



DISABLED CHILDREN'S RIGHT TO EDUCATION

ADV. DR. PRIYA NAIR. V

Advocate,

THIRUVANANTHAPURAM, KERALA, INDIA

Disabled children's education is considered as a very important area. The problem of children having different kinds of impairments require a great deal of technical expertise to deal with. The education of disabled children must be organized not merely on humanitarian grounds, but also need a great care and caution, because proper education to an extent enables a child with disability to overcome his or her handicap, and thereby makes him or her, as a useful citizen. Social justice also demands the education of all children irrespective of whether disabled or not. It has to be noted here that the Indian Constitutional directive on compulsory education under Article 21A¹ includes children with disabilities also.

The World Health Organization and the world bank roughly calculated that one billion people undergo some form of disability. Of those, it is assessed that 93 to 150 million are children. According to a report by the Plan International these children are 10 times less likely to go to school than other children. So also, when they do attend school, it is likely to be in an isolated setting. According to a study conducted by the Global Partnership for education, estimates that 90% of children with disabilities in low and lower-middle income countries do not go to school.² Children with disabilities have been denied access to from the general education system and set down in 'special schools'. In some cases, they are segregated from their families and placed in long-term residential institutions where they are educated in isolation from the community.

INTERNATIONAL HUMAN RIGHTS LEGISLATIVE FRAMEWORK OF THE RIGHT TO EDUCATION OF THE DISABLED

¹ Article 21A:- "The State shall provide free and compulsory education to all children of the age of six to Fourteen years in such manner as the State may, by law, determine".

² For more info see <http://www.who.disability.org> (assessed on 12-02-2024).

The United Nations has made a strong dedication to the human rights of persons with disabilities. Disabled persons are acknowledged under international law as rights-holders, with a right to education without discrimination and on the basis of equal opportunities. This right is undertaken by the International Covenant on Economic, Social and Cultural Rights of Persons with Disabilities (2006) clearly laid down the right to education as appeal to people with disabilities in Article 24.³ This provision has been construed by the Committee on the Rights of Persons with Disabilities.

INDIAN LEGISLATIVE FRAMEWORK OF THE RIGHT TO EDUCATION OF THE DISABLED CHILDREN

The year 1981 was considered as a very important being the International Year for Disabled Persons (IYDP). It was also in this year, in India that the education of the disabled was considered to be as a human resource development. Prior to this the education of the disabled, which was catered to largely in special schools, came under the purview of Department of Social Welfare. This shift was considered very much significant because it helped to create awareness in the general education system that disabled persons are also considered as 'human resource' and can also a contributing member of the society.

In 1990's two historical legislations were enacted namely the "Rehabilitation Council Of India Act.1992" and "The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995". The 1992 Act was passed in Parliament by the Ministry of Welfare to regulate manpower development programmes in the field of education of children with special care and needs. The Persons with Disabilities Act, 1995 provides that every child with a disability shall have access to free education until 18years of age. This is a statutory obligation cast upon all appropriate governments in the country. In India, the Constitution 86th Amendment Act,2002 provided free and compulsory education right of all children from 6 to 14 years of age, gave further move to the goal of universal primary education.

The Sarva Siksha Abhiyan (SSA) has extended the dual approach, adopted towards the education of children with disabilities, by propagating "a multi-optional delivery system". It indubitably brings the concerns of children with disabilities also. In other words, it categorically brings the "children with special needs and care" under the framework of "inclusive education. It stated thus: "Sarva Siksha Abhiyan will ensure that every child with special needs. Irrespective of the kind, category and degree of disability, is provided education in an appropriate environment. SSA will adopt 'zero rejection' policy, so that no child is left out of the education system."⁴

³ The Convention on the Rights of Persons with Disabilities (2006). For more info see <http://un-convention-on-the-right-of-persons-with-disabilities.org.in> (assessed on 18-02-2024).

⁴ SSA (2007), inclusive education in SSA available at: [164:100.51.121/inclusive-education/inclusive_Edu_May07.pdf](http://164.100.51.121/inclusive-education/inclusive_Edu_May07.pdf)(assessed on 28-02-2024)

MAIN BARRIERS FACED BY DISABLED CHILDREN

There are considerable barriers faced by many people with disabilities to have proper education according to their needs and requirements, which include:

- Lack of accessibility including the quality of being easy to obtain or use, both in terms of physically inaccessible school buildings and inappropriate learning materials.
- Discrimination, injustice, animosity and prejudice which averts people with disabilities from accessing education on equal terms with others.
- Ostracism or isolation from mainstream school settings,
- A large number of premier schools in the country deny admission to disabled children in contravention of their right to education.
- Inferior and low quality of education, including in mainstream environment where children with disabilities have been 'integrated' into the existing non-inclusive system.

Human rights law tries to find out directly to intercept these issues by placing responsibility upon states to respect, protect, care and fulfill the right to education of people with disabilities, through the execution and application of 'inclusive education'.

A MOVEMENT FROM SPECIAL EDUCATION TO THE IMPLEMENTATION OF INCLUSIVE EDUCATION

In recognition of the extensive exclusion of disabled persons from mainstream education, human rights law and disability rights movements have advocated 'inclusive education'. This is regarded as a departure from the 'special education' prototype which encourages two separate education systems: one for people with disabilities, frequently referred to as 'special education' and the second one for people without disabilities, known as 'general education'. The integration or inclusive model of education is whereby children are integrated into general education with some adaptations. At the same time, it is to be noted here that the overall system of general education is not adapted with regard to the needs of persons with disabilities.

According to a report published by the UN in the year 2007 on the right to education, noted the distinction that exists 'between the normative framework and the resources available for envisaging the right to inclusive or integrated education, as well as the lack of genuine political will to accomplish this goal'.⁵ Nearly 10 years later the Committee on the Rights of Persons with Disabilities listed lack of political will as an ongoing obstacle to the implementation of inclusive education. States have, however, in 2015 provided a further political responsibility for realization of the right to inclusive education through Sustainable Development Goal of the 2030 Agenda for Sustainable Development.

⁵ For more info see "The right to education of persons with disabilities, 2007".

Sustainable Development Goal is rights-based, it means and include: ‘ensure integrated, inclusive and equitable quality education and promote and develop lifelong learning opportunities for all’. This means that the targets allied with attaining these objectives are largely congruous with international human rights law, and per the implementation of legal and policy frameworks to envisage Sustainable Development Goal must be in harmony with states’ responsibility under international human rights law, including the relevant provisions of the Convention on the Rights of the Persons with Disabilities (CRPD), related to inclusive and integrated education.

SUGGESTIONS

There are a few suggestions that should be carried out so that the integration and inclusion of the disabled children in the field of education is guaranteed like providing attention on integration, provisions for training teachers and implementing a systematic education scheme of the state in order to guarantee the disabled persons’ their fundamental right to education. The following are the major recommendations:

- Execute all early education and care programmes in the age group of 0 to 6 years, sensitively and responsive to the special needs and requisite of children.
- Training of Anganwadi workers in identification of needs and demands of the children with disabilities.
- Make use of age-appropriate and proper play and learning materials and the counselling of parents.
- Making all alternative of education, such as, open schools, regular schools, special schools, non-formal and formal education systems, available to all children including children with disabilities.
- Accentuating good teaching-learning practices.
- Making the curriculum flexible, approachable and accessible to all children including children with disabilities.
- Promoting and utilizing technology and assistive devices.
- Modify and adapt existing physical infrastructure and teaching methodologies to meet up with the needs of all children including children with special needs and care.
- Involving the participation of parents, family and the community at all stages of education.
- Reduce the number of students in a class size to a maximum of 30 students and a maximum of 20 students in case the class comprises children with special education needs and requirements.
- Correlating and corresponding the style of teaching to the learning styles of all children.
- Developing and expanding the strengths and potentialities of all children rather than highlighting limitations.

CONCLUSION

The primary and central task of education for a disable child is to make ready him or her for his socio-cultural environment. It is therefore indispensable that the education of children with disabilities is an inviolable and unassailable part of the general educational system. The main goal of universal elementary education cannot be accomplished unless and until all disabled children are included in the education system. It is the duty and responsibility of the state ensure that every child is getting their education according to their needs and abilities. Because proper education is a tool to develop their character. All children have the right to be educated in spite of their disability or learning difficulty, because education is a human right.

BIBLIOGRAPHY

Books

- Saroj. *Right to Education and Economic Reforms*. Delhi: Vista International Pub. House,2021.
- Bernstein, Tarrow Norma, ed. *Human Rights and Education*. Oxford, England: Pergamon Press,1987.
- Ghosh, Ratna. *Redefining Multicultural Education: Inclusion and the Right to be Different*. Toronto: Canadian Scholars' Press, Inc., 2014.
- Jha, Praveen. *Right to Education in India*. Routledge India,2015.
- Rajashree. *Right to Education in India*. Notion Press,2021.

Journals

- Hemachand Mannava Muni. "Right to Education Under the Indian Constitution." *Indian Journal of Applied Research* 1.no.6 (October 1,2011: 128-30.
 - Zendeli, Emine. "The right to education as a fundamental human right." *Contemporary Educational research Journal* 7, no.4 (December 5, 2017): 158-66.