



## CONSTITUTIONAL RIGHTS FOR INCLUSION: INDIAN CONCERNS

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### Abstract

*The Constitution of India guarantees 'free and compulsory education' to all the children between 6 to 14 years of age. The Right to Education (RTE) Act, 2012 allows the children with special needs to pursue the mainstream education, but most of them have to go to special schools, away from their peers who attend regular schools. However, there is a need that all students, irrespective of their impairment, should be educated in mainstream schools. Inclusive education addresses this issue. Inclusive education is an approach to educate the students with special educational needs with other students. Inclusion rejects the use of special schools or classrooms to segregate the differently abled children from other students. Generally, the schools use the inclusion model for selected students with mild to moderate special needs. Fully inclusive schools do not separate 'general education' and 'special education' curriculum; instead, the education curriculum is restructured in such a way that all students learn together. The present paper concerns on concept of Inclusion, Inclusive Education, and Constitutional provision given of Inclusive Education in India.*

**Keywords:-** Inclusion. Inclusive Education, constitutional provision, and Sarva Siksha Abhiya Etc



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### Concept of Inclusion in Education

The concept of inclusion was conceived in 1948 with the declaration adopted by the UN General Assembly on the "International Bill of Rights" which recognizes that all human beings are born free and equal in dignity and rights. This declaration fundamentally seeks to deal with the issue of discrimination at all levels in every facet of society. Inclusion is the acceptance of all people regardless of their differences. It is about appreciating people for who they are and their competences, rather than how they walk, talk or even behave. Inclusion also allows people to value the differences in each other by appreciating that each person is unique in his/her own creativity. Theoretically, inclusion is the creation of an enabling environment that provides for the acceptance of children with and without

disabilities to play and interact every day without any prejudices whatsoever, even if these children are receiving therapeutic services. In addition, for inclusion to succeed, it must be a passion that is shared by all the protagonists involved, including agencies, teachers, families, non-governmental organisations (NGOs), Chiefs, and the whole community.

### **Inclusive Education**

Education is the most effective way to break the cycle of discrimination and poverty that children with disabilities and their families often go through. In fact, it is about every child's right to participate in education, and the school's duty to accept him/her.

According to the Children's Act, 1998, children with disabilities have the right to be educated with their non-disabled counterparts of their own age. The Act also states that children should have access to the same general curriculum taught to children without disabilities.

Inclusive education, therefore, is when children with disabilities are placed in the same classroom environment as other children of their age who do not have disabilities.

The idea is for these children to attend school in their neighborhood with the same children whom they play with. This, it is believed, will enable these disabled children to make friends with their non-disabled counterparts and love school.

The concept of inclusive education is a relatively controversial subject for many parents and educators. However, the reality is that "inclusive education" involves modifications in philosophy, curriculum, teaching strategy, and structural organization. Such modifications go beyond just affecting those students labeled as "disabled" and even far beyond the purview of what is traditionally known as special education. In addition, each of these modifications has the potential to effect the necessary transformation and support needed by children with disabilities. Hence, it is essential that societies adapt their structures to ensure that all children, irrespective of age, gender, and/or disability, can enjoy their basic human rights without discrimination of any sort.

### **Constitutional rights for Inclusion: Indian Concerns**

The Government of India has created numerous policies around special education since the country's independence in 1947. Although the Government of India has attempted to create policies that are inclusive for people with disabilities, their implementation efforts have not resulted in an inclusive system of education, nor have they reached their goal of "education for all" across the country. The Government of India needs to bridge the gaps in their education system to build a strong system of inclusive education in India. Accountability of the Government of India and its implementing partners is imperative for ensuring successful

implementation of policy. One of the best ways to do this is to ensure that citizens are well informed about these policies and schemes.

The following are the few Constitutional provision/rights given for inclusion in India

- **Sargent report (1944):-** The C.A.B.E report, written by John Sargent, The British chief educational advisor, observed that the Indian government had not done much for the education of the disabled. What had done was due to the voluntary efforts and the country could 'profitably borrow' from the experiences and achievements of those country which had been active in this field (C.A.B.E, 1944). The 1944, Sargent Report also referred to the 1936 C.A.B.E recommendation which are directed the provincial governments not to neglect education of handicapped. The report can be said to be a landmark in the policy on 'Integration' of disabled children in general schools, though it continued its recommendation for special schools, but 'only when the nature and extent of their defect (made) it necessary. The report is important two points of view first, it recommended that the provision for the disabled should form an essential part of a national system of education and should be administered by the Education Department'. Second, 10 percent of the budget for basic and high schools had been set aside for the (education) services of the disabled. Special education in India continues to be administered by the welfare ministry (now called the Ministry of Social Justice and Empowerment) and is not a part of the regular system of education.
- **Kothari Commission (1964-66):-** The Indian Education Commission (1964-66) first suggest that the education of handicapped children has to be organized not merely on humanitarian grounds, but also an aspects of utility. The commission viewed that in spite of constitutional obligation on universal compulsory education for all, including children with disabilities, very little had been done in this regard. The Commission emphasized that the education of children with disability should be "an inseparable part of the general education system" commission is also specifically emphasized the importance of integrated education in meeting this target as it is cost effective and useful in developing mutual understanding between children with and without disabilities.
- **National Education Policy (1968) :-** National Education Policy (1968) followed the commission's recommendations and suggested the expansion of education facilities for physically and mentally handicapped children and the development of 'Integrated Program' enabling handicapped children to study in regular schools. Eight years later

a scheme for the integrated education of disabled children (IEDC), 1974 was started by the welfare ministry.

- **National Policy on Education (1986):-** The National Policy on Education was adopted by Indian Parliament in 1986. The policy emphasizes the removal of disparities, and ensuring equalization of educational opportunity under its Para education of the disabled. The measures may be taken in this regards are :Wherever feasible, the education of children with loco motor handicaps and other mild handicaps will be commonwith that of others; Special schools with hostels facilities will be provided, as far as possible at district head headquarters for the severelyhandicapped children, Adequate arrangements will be made to give Vocational training to the disabled, Teacher’s training programs will be reoriented, in particular for teachers of primary classes, to deal with the specialdifficulties of the handicapped children, Voluntary effort for the education of the disabled will be encouraged in every possible manner.
- **Bahrul Islam Committee (1988):-** The committee included education in the Draft Legislation. It mentioned that the state should endeavor to provide free and universal elementary education to children with physical and mental disabilities. The state shall also provide assistanceto them for education and training at the secondary and higher levels. It also emphasized promotion of integrated education and continuation of residential education.
- **Programme of Action (1990,MHRD):-** This program outlined the measures to implement the policy, which included massive in-service training programsfor teachers, orientation programs for administrators, development of supervisory expertise in the resource institutions forschool education at the district and block levels, and provision of incentives like supply of aids, appliances, textbooks andschool uniforms.
- **Programme of Action (1992,MHRD):-** The NPE/POA 1986 was modified and a new POA was chalked out in 1992. The 1992 POA made an ambitiouscommitment for universal enrolment by the end of the Ninth Plan for both categories of children: those who could be educatedin general primary schools and those who required education in special schools or special classes in general schools(MHRD, 1992, p.18). It also called for the reorientation of the preserves and in-service teacher education service and in-service teacher education programs.

- **World Commitment on Education as 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 equalization of opportunities for persons with disabilities (1993):-**It 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). The Salamanca Statement and Framework for Action on Disability Education (1994) emerged as a result of deliberations held by more than 300 participants representing 92 governments including India and 25 international organizations in June 1994. For furthering the objectives of education for all, it considered the fundamental policy shifts required to promote inclusive education. It emphasizes 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 centered pedagogy capable of meeting these needs’
- **The Sarva Shiksha Abhiyan (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 programs. 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), Parental training and community mobilization, Planning and management & Strengthening of special schools.
- **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), children with disabilities have been included in the definition of child belonging to disadvantaged group in the Section 2(d) of the RTE Act. 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.

## **CONCLUSIONS**

The education system in India is changing. It is time for policies to start aligning with realities on the ground, and for students of all ability levels to receive the education they deserve. With the passage of The Persons with Disabilities Act in 1996, India has joined the few countries that have legislation to promote integrated education. This is a landmark step as India has now overcome a major legislative hurdle. A number of unique challenges still need to be overcome in order to implement the key objectives enshrined in the legislation. Attitudinal barriers engrained as part of India's historical response to disability must be changed through education programs for both teachers and the general populace. These programs require financial and collaborative commitment from key national and state education stakeholders, and partnership with universities to support research-based initiatives. Success in achieving integrated education will ultimately depend on how Indian educators and educational systems can collaborate to deal with difference in India's culturally charged context.

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