



Disability And Education: A Paradigm Shift From Dependence To Independence

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ABSTRACT

Education is enlightenment, a human right, which affords dignity to an individual and develops his personality. On the reason of being a person with different ability, the State cannot discriminate anyone while imparting education, especially when it is declared to be free and compulsory education for all the children of certain ages. There is a need to establish special schools for those requiring special care and attention so as to bring them in the mainstream with rest of the population. In India right to education has been declared as a fundamental right for all the children of the age of six to fourteen years, which impliedly also includes the children with disability.

I. Introduction:

The Preamble to the Constitution of India embodies the notion of justice- social, economic and political; equality- of status and of opportunity, besides assuring dignity of the individual. It contemplates the abolition of all sorts of inequities of wealth, opportunity, status, race, religion, caste, title and the like.¹ The dignity of an individual is also assured by securing to each individual equal fundamental right. However, the practice appears to be different towards those with special needs, suffering from certain infirmities, and requiring more empathetic approach towards them. Discrimination between two human beings had never been the intention of the framers of the Constitution of India. Nonetheless, an apathetic approach towards persons with special needs is an ample proof of such discrimination. It is not incorrect to say that prejudice on the grounds of physical and mental health would destroy the spirit of equality voiced by the people of India, who conferred the Constitution on themselves. By delimiting the social structure to those capable of participating in it actively and those failing to participate owing to their physical or mental weaknesses, has been successful in establishing the feeling of 'Otherness' instead of 'Oneness' in such persons. It is also true that the State, in its past practice has been neglecting them and had made no or very little efforts to bring them to the mainstream of life. Why the State authorities had been so callous to those deserving special care and attention?

Every person in this diverse world bears an inestimable value and is equally important. Importantly, the people are to be valued not just because they are economically sound or that they hold some status in the society, but because they too have their self-respect or self-esteem. The acknowledgement of such dignity of a human being, irrespective of any criteria, serves a strong reminder that the people with disabilities have a stake in and claim on the society that needs to be respected above and beyond any other consideration of social or economic usefulness. They are ends in themselves and not the means to the ends of the others. In the past, it has been observed that the people with disabilities were often taken as objects to be protected or pitied, however, with a self-realization in such people that they are not the objects but subjects with same dignity as possessed by people with potential abilities, resulted into an important makeover in the society. Consequently, there has been a shift of thinking in the entire society that their needs are beyond the medicines and that their welfare extends as subjects and not as objects, to providing them amenities beyond health services, which includes their social security in different contexts, and is ultimately responsible for their personality development besides security for entire life. It is well known that education is an enlightenment,

which lends dignity to an individual and builds up his personality, leading to his overall development, irrespective of the physical or mental health. In this article an endeavor is made to study the right to education of disabled children and role of the State in promoting such right amongst those children with different needs as a social security measure.

II. Concept of Social Security in India:

Does social security extend to providing only unemployment allowance, disability pension, medical care, transportation etc., or go beyond this? In order to answer this question, there is a need to understand the concept of social security for including other aspects of life that are equally important and to a great extent are responsible for developing amongst an individual a sense of security, especially in a person with disability, where any kind of disability deserves equal care and attention. In a welfare State, where the State authorities are directed to frame their policies in such a manner so as to secure equality amongst all the citizens, it is, thus, their responsibility to work in that direction which creates in them a feeling of being secure in such world. Article 39 of the Constitution of India provides: "The State shall, in particular, direct its policy towards securing- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood; that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;..... (e) that the health and strength of the workers, men and women, and the tender age of the children are not abused and that the citizens are not forced by the economic necessity to enter avocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment."

The international community comprising of States, organizations, individuals, etc., has undertaken an obligation to protect human rights irrespective of any distinction. This further necessitates an understanding of various kinds of measures which the government has taken for protecting the human rights, especially of the persons with disability.

Article 41 of the Constitution provides for right to work, education and public assistance. It requires that the State within the limits of its economic capacity and development, make effective provisions for securing right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Further the weaker sections of the society, which be-

sides Scheduled Castes and Scheduled Tribes, as specifically mentioned in Article 46 of the Constitution, might include women, children, disabled persons who are vulnerable of being exploited in the society. Article 46 also directs the State to promote educational and economic interests of the weaker sections of the people. Article 46 of the Constitution reads: The State shall promote with special care the educational and economic interests of the weaker sections of the people..., and shall protect them from social injustice and all forms of exploitation."

"Social security" may thus, be taken to mean security in society against exploitation, social injustice, use of resources equally irrespective of any discrimination, health facilities, education, women and child development, sanitation, housing, safe drinking water, and freedom from insecurities of any kind. The main objective of all such social security schemes is to create employment, improve quality of life, and remove poverty and economic inequality, and human deprivation. Not only this, the term can be used in a much wider sense so as to include social insurance, which covers insurance for being disabled, unemployed or includes superannuation benefits in old age after retiring from services in the form of pension or family pension. Like most other developing countries, India does not have a social security system to protect the elderly against economic deprivation. From 1 January 2004, the Government of India introduced The National Pension System which is a defined contribution based system where the Central government employees and those State government employees where the States have notified NPS for their new employees.

As a social security measure, some of the States in India have introduced Old age pension schemes.² Besides the State Old Age Pension Scheme, the Central government is sponsoring National Old Age Pension Scheme in the State of Punjab where department of Social Security and Women and Child Development Punjab is working to provide old age pension to the destitute old aged persons of 65 years and above having a little source or no source of income. The National Old Age Pension scheme is also sponsored in other States of India. In addition to this, the disabled persons of the age group of 65 years and above having disability of 70% and above with the family income of rupees 200 per month or less get disability pension of rupees 100 per month. Additionally many State governments provide unemployment allowance, conveyance allowance, bus concession, assistance of self-employment, exemption in road tax, assistance for purchase of aids and appliances, etc.³ As education also plays a very important role in the development of an able person, so does it play that role in shaping the life of differently-able persons, especially the children.

III. Children with Disability and Education:

Every child has a right to education, as it being a human right and the State is under an obligation to protect such right. It is also true that the law, policy and practice governing welfare of child have undergone a significant in its discourse. It was only during the twentieth century that the concept of children's rights emerged as prior to 1839, concept of authority and control focusing on welfare rather than the rights prevailed. This shift in the approach towards children is based on social justice, non-discrimination, equity and empowerment. 'Child' is defined as every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.⁴ The Government of India in its report giving written reply to the Committee on the Rights of the Child stated that there are around 380 million children below the age of fourteen years in India and 157,863,145 children in the age group of 0-6 years.⁵ Out of these approximately thirty five million have been estimated to be the children with disabilities.⁶ The Census of India defines person below the age of fourteen as children. The age of a person to consider him as a child varies in different laws in India. It is evident that while defining the term 'child' the age of a person is taken as a criterion and law does not make any distinction as to the enjoyment of

rights conferred upon a child on any ground. So how the children with different needs could be discriminated in the enjoying and sharing equally with their peers any such right? The have right to participate in exhausting the resources provided by the State at the disposal of the society. State cannot give them step motherly treatment, be it education, health facilities, employment, etc. The Constitution of India under Article 14 prohibits class legislation amongst the class of 'child' in the enjoyment of fundamental rights. Rather, Part IV of the Constitution directs the State to take measures to protect their interests of different nature. Right to free and compulsory education for all children of the age of 6-14 years has been declared as a fundamental right under Article 21-A of the Constitution of India.⁷ Article 26(1) of the Universal Declaration of Human Rights also proclaims the right to education, and it clarifies that right, which calls for creation of free and compulsory elementary education, from ages 6 to 11 or 12; of general and technical secondary education on the broadest possible scale of higher education 'equally accessible to all on the basis of merit.' Further clause (2) of Article 26 of the Declaration provides: "Education shall be directed to the full development of the human personality and to the strengthening of respect of human rights and fundamental freedoms..." It is evident from these provisions that education is considered as a human right, irrespective of any mental or physical strength of a person. Further Article 13 of the International Covenant on Economic, Social and Cultural Rights also guarantees the right to education without any distinction on any grounds. In this article, education of the disabled children is the main thrust area, so I would like to elucidate on this aspect of social security in the backdrop of international efforts done in this regards along with Indian approach on the matter.

The concept of protection of human rights for disabled persons became a matter of concern only after the Declaration on the Rights of Disabled Persons adopted by the General Assembly on December 9, 1975. The Declaration acknowledges the fact that the disabled persons are entitled to the same civil and political rights as others, including the measures necessary to enable them to become self-sufficient. Right to Education of the disabled, besides medical services and placement services are also recognized. It further identifies their right to economic and social security, to employment, to live with their families, to participate in social and creative events, to be protected against all forms of exploitation, abuse or degrading behaviour, and to avail themselves to the legal aid.

IV. Laws, Policies and Schemes to Protect Educational Rights of Disabled in India:

Besides provision under Article 21-A stipulating the right to free and compulsory education for all children of 6-14 years, various local bodies in the State at municipal and village level have been conferred with the power to undertake activities to promote elementary education. The Eleventh Schedule added to the Constitution in 1993 recognizes the powers, authorities, and responsibilities of the panchayats in the matters relating to education, including primary and secondary schools, technical training and vocational education, and the adult and the non-formal education.⁸ The municipalities have also been conferred with power, authority and responsibility, by inserting Twelfth Schedule in the Constitution in 1993, to promote cultural, educational and aesthetic aspect. Also Article 51-A of the Constitution inserted clause (k) whereby it imposes a fundamental duty upon the parents and the guardians to provide opportunities for education to their children or, as the case may be, wards between the age of six and fourteen years.⁹

Children with disability require the State authorities to protect them against prejudice and ensure equal educational opportunities. They have a right to education as their peers have; however, it is often observed that the schools deny admission to a child suffering from disability. According to National Sample Survey Organization, 2002 Report on Disabled Persons in India, fifty five per cent with disability have been found to be illiterate. These figures are really shocking which necessitate the need of mainstreaming the persons with disabilities in the

general education system through 'inclusive education'. 'Inclusive education' refers to a concept where government provides economic resources to certain extent for the inclusion of disabled children in the school. For achievement of Universalization of Elementary Education (UEE) in a time bound manner, as mandated by the Eighty sixth Amendment of the Constitution of India making free and compulsory education to the children of 6 to 14 years age, the Sarva Shiksha Abhiyan (SSA),¹⁰ the Education for All Movement, was initiated by the Government of India with an aim of providing elementary schooling by 2010 to all children including children with disabilities in the age group of 6 to 14 years. Not only this, the Government of India also providing scholarships to students with disabilities for pursuing studies at the post school level. Scholarship is also provided to the children with mental retardation and cerebral Palsy pursuing education in class IX and X. Vide SSA, in order to promote the interests of the girls with special needs are taken care of to the extent of providing aids and appliances, resource support, removal of architectural barriers, etc. Besides, the teachers are also trained to meet the special requirements of such children. Further SSA also ensures that every child with special needs, irrespective of kind, category and degree of disability, is provided meaningful and quality education by adopting zero rejection policy and imparting education in such an environment and manner which are best suited to the learning needs of such child. For that purpose special schools have been established. Additionally, Education Guarantee Scheme (EGS) and Alternative and Innovative Education (AIE) schemes have also been started by the Government.

Education for the disabled children has been promoted from time to time by the Indian government by adopting different policies such as: the National Policy on Education 1986, the Plan of Action 1986 and the Programme of Action 1992.¹¹ The National Policy on Education was implemented to provide education to all including the disabled as well. The policy aims at integrating the physically and mentally handicapped with the other abled persons so as to enable them to grow in a normal manner, besides providing them courage and strength.¹² It also envisions that wherever likely, education for children with motor and other mild handicap will be imparted with others. The Plan of Action provides for the establishment of the special schools ensuring that those with the special needs who cannot avail of the opportunity to study in the common schools because of the lack of facilities in such schools to meet their needs. On acquiring the reading and writing skills, the Plan provides for their integration in the regular schools. The scheme was revised in 1989 to provide educational opportunities for the disabled in the regular schools.¹³ This scheme has been adopted by the States in India as well. The Programme of Action 1992 stresses on the implementation of the project 'Integrated Education for Disabled'. The regional institutions of the National Council of Educational Research and Training (NCERT) are providing multi- category training to the resource teachers.¹⁴

The Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act of 1995 (PD Act, 1995), which came into force on 7 February 1996, provides for the responsibilities of the Central and State governments with regards to the services for the disabled persons. The Act

defines person with disability means a person suffering from not less than 40 per cent of any disability as certified by the medical authority.¹⁵ Chapter V of the Act in Section 26 through 30 deals with Education. A duty has been imposed upon the Central and the State governments to ensure that every child with disability has access to free and adequate education till the age of eighteen years¹⁶ and that special schools are set up in the government and private sector to meet the educational needs of all the children with disabilities living in any part of the country¹⁷ and also integrate their education with the other children.¹⁸ Introduction of non-formal education in the form of part time classes for the children with disabilities who cannot fail to continue their studies on the whole time basis after fifth class,¹⁹ functional literacy schemes, provisions of aids and appliances, education through open schools and universities²⁰, etc., are also stressed in the Act. Research for designing and developing new assistive devices, teaching aids, etc., is also stressed.²¹ The teachers training facilities to develop trained manpower for the special and integrated schools for the children with disabilities is also provided in the Act.²² Further the Act emphasizes upon the appropriate governments to prepare a comprehensive education scheme providing for transport facilities, supply of books, removal of architectural barriers from schools, etc., to the children with disabilities so that they attend the schools.

The Right of Children to Free and Compulsory Education Act, or Right to Education Act (RTE), 2009 came into force on 1 April 2010. The Act makes education a fundamental right of every child between the ages of 6 and 14 years. Under Section 3(2) of the RTE Act, the children with disabilities as defined in Section 2 (i) of the PD Act, 1995 have been excluded from the domain of the Act which provides that disabled children shall continue to enjoy the right to pursue free and compulsory elementary education in accordance with provisions of Chapter V of the PD Act only. Also they have not been included in the category of 'child belonging to disadvantaged group' defined in Section 2 (d). The Union Cabinet, however, gave the approval for introduction of the bill for carrying out amendments in the RTE Act to include disabled children under its ambit and do away with the step motherly treatment given to them.²³

V. Conclusion:

The initiation of laws and policies by the government of India to protect the needs of disabled persons, especially the children with special needs, has paved a way towards the development of such persons. There is a great necessity to understand that these people with special needs are ends in themselves and not means to the ends of others. They are to be valued as human beings and not as things like chattels. The State is directed under the Constitution to work for the welfare of its citizens and the welfare means welfare of all. It is true that if such people are provided with some amenities and special facilities, it is because the government has an equal responsibility towards them and also as they are part of the same society and have equal right to participate in the utilizing the available means and resources. Giving them an equal opportunity with the others would be pragmatic approach to their self-reliance and creating facilities for their education would bring an ideal shift from their dependence to independence.

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