end, to give special assistance to the backward areas or States.

ARTICLE 46: It says the “State shall promote with special care the educational and economic interests of the weaker sections of the people in particular of the Scheduled Castes and the Scheduled Tribes and shall protect them from social injustice and all forms of exploitation”. Thus, Article 46 along with other relevant articles pertaining to education ensures equality in educational opportunities even by making special provisions for those who have been left behind due to various reasons.

The Right to Free and Compulsory Education (RTE) 2010 and Inclusion

The Right of Children to Free and Compulsory Education Act, 2009 (RTE) is supposed to be a reference point and all issues and policy matters pertaining to education should be seen in the light of this statute.

According to the act all the children in the age group of 6-14 years will be provided 8 years of elementary education in an appropriate classroom in the vicinity of his neighbourhood and the cost of facilitating education to a child will be borne by the State. All schools will have to prescribe to norms and standards laid out in the Act and no school that does not fulfil these standards within 3 years will be allowed to function. Also, the unrecognized private schools operating in the country will have to apply for recognition, failing which they will be penalized to the tune of Rs1 lac and if they still continue to function will be liable to pay Rest. 10,000 per day as fine. The government has also taken a number of steps to implement the provisions of the Act.

Originally Part IV of Indian Constitution, Article 45, and Article 39 (f) of DPSP, had a provision for state funded as well as equitable and accessible education.

The first official document on the Right to Education was Ramamurti Committee Report in 1990.

In 1993, the Supreme Court’s landmark judgment in the Unnikrishnan JP vs State of Andhra Pradesh & Others held that Education is a Fundamental right flowing from Article 21.

Tapas Maunder Committee (1999) was set up, which encompassed insertion of Article 21A.

The 86th amendment to the constitution of India in 2002, provided Right to Education as a fundamental right in part III of the Constitution

The same amendment inserted Article 21A which made Right to Education a fundamental right for children between 6-14 years.

The 86th amendment provided for a follow-up legislation for Right to Education Bill 2008 and finally Right to Education Act 2009

ACHIEVEMENTS OF RIGHT TO EDUCATION ACT

1. The RTE Act has successfully managed to increase enrolment in the upper primary level (Class 6-8).
2. Stricter infrastructure norms resulted in improved school infrastructure, especially in rural areas.
3. More than 3.3 million students secured admission under 25% quota norms under RTE.

4. It made education inclusive and accessible nationwide.
5. Removal of “no detention policy” has brought accountability in the elementary education system.
6. The Government has also launched an integrated scheme, for school education named as
7. Samara Shisha Bahaman, which subsumes the three schemes of school education:
 - Sara Shisha Bahaman (SSA)
 - Ashtray Madhyamik Shiksha Abhiyan (RMSA)
 - Centrally Sponsored Scheme on Teacher Education (CSSTE).

LIMITATION OF RIGHT TO EDUCATION ACT

Age group for which Right to Education is available ranges from 6 –14 years of age only, which can be made more inclusive and encompassing by expanding it to 0 –18 years.

There is no focus on quality of learning, as shown by multiple ASER reports, thus RTE Act appears to be mostly input oriented.

Five States namely Goa, Manipur, Mizoram, Sikkim and Telangana have not even issued notification regarding 25% seats for underprivileged children of society under the RTE.

More focus is being given over statistics of RTE rather than quality of learning.

Lack of teachers affect pupil-teacher ratio mandated by RTE which in turn affects the quality of teaching.

STEPS TO BE TAKEN

The 86th amendment provided for a follow-up legislation for Right to Education Bill 2008 and finally Right to Education Act 2009.

Minority Religious Schools need to be brought under the RTE.

More focus on teacher training programs.

Quality of education needs to be emphasized over quantity of education.

Steps should be taken to make the teaching profession attractive.

Society as a whole need to be supportive of education for children without biases.

WHAT DO YOU MEAN BY INCLUSIVE EDUCATION?

Integrated education prepared the stage for inclusive education. “Inclusion” refers to the education of all children with various disabilities and diversities in the overall general educational structure by adapting the complete educational system. Need to develop and design classrooms, schools. Inclusive education enhances opportunities.

WHAT IS THE NEED FOR INCLUSIVE EDUCATION?

Regular schools with an inclusive orientation are most effective. It embraces the differences and supports the children with various abilities.

- To fulfil constitutional responsibility
- For achieving universalization of education
- Social equality
- Self-reliant

BENEFITS OF INCLUSIVE EDUCATION:

McCarty states, "It appears that special needs students in regular classes do better academically and socially than comparable students in non-inclusive setting". Some of benefits include:

- Social benefits
- Individualized instruction and academic achievement
- Improvement in behaviour
- Collaboration of faculty and staffs
- Removal of social prejudice

Policies RTE Act 2009 a tool for inclusive education. The right of children to free and compulsory Education Act (2009) passed by the Parliament requires the state to provide free and compulsory education to all the children from the age of 6 to 14 years. Historically right to education has derived its legal basis from article 26(1) of the Universal Declaration of Human Rights (UDHR), which states that "Everyone has the right to education. Education should be free at least in the elementary and fundamental stages. Elementary education shall be compulsory." India has undertaken several initiatives to achieve universalization of elementary education. The 86th Constitutional Amendment followed by multiple rounds of discussions which made education a fundamental right for children in the age group of 6 to 15 years. The Act was introduced in Raja Sabah on 4 August 2009 and the president give his assent to it on 26th August 2009 the act came into force on 21st April 2010 as a fundamental right in India. Provisions for inclusive education RTE Act 2009 RTE Act 2009 states that provided that a child suffering from disability shall have the right to pursue free and compulsory elementary education Section 26 of the person with disabilities (equal opportunities, protection, and full participation). Act 1996 states that the appropriate Government and the local authorities shall ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of 18 years. Endeavour to promote the integration of students with disabilities in the normal schools. Promote setting up special schools in government and private sector for those in need of special education in such a manner that children with disability living in any part of the country have access to search schools. Endeavour to equip the special schools of children with disabilities with vocational training facilities few suggestions are listed below to make inclusive education more effective.

- To include disabled people in mainstream education system, legislative or constitutional barriers should be eliminated.
- To promote inclusive learning environment education policies and strategies should be ensured.
- For ensuring the education for all the children and adults on ministry and school system is made responsible.
- In developing and monitoring education plans, disabled children and adults, parents and other marginalized groups and district officials should be included.
- Developing strategies which increase family and community involvement in school Management Committee and district education office.
- Developing awareness program to facilitate participation by the disabled children and their parents.

Education in the Concurrent List and its Implication

India is a democratic country and under this democratic system, the constitution of India is the supreme law of the land. This document lays down the framework that democrats fundamental political code, structure, procedures, power, and duties of government institutions and sets out fundamental rights and directive principles of state policies and duties of citizens. Our constitution has a detailed provision and guidance for the betterment of our society. One such important subject is education. The constitution of India clearly states the educational functions of government at various levels. There is a clear-cut division of legislative powers between the union and states. Our Constitution embodies with three legislative lists that is

1. Union List-It is a first list in which union government of India power to legislate.

It includes about hundred subjects. Under this parliament can enact laws on the subject contained in union /central list. Articles included are 13, 62,63,64,65 and 66. Subjects that are included in it are:

1. Participation in International conferences, institutions or other agencies and implementing the decision taken their in.
 2. Protection and maintenance of the national library, Indian Museum, Imperial war Museum and any other institutions gives partial or complete financial aid by the parliament to be of national importance.
 3. At the commencing of this constitution the maintenance of institutions known by the names Kasha Hindu university Aligarh Muslim University and Delhi University well as other institutions. Other institutions lawfully declared by the parliament to be of national importance.
 4. Institutional receiving financial aid from the government of India Technical Education institutions.
 5. Union agencies and institution which (a) are meant for vocational handicraft training inclusive of institutions, for the training of police officials. (B) meant for development of researches (c) providing technical assistance in the investigation of detection of crime.
 6. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.
2. State List-It is the list number two under which there are subjects on which only state government can legislate.

Subject Included-66

Entry II-Inclusive of entries 62-66 of union list and entry number 25 of the concurrent list.

In entry 12, the libraries, museums or other similar institutions, ancient historical buildings and monuments are financed by the state government.

3. Concurrent List-it contains various subjects on which union and state government both can legislate.

The subject education in present concurrent list was previously included in state list till 1976 but on 11thNov 1976,42nd Amendment bill was passed by the parliament and if finally got the president approval on 18th Dec 1976. This amendment stated that entry 25 of the 7thSchedule (i.e., concurrent list) of the constitution shall be constituted by the following , which is education including technical education and universities, subject to provision of entries 63-66 of list one vocational and technical training of labour.

J.P.Naik mentioned the following argument in favour of making education, a concurrent subject.

- Implementation of economic and social planning.
- National Character of Educational Policy.
- Free and compulsory education.
- Equal standards of social services.
- Responsibility of centre for funds.

1. Educational and cultural relations with other countries.

2. Clearing house functions of collecting and broadcasting ideas and information

3. The coordinating functions of harmonizing the educational activities of the centre and the states.

Till 1976 education was a state subject with certain provision at the central level. But the 42nd amendment in 1976 brought about large and important changes in the Indian constitution. It also affected the status of education by putting it on the concurrent list. The implication of making education a concurrent subject is that both the union and the state government can legislate on any aspect of education from the primary level to the university level. In case if any dispute arises then the legislation framed by the central government will have overriding authority.by having education in the concurrent list centre can implement directly a policy decision in the states. So, concurrency signifies a partnership which is at once meaningful and challenging. The national policy will be oriented towards giving effect to it in the letter and spirit.

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