

Constitutional and Legislative Measures for Inclusive Education in India

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ABSTRACT

India as second most populous country in the world has 21 million (2.1%) disabled population with varying disabilities (Census 2011). The disabled population in India suffers from multiple issues like: socio-economic and political marginalization. Their educational status does not match with general category. They have witnessed educational backwardness due to governmental and societal factors. The present paper is aiming to gauge the performance of various Legislative and Constitutional measures for improving the educational status of the disabled population. The study at the end made various suggestions that will be helpful to bring the educational inclusion among the disabled population at par with the general category.

Key Words: Constitution, Disability, Inclusion, Marginalisation,

INTRODUCTION

“People with disabilities are vulnerable due to many barriers we face: physical, financial and attitudinal. So, addressing these barriers is within our reach and we have the moral responsibility to do so. But the most important barriers that need to be addressed is to unlock potential of those people. The Governments around the globe can no longer overlook the hundreds of millions of people with disabilities who are denied access to various facilities like: Health, Education, Employment, Rehabilitation and support and never get the chance to shine.”

Stephen Hawking

WHO (World Health Organisation) defines Disability as an umbrella term that covers both participation restrictions and impairments. Disability is not only a health problem, but it is a complex phenomenon, that reflects the interaction between features of a society and a person's body in which he/she lives. Therefore there is need for interventions to remove the social and environmental barriers. India being the second most populous country in the world is the home to 2.67 crore disabled population that constitutes approximately 2.21% of the total population of the country. The country has adopted the welfare model with inclusiveness. Therefore, inclusive developmental approach towards sustainable development is being focused with the objective of Political, Social and Economic inclusion.

Inclusive Education as an approach seeks to educate children that suffer from disability as well as learning difficulties with the other ordinary students under same classroom setting (Kumar & Kumar 2007). The approach seeks to address the learning needs of students with disability and aims to focus upon their marginalization and exclusion. The historical aspect for inclusive education dates back to pre-Independence era. The efforts were made to draft a strategy to mainstream the education system in India. The first schools for deaf and blind were respectively established in Mumbai (1883) and 1887. However, with the passage of time and efforts made by Independent Government of India, the strength of these institutes increased to more than 3000 (Department of Education 2000). The efforts were also made in 1960's for imparting relevant training skills to teachers. Eventually, the responsibility to monitor and regulate the activities related to Disabled population was given to Department of Social Justice, Ministry of Social Welfare. Deepa (2006): Inclusion of disabled children will be most important element in India's current education policy, but there exists the difference between the law and its implementation. So there is need for effective implementation of different laws and policies for inclusion.

According to Ghosh (2017), Inclusion of individual disabilities is a societal challenge in the contemporary era in Indian context. So, he stressed the need to overcome the following challenges for implementing the inclusive educational initiatives: Lack of trained teaching faculty for inclusive education, lack of resources, lack of political will and social-economic barriers. Rao, K. & Matsui, M. (2017) found that, children from disabled section are missing from mainstream discussion when it comes to discuss inclusive education, skills and policy making. Thus, they found that following suggestions will be helpful to bring the disabled population to mainstream:

- i. To equip the parents of disabled children to identify their disability
- ii. Parents should help their children to enrol in different schemes to avail benefits.
- iii. Assessment of school infrastructure and availability of quality education should be made.

Thus, there is need to develop such an inclusive educational model that would include the following elements:

- i. Diversity: Respect for difference and acceptance to disability.
- ii. Equal and Non-discriminatory educational system.
- iii. Accessibility: Physical, Virtual, Auditory etc.

LITERATURE REVIEW

Deepa (2006) conducted the study on "Educating the disabled: Included by law, but little else in India". In the study author found that inclusion will be key word in India's current education policy, but there exists the difference between the law and its implementation. The author found that schools in India do not have presence of special counsellors and educators. So there is need for effective implementation of different laws and policies for inclusion.

Kumar & Kumar (2007) in their study titled as "*Inclusive Education in India*" have analysed the current status of Inclusive Education in India. The authors have

found that India is being counted among few countries where education for specially abled persons does not comes under Ministry of Human Resource and Development. They have in the study has mentioned that 70% of population is living in rural areas, but they lack certain provisions for Inclusive Education. So they stressed the need to impart training skills for teachers for effective teaching to Disabled students.

Chatterjee, A. (2015) in the research titled as *“Inclusive education in India”* finds that 10% of global population lives with a disability and 80% of them are in developing countries. The author held as the time moves the world community becomes fully aware about differences between the three special models of education- Segregated, Integrated and Inclusive, while as the three models are used interchangeably in the Indian sub-continent. The author mentions that Government of India has brought into a variety of policies into operation for the disabled persons but many of them were lacking inclusivity in true terms. Therefore, researcher has found that many inclusive policies have done discrimination against those people who are suffering from severe disabilities and intellect disabilities. The author suggested the holistic change in curriculum, testing pattern to bring the inclusivity in education in the real terms.

Pareek, S. (2015) wrote an article titled as *“Seven Governmental Initiatives that aims to improve lives of Disabled population”*. In the article, the author said that the Government is focused to launch “Accessible India Campaign” that will focus on making India disabled friendly nation. However, the campaign will include seven initiatives that will cater the need for disabled people and will be helpful to improve their life standard.

Singh, Y. (2015) conducted the study on *“Problems and prospects of inclusive education in India”*. The author highlighted the UNICEF’s report on the status of disability 2000 and states that 30 million children’s in India are suffering from some form of disability. The 6th “All India Educational Survey” (NCERT 1998) has highlighted that 20 million (6-14 years) school going children in India should be provided with unique needs edification. The author further states that disability is not seen as a potent factor in education marginalization. The author concludes by saying that to attain the inclusivity in real terms and to meet the MDG’S and UN’s convention of rights of disabled persons 2008, India requires and serious planning and efforts.

Pavenko, O. et al. (2016) presented the research paper titled as *“Inclusive Education in India: Implementation and Issues”*. In the paper researchers have found that, India is home to more than 20 million disabled people. The researches have mentioned that most of adults and children do not have access to education, even if they complete their education nobody is helping the children to enter into the mainstream of community.

Singh, J. (2016) in the research titled as *“Inclusive education in India: concept, need and challenges”* has analyzed the present scenario of education system of country. According to author there were 70 million out of school children in 2010 which is quite lower than 110 million in 1990. The author presented the picture of rural India which accounts for approximately 80% of India’s population and found that nearly 8 million children with specially abled capacity are far away from the educational purview due to the absence of specially needed schools. The author

found that the education system of country is marred with a bag of issues which creates the hindrances for the inclusive education system. The author stressed the need for inclusive classrooms and the Governments active role in inclusivity of marginalized to bring equity in the society.

Bishnu, S. (2017) conducted the study on “*Policies for developing Inclusive Education system: A Review*”. The author has found that globally hundreds of thousands of children are living with one or other form of disability. According to author, children with disability were marginalized by tradition within the society or they have been barred from schooling due to their noticeable difficulties. But the global community had made different attempts to bring the disabled community in the mainstream. However, the author has made following suggestions to improve the inclusiveness in education:

- i. Total acceptance of disabled children into customary society and schools.
- ii. Collaboration should be made between parents, teachers and administration to support inclusive education.

Ghosh, S. (2017) conducted the study on “*Inclusive Education in India: A Developmental Milestone from Segregation to Inclusion*”. The author in the study has found that Inclusion of individual disabilities is a societal challenge in the contemporary era in Indian context. The author in the research has highlighted the following challenges for the effective inclusion of Disabled population in India. The following challenges are being highlighted by author for inclusion in India:

- i. Lack of trained teaching faculty for inclusive education.
- ii. Lack of resources for undertaking various inclusive initiatives
- iii. Inappropriate and outdated curriculum
- iv. Lack of political will and social cum economic barriers

Rao, K. & Matsui, M. (2017) in their article titled as “*Making education inclusive for children with disabilities*” have found that, children from disabled section are missing mainstream discussion when it comes to discuss inclusive education, skills and policy making. The authors have found that, identifying disability is a challenge because various factors like under-resourced environment and poverty worsen the situation. The authors made following suggestions to make the education inclusive:

- i. To equip the parents of disabled children to identify their disability
- ii. Parents should help their children to enrol in different schemes to avail benefits.
- iii. Assessment of school infrastructure and availability of quality education should be made.

RESEARCH OBJECTIVES:

1. To study the socio-economic conditions of Disabled population in India.
2. To evaluate the educational status of Disabled population in India.
3. To suggest the measures, that will be helpful to improve the life standard of disabled population in India.

DEMOGRAPHIC STATUS OF DISABLED POPULATION (2011 CENSUS)

Total Disabled Population	<ul style="list-style-type: none"> ▪ 2.68 Crore (2.21% of Total Population) <ul style="list-style-type: none"> ▪ Males: 1.5 Crore (56%) ▪ Females: 1.18 Crore (44%)
Population Distribution	<ul style="list-style-type: none"> ▪ Rural: 69% ▪ Urban: 31%
Educational Status	<ul style="list-style-type: none"> ▪ 55% population is literate <ul style="list-style-type: none"> ▪ Male literacy: 62% ▪ Female literacy: 38% ▪ 61% children (5-19 years) are attending school <ul style="list-style-type: none"> ▪ Male: 57% ▪ Female: 43% ▪ Approximately, 54% of the children with one or other form of disability have never joined the school. ▪ The figures show that, 50% of the children with intellectual disability have never joined the school. ▪ Only 7.8% of disabled literate population are graduates
Employment Status	<ul style="list-style-type: none"> ▪ Only 36% of total disabled population is working <ul style="list-style-type: none"> ▪ Male working population: 47% ▪ Female working population: 23%

Source: Census 2011 Report

CONSTITUTIONAL PROVISIONS

Independence from Britain brought a bag of issues to the constitution makers. There was an urgent need to incorporate certain provisions for the socio-economic upliftment of marginalized sections of society. Among the societal groups is the disabled population which is at the disadvantage of receiving the equal treatment. So following Articles were incorporated in Indian Constitution for providing them equal treatment and improve their life standard:

- i. The preamble mentions the key words like: Equality, Liberty, Socio-Economic and political justice. It aims to build a society, that will treat each and everyone equal irrespective of religion, place of birth race etc. It also aims to provide Socio-Economic and political equality and justice to all.
- ii. Article 14: Right to Equality- includes Equality before law and Equal protection of law for all the citizens of country irrespective of religion, race or any other.
- iii. Article 41: The Directive Principles of State Policy (DPSP) are the moral guidelines for state. The Article 41 as a DPSP acts as the catalysts to fulfil the rights like: right to be educated, work and public support in assured cases as well as disability.
- iv. Article 45: the said article has provisions for free and compulsory edification for all children upto 14 years of age. However as a DPSP, it was not obligated upon the state to give the practical shape. But the 86th

Amendment Act 2002 gave it practical shape and has been included in Part III (Fundamental Rights) under Article 21A.

LEGISLATIVE MEASURES

The Government of Independent India had made various bold initiatives to mainstream the marginalized communities of India. These initiatives were in the form of Constitutional Provisions and Legislations. Thereby, the Government of India under various legislations made provisions for the socio-economic upliftment of 21 million disabled populations.

The government of India has enacted the “National Policy on Education” 1986 (NPE, 1986) with the objective to endorse literacy among the Indian populace. Under NPE, Programme of Action (POA) 1992 was included, that was aimed for integration of disabled children with special needs with other groups. Under NPE, the objective was to integrate disabled populace of country with general community. It stressed the need to augment their will and enable them to develop confidence and courage to face challenges of life.

The “Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act”, 1995: The act was mandated to fulfil the following objectives with respect to disabled population:

- i. To endow the disabled population with free education in an appropriate environment until they attain 18 years of age.
- ii. Transport facilities to disabled students should be made available to enable them to join school.
- iii. The physical infrastructure of educational institutions should be made accessible to disabled population by removing the physical barriers.
- iv. Special scholarships should be made available to them.
- v. Restructuring of school curriculum to avail benefits to them.

The “National Trust Act (National Trust for the welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability)” was enacted in 1999. The act seeks to protect and promote the rights of persons within the disabled population who are more disadvantaged than the others. Its prime objective was to provide special care to persons suffering from “mental retardation and cerebral palsy”.

The “National Policy for Persons with Disabilities” was enacted in 2006. The policy brought in certain preventive measures for the upliftment of Disabled population. The policy has documented the disabled persons as valuable human resource for the country. It also aims to seek to craft an setting that will provide “equal opportunities, protection of rights and enable the full participation” of disabled population.

Social Statistics Division was created under Ministry of statistics and programme implementation, Government of India. It has been given the responsibility to collect the data on socio-economic profile for welfare of disabled population. The collection of information helps to identify the deserved target groups and enable them to avail policy benefits.

“Sarva Shiksha Abhiyan” (SSA): The Government of India had brought in SSA in educational aspect with the objective to achieve the goal of “Universalisation of Elementary Education” (UEE). The UEE has three objectives to fulfil- Access, Enrolment and Retention of all children in the age group of 6-14 years. The SSA adopted “Zero Rejection policy” approach to ensure every disabled child should have access to meaningful and quality

education and it also converge various schemes and programmes within its purview. SSA has following components:

- i. Early detection of disability, formal assessment and Educational Placement
- ii. Teacher training and Resource support
- iii. Parental training and community mobilization
- iv. Elimination of physical barriers

Accessible India Campaign is the nationwide campaign launched by “Department of Empowerment of Persons with Disabilities (DEPwD)”, Ministry of Social Justice and Empowerment, Government of India. The campaign was aimed to make barrier free and conducive environment for Divyangians. The campaign has the vision to build an inclusive society which will provide equal opportunity for the growth and development of all.

INTERNATIONAL AGREEMENTS

India after attaining independence from Britain had undertaken various initiatives to cooperate with international agencies for various developmental issues related to disabled persons. The following are the initiatives where India got involved with global partners to devise the strategy and plan for the socio-economic upliftment of disabled people:

- “Declaration on the Full Participation and Equality of People with Disabilities in the Asia Pacific Region” (2000). India is also a signatory to it. It aims to provide an opportunity to disabled people in Asia Pacific Region in various developmental issues related to: Political, Economic and Social.
- “Biwako Millennium Framework” (2002) and “Biwako Plus Five” (2007): India is signatory to the framework. It aims for action towards an “inclusive, barrier free and rights based society” for persons with disabilities.
- “United Nations Convention on the rights of Persons with Disabilities” (2008). India as a member state and party to United Nations has ratified the convention. The convention is intended as human rights instrument that aims to enable disabled people to enjoy all “human rights and fundamental freedoms”. It aims to “promote, defend and reinforce” the human rights of all the persons with disabilities.
- The “Incheon Strategy to ‘Make the Right Real’ for Persons with Disabilities in Asia and the Pacific ” (2012) is aiming to provide the Asia-Pacific Region and the world with first set of regionally agreed disability inclusive development goals.
- “Sustainable Development Goals” (2015) made the slogan “Leaving No One Behind”, i.e. “recognising the dignity of all the human beings as fundamental to their life”. The SDG 4 is aiming to “Guarantee equal and accessible education”. SDG 6 stands for the “promotion of Inclusive Economic growth and productive employment”. SDG 10 stands for “socio-economic and political inclusion”. SDG 11 aims to create “accessible cities, water resources and sustainable transport system”.

FINDINGS AND CONCLUSION

According to 2019 “State of the Education Report for India: Children with disabilities”, children with disabilities constitute 1.7% (78, 64,636) of total children population of India. The report has found that “the number of children enrolled in school drops significantly with each successive level of schooling”. The girls with

disabilities are joining the school in lesser number as compared to male disabled children. However, a review of enrolment of National Institute of Open Schooling (NIOS) has found that for most categories of disabled category children there is declining in enrolment from 2009 to 2015. While as dropout scenario has been observed in students having locomotor, impairment and multiple disabilities. Thus, According to UNESCO report, the “attitude of parents and teachers” is crucial towards disabled children to bring them into mainstream education and it is also crucial to accomplish the goal of inclusive education. Thus, there is need to establish a coordinating mechanism under Ministry of Human Resource and Development for “effective convergence of all education programmes of children with disabilities”.

SUGGESTIONS

The following suggestions are being made for the socio-economic and political upliftment of Disabled population in India. These suggestions will be helpful to craft awareness among the disabled population regarding their rights and will make government accountable for its actions.

- i. Presently, there is no standing condition of disability. So there is need to redefine the Disability, so that no one should be left out from the inclusive policy benefits in India.
- ii. There is need for categorical acceptance of children with disability into regular neighbourhood and educational setting.
- iii. Collaboration should be made between parents, teachers and administration to support inclusive education.
- iv. There is the need to equip the parents of disabled children to identify their disability.
- v. Parents should help their children to enrol in different schemes to avail benefits.
- vi. Assessment of school infrastructure and availability of quality education should be made.
- vii. There is need to reframe and restructure the inappropriate and outdated curriculum of educational institutions on the modern lines.
- viii. There is need to develop the strong political will and commitment for effective inclusive policy formulation and implementation.

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