



CONSTITUTIONAL RIGHTS FOR INCLUSIVE – INDIAN CONCERN

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Inclusive Education

Inclusive Education brings all students together in one classroom and community, regardless their strength or weaknesses in any area, and seeks to maximize the potential of all students.

Inclusive is an effort to make sure that diverse learners – those with disabilities, different language and culture, different homes and family lives, different interests and ways of learning –are exposed to teaching strategies that reach them as individual learners.

Inclusion is an educational approach and philosophy that provides all students with community membership and greater opportunities for academic and social achievement. Inclusion is about making sure that each and every student feels welcome and that their unique needs and learning styles are attended to and valued.

Inclusive Education in Indian context: - In order to attract and retain children from marginalized and excluded groups, education systems should respond flexibly... Education systems must be inclusive, actively seeking out children who are not enrolled, and responding flexibly to the circumstances and needs of all learners' (Education for All: Meeting our Collective Commitments. Expanded Commentary on the Dakar Framework for Action,)

Inclusive education services allow children with disabilities to stay with their family and to go to the nearest school, just like all other children. This circumstance is of vital importance to their personal development. Interrupting a disabled child's normal development may have far more severe consequences than the disability itself.

Constitutional rights for inclusion in India

Policy and Legislative Frameworks In this section the main international and national level policy frameworks and legislations are explained that are relevant to education and to children with disabilities. 57 58 1. Constitutional Safeguards: The Constitution of India (26

November, 1949) clearly states in the Preamble that everyone has the right to equality of status and opportunity. It ensures for all its citizens equality before the law, non - discrimination and the right to life and liberty (Article 14, 15, 19 and 21 respectively of the Constitution). These Articles do not specifically refer to persons with disabilities but are general in nature. The article 41 of the Directive Principles of the Indian Constitution supports the right to work, to education and to public assistance in certain cases including disablement. Further, article 45 commits to the provision of free and compulsory education for all children up to the age of 14 years. Based on this, the Constitution (86th Amendment) Act 2002, has been enacted by the parliament making education a fundamental right of all children in the age group of 6–14 years.

2. Kothari Commission (1964–66): The Kothari Commission officially first addressed issues of access and participation by all. It stressed a common school system open to all children irrespective of caste, creed, community, religion, economic condition and social status. In 1968, the National Education Policy followed the commission's recommendations and suggested the expansion of educational facilities for physically and mentally handicapped children, and the development of an 'integrated programme' enabling handicapped children to study in regular schools.

3. National Policy on Education (NPE) – 1986: The NPE brought the fundamental issue of equality centre stage. Section 4.9 of the policy clearly focuses on the needs of the children with disabilities. "The objective should be to integrate the physically and mentally handicapped with the general community as equal partners, to prepare them for normal growth and to enable them to face life with courage and confidence.

4. Integrated Education of Disabled Children (IEDC): The Government of India's appreciation of the need to integrate children with disabilities came in 1974, when the Union Ministry of Welfare launched the centrally sponsored scheme of Integrated Education of Disabled Children (IEDC). In 1982, this scheme was transferred over to the then Department of Education of the Ministry of Human Resource Development. The centrally sponsored scheme of Integrated Education of the Disabled Children provides educational opportunities for the disabled children in common schools, to facilitate their retention in the school system, and also to place in common schools, such children already placed in special schools after they acquire the communication and the daily living skills at the functional level.

5. Plan of Action (POA) – 1992: The NPE was followed by POA (1992). The POA suggested a pragmatic principle for children with special needs. It postulated that a child with disability who can be educated in a general school should be educated in a general school

only and not in a special school. Even those children who are initially admitted to special schools for training in plus curriculum skills should be transferred to general schools once they acquire daily living skills, communication skills and basic academic skills.

6. Rehabilitation Council of India Act (RCI–1992): The POA was strengthened by the enactment of the RCI Act, 1992. Experience showed that there was no mechanism in the country to standardize and monitor the training of special educators and other rehabilitation professionals in the country. Therefore, in 1992, Parliament of India enacted the RCI Act, subsequently amended in 2000, to establish a statutory mechanism for monitoring and standardizing courses for the training of 16 categories of professionals required in the field of special education and rehabilitation of persons with disability. Training of special educators and resource teachers that can offer support services to children with disabilities in regular schools is the responsibility of RCI.

7. Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995: The most landmark legislation in the history of special education in India is the Persons with Disabilities (Equal opportunities, protection of rights & full participation) Act, 1995. This comprehensive Act covers seven disabilities namely blindness, low vision, hearing impaired, loco motor impaired, mental retardation, leprosy cured and mental illness. Chapter V (Section 26) of the Act.

8. National Trust Act–1999: Another landmark legislation is the National Trust Act. In 1999, the Indian Parliament passed an Act entitled “National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability. This Act seeks to protect and promote the rights of persons who, within the disability sector, have been even more marginalized than others. Though the National Trust Act of 1999 does not directly deal with the education of children with special needs, one of its thrust areas is to promote programmes, which foster inclusion and independence by creating barrier free environment, developing functional skills of the disabled and promoting self-help groups.

9. Project for Integrated Education for the Disabled (PIED): In 1987, to fulfil the provisions for disabled children in the NPE (1986), the government launched the Project for Integrated Education for the Disabled (PIED). It was a joint venture of MHRD and UNICEF. It states ‘wherever feasible, the education of children with motor handicaps and other mild handicaps will be in common with that of others’.

10. District Primary Education Programme (DPEP): The success of PIED led to the inclusion of the component of Integrated Education of the Disabled (IED) in DPEP, a scheme launched in 1994 by the Government of India for the development of elementary education.

At present, IED in DPEP is going on in 242 districts of 18 states. In these states, approximately 6.21 lakh children with special needs have been enrolled in regular schools with adequate support services.

11. World Commitment on Education as a Right: The right of every child to education is proclaimed in the Universal Declaration of Human Rights (1948) and was strongly reaffirmed by the World Declaration on Education for All (1990). The philosophy agreed upon at the Jomtien World Declaration included the following statements: • Every person – child, youth and adult – shall be able to benefit from educational opportunities designed to meet their basic learning needs. • The learning needs of the disabled demand special attention. Steps need to be taken to provide equal access to education to every category of disabled persons as an integral part of the education system. The UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities (1993) was an important resolution for improving the educational conditions of persons with disabilities. This had major implications for the Indian situation in the form of three legislative acts – the RCI Act (1992), PWD Act (1995) and National Trust Act (1999). For furthering the objectives of education for all, it considered the fundamental policy shifts required to promote inclusive education. It emphasises that schools should accommodate all children regardless of their physical, intellectual, social, emotional, linguistic or other conditions. The statement affirms, ‘Those with special educational needs must have access to regular schools which should accommodate them within a child centred pedagogy capable of meeting these needs.

12. The SarvaShikshaAbhiyan (SSA): SSA has been operational since 2000-01 in partnership with state governments to achieve the goal of Universalization of Elementary Education. This adopts a ZERO rejection policy and uses an approach of converging various existing schemes and programmes. It covers the following components under education for children with disability – • Early detection and identification. • Functional and formal assessment. • Education placement. • Aids and appliances. • Support services. • Teacher training. • Resource support. • Individual Educational Plan (IEP).

13. The RTE Act, 2009: After a continual demand of making the education a fundamental right from all corners, the government made the 86th Amendment of the Constitution of India (2002). The 86th Amendment introduced new Article 21A, making the right to education of children from 6 to 14 years of age a fundamental right. Article 51A (K) was added to Part IV-A of the Constitution as a fundamental duty of parents to provide opportunities for education to their children aged between 6 and 14. The Right of Children to Free and Compulsory Education Act, 2009, commonly known as RTE Act, 2009 was finally passed by the parliament on the 26th August, 2009 (notified on February 16, 2010 to come into effect from April 1, 2010). This act puts the responsibility of ensuring enrolment, attendance and completion on the government. The RTE Act tries to safeguard the rights of the children belonging to the disadvantaged groups and the weaker sections, protect them from any kind

of discrimination and ensure their completion of elementary education. As per Amendment in the RTE Act (2010). The landmark step mentioned in this Act that Section 12(1/C) mandates for private unaided and specified category schools to admit at least 25% of its entry level class from children belonging to weaker and disadvantaged groups. Disabilities are still not accepted by society as equals and have to make great effort to realise even their most basic rights. The obstacles in the path of development are overcome by struggles and hard work on the part of the disabled themselves and by others who advocate on their behalf.

1. The Challenge of Poverty Associated with Disability: India still has more than 260 million people living in poverty. A large number of children with disabilities live in families with income significantly below the poverty level. According to Mondal & Mete (2012), while disability causes poverty, it is also possible that in a country like India, poverty causes disability. The combination of poverty and disability results in a condition of “simultaneous deprivation”. So, motivating poor families, with all the associated costs to send their child to school, is proving to be a big challenge.
2. The Challenge of Modifying Deeply Held Attitude: Attitudes of the non-disabled are proving to be a major barrier in the social integration of persons with disabilities. Such attitudes reinforced by religious institutions may militate against any attempts to include students with disabilities into regular schools (Kauts & Bhardwaj, 2012). For example, Hindus believe that disability is a consequence of misdeeds performed in the previous life. Any attempts to improve the life of a person with a disability may be considered a “defiance of the wills of Allah or as interference with a person’s karma”.
3. A large number of school personnel are also not aware of funding available to include students with disabilities in regular schools. Unless people, especially parents of children with disabilities and school personnel, are made knowledgeable about the various provisions enshrined in the Act, the Central and State governments’ commitment 63 64 2006 National Policy Persons with Disabilities 2000 SarvaShikshaAbhiyan 1997 Inclusion of IED in DPEP 1994 The Salamanca Statement and Framework for Action 1994 Formulation of Centrally Sponsored Scheme of IEDC 1880s Establishment of Special Schools to providing integrated education will be in vain. The majority of school personnel in India are not trained to design and implement educational programs for students with disabilities in regular schools. Most teacher training programs in India do not have a unit on Disability Studies. The universities, which do cover some aspects of special education in their teacher training programs, fail to train teachers adequately to work in integrated settings. Moreover, the majority of schools in India are poorly designed and few are equipped to meet the unique needs of students with disabilities. The lack of disability friendly transportation services and accessible buildings are

considered by some to be far greater problems than social prejudice and negative attitudes. • Different ministries in India (MHRD, Ministry of Social Justice and Empowerment, Ministry of Labour etc.) have to work together for the education of the CWD. • There are more than one million NGOs working in India (Canadian International Development Agency, 2003). Although not all of them are working in the education sector, a large number still provide educational services to children with disabilities. These organizations can play a significant role in implementing integrated education because they are widely located in India and can serve both urban and rural school communities. • Attitudinal barriers engrained as part of India's historical response to disability must be changed through education programmes for both teachers and the general populace. • Make all schools inclusive by removing physical barriers, reviewing barriers created by admission procedures (screening, identification, parental interaction, selection and evaluation), building the capacity of teachers to function in an inclusive setting and by involving parents, family and the community at all stages of education. • Finally, the provisions regarding the education of the CWD under the Persons with Disabilities Act, 2005 and the RTE Act, 2009 must have effective and successful implementation. Conclusion There is no doubt that the dream for discrimination free and equal education for the children with disability may require a comprehensive change in the institutional arrangements and legal provisions but the most important change has to come in our minds, in our thinking and attitude towards the disabled. The need of the hour is concerted efforts amongst various stakeholders to be made in a time – bound manner. We need to fulfil our obligations to this country and to the international community. What is urgently needed is the political will to ensure that disability is included across all policies, across and all Ministries and Departments, and a time is fixed to make our facilities, schools, colleges, public places, etc. accessible for all people with disabilities and adequate resources allocated. Removing barriers to accessing education and to learning for children with disabilities are prerequisites for the realization of Education for All. To ensure that all children have access to quality education, education policies and practices must be inclusive of all learners, encourage the full participation of all, and diversity as a resource, rather as an obstacle. Inclusive education will pave the way to prosperity for individuals and for the society. This prosperity will, in turn, lead to a more peaceful and sustainable development of humanity. To conclude, we repeat the words of Prof. Tanmoy Bhattacharya (2010) – “With the conviction that a disability driven education system is empowering for all people and forms of knowledge, if such a change in ethos is brought about, we will all benefit.