

A critical analysis of educational policies and acts related with disability in India

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Abstract

Since India's independence, many policies were structured, but neither the inclusive education system is established nor did the goal of "Education for All" accomplish yet. In-depth analysis of the education policies for people with disability is important to derive the information about course of special education and inclusion in India. In this paper, a historical review of the policies, acts and deeds which have caused an impingement on the life of people with disability in India, has been presented. It has been a significant focus of several international policies and India is signatory to many of these international declarations. So, it is imperative to understand the ways in which the international policies have influenced the policies and practices across India. The contemporary scenarios pose atypical challenges for effectively and efficiently addressing the diverse needs of individuals with disability which in itself is too heterogeneous. This raises the requirement for a critical evaluation of the emerging issues and challenges with specific reference to children with special needs on one, two or multiple grounds. These will include a range of special needs emerging due to an interface of physical, cognitive, social, cultural and economic circumstances of the individuals.

Keywords: educational policies, acts, disability

Introduction

According to the Census 2011 (Registrar General of India, 2011), there are 2,68,10,557 persons with disability in India who constitute 2.21 per cent of the overall population. This includes eight different types of disabilities. An approximated 69.5 per cent of people with disabilities live in the rural regions of the state. It is imperative to see a reflection of these data in the policy of education. It is likewise important to get an intellect that how education policies concerning people with disability have gradually developed and acquired a shape. There are spiritual, socio-historical and political facts which can be utilised to get an idea about the course of special education for the education of people with disability and inclusion in India. In this paper, a historical review has been presented of the policies which have an impact on the life of people with disability in India. We have a number of models of disability such as moral, medical and social models which evolved as the time changed in India. It is constantly believed among a majority of people that disability is a curse, social stigma, an undesired problem, and caused by previous birth's bad karmas. Only in social model, shortcomings of the surroundings were emphasised which include attitudes of the community, policies and processes of organizations towards persons with disability. "The traditional joint family, which provided an inbuilt system of supporting people by fostering the old, sick and disable" (Karna, 2001) ^[3], yet disabled people continued to remain neglected and ridiculed. The Hindu society in India is built of caste segments in a hierarchical social system. In certain regions of India, during the stage of ancient history, "Gurukul" system utilised to be the education institutions in which scholars, primarily; upper caste boys lived in the teacher's home and learnt skills relevant to their caste groups. In the 17th century, there were many institutions like Nalanda, Takshashila, etc. notwithstanding, no documentation is available about the presence of people with disability in these indigenous institutions of basic and higher instruction.

Historic Review

The earliest documentation available is from the period when India was under British dominion. It is in 1869 that the first school for the blind was founded. As per Disability Status Report (RCI, 2012), in the British period of late 19th century, very few services were available for people with disability from private sectors and non-governmental organisations (NGO's) on charity basis or as religious deeds. During the 1800s, all the special schools for people with disabilities included only physical disabilities; in 1918, the first school for people with intellectual disabilities came into existence. In 1909, for the first time an effort was made in the legislation for establishing inclusive education in India. Gopal Krishna Gokhale, in the Imperial Legislative Council enacted a bill under the Indian Council Act of 1909 to make primary education compulsory and had a proposal of funding for compulsory education for all. Unfortunately, this bill was not passed. In 1944, Sargent Report (Central Advisory Board of Education, 1944) stressed on the education of children with disabilities so that they can be integrated. In this period, many trade schools and workshops were started in urban areas for children with disability but because of the expensive fees, children with disability of weaker sections and rural areas could not attend these facilities. Even when India got independence, the context for people with a disability did not vary a great deal. They were least catered and there were no evidence of special provisions or services for people with disability at the time of partition.

Post-Independence Period in India

In independent India, governed by constitutional rights, it is the major responsibility of the state governments to provide education, and the union (central) government kept on taking the responsibility for the coordination in technical and higher education and to form the educational standards. Sharma and Deppeler (2005) mention that "the segregated facilities for

education of children with disabilities did well after India's independence from the Great Britain in 1947." In 1960, a division called the Ministry of Social Welfare was created, which was given the responsibility for the "marginalised" sections of society. It primarily focused on rehabilitation and started giving grants for instruction of minors and people with disability without giving emphasis on inclusion of people with disability. Kothari Commission (1964-66) (Education Commission, 1966) stressed the need for the development of a comparatively small but effective programme for the education of people with disability for equalisation of educational opportunities. Further, the Ministry of Education introduced a new division namely Ministry of Social Welfare (MSW) which took the responsibility of assisting NGO's. This transfers the responsibility of education and ministrations of people with disability and moved at once against the report and recommendations of Kothari Commission about inclusion, or at least integrated education. After that the Integrated Child Development Scheme (ICDS) was initiated in 1974 and was later revised in 1992. MHRD (1992) concedes that this scheme endeavours to provide pre-school and health facilities to weaker sections of the population, but it did not embrace people with disabilities. This scheme emphasised that children with mild and moderate disability should be grouped but children with severe disability must be catered separately. Thus, it was not totally inclusive, and generated stress among regular and segregated special education schools. Alur (2002) asserted that formation of MSW and ICDS stops the execution of action plan of Kothari Commission. Till 1970s, these schools were the primary method of service delivery for children with disabilities. According to Pandey and Advani (1997)^[9], by 1991 there were about 1,200 special schools for students with various types of disabilities in India.

Educational Policies in India

In India, the first national policy came in 1968 and was called NPE (National Policy on Education) 1968. It endeavours that "Educational facilities for the physically and mentally handicapped children should be expanded and attempts should be made to develop integrated programmes enabling the handicapped children to study in mainstream schools." (MHRD, 1968). In 1974, another scheme was introduced namely the Integrated Education of Disabled Children Scheme (IEDCS) created by the Ministry of Welfare, it should not to be confused with ICDS (above). IEDCS aims to cover up children with disabilities under the regular system of education in 27 states and 4 UTs (MHRD, 1992a). Though this scheme caters 15,000 schools and has enrolled 60,000 children (RCI, 2000), Rane (1983)^[10], in his evaluation of IEDCS programme in the State of Maharashtra, reported that there was a lack of trained teachers, materials and equipments. Various departments related to this scheme also showed poor coordination which leads to failure of IEDCS. It was reported by Mani (1988)^[6] that till 1979-80, this programme benefitted only 1,881 children from 81 schools across the country. In 1976, a Constitutional amendment made education a combined responsibility of both the governments—states and union. Article 45 of the Indian Constitution suggests that all the children have right to get free and compulsory education, which include people with disability. Parliament adopted The National Policy on Education (NPE) in May 1986. This policy also stressed on abolishing the discrimination and give equal opportunities to all by providing

facilities to those who have been neglected. NPE states that children with "mild" disabilities should be permitted to receive an education in regular classrooms, whereas children in the class of "moderate to severe" disabilities should be placed in specialised schools. One can say that this policy contradicted Article 45 of Indian Constitution, which mentioned equality in education as a fundamental right for all, and not just those with "mild" disabilities. NPE was created in 1986; it was not implemented until the Programme of Action (POA) was created in 1992. The POA (MHRD, 1992b) suggested a pragmatic principle for placement. It suggested that children with disability who can be integrated in regular school must get education there only. And the children with disability who face problems in acquiring skills such as daily living skills, communication skills and basic academic skills, etc. may be entitled to special set-ups but when they learn these skills and can be integrated in regular schools, must be shifted to regular schools. However, POA did not define what constitutes basic living skills. The POA envisaged provision of an additional 400 special schools at the district headquarters. However, because of limited resources, the concerned authorities failed to establish even a single new special school. According to Verma, Christopher and Jha (2007)^[4], schools had opened many resource centres for the weaker and marginalised children which aimed to provide learning resources after regular school hours, but not during the normal school day, eliminating the possibility of inclusion for these students. In 1993, the Supreme Court's Unnikrishnan judgment came which reads that Article 45 must be read in conjunction with Article 21 of the Constitution, where Article 21 states that "No person shall be deprived of his life or personal liberty except according to procedure established by law." This law strengthened the educational welfare of weak and vulnerable section of society, including persons with disability.

Special Acts and Policies Related to People with Disability

In 1987, an act came for mentally ill persons called The Mental Health Act. This Act revoked the Indian Lunacy Act, 1912 with an objective to consolidate the law, enacted for mentally ill persons. The same year, in 1987, the MHRD allied with National Council of Educational Research and Training (NCERT) and The United Children's Fund (UNICEF) framed a Project for Integrated Education for the Disabled (PIED) which strives to reinforce the IEDC plan. PIED adopted a "Composite Area Approach" that transformed all regular schools into integrated schools within a specified area. According to Azad (1996), approximately 13,000 children with disabilities received educational services in regular schools. More than 9,000 teachers received training to work with children with disability in integrated schools. In 1992, Rehabilitation Council of India Act (RCI) came and it became a statutory body in 1993. It notes that anyone offering services to people with disability, who do not have qualifications recognised by RCI, could be prosecuted. After three years of maintaining the same spirit, Persons with Disabilities Act (PWD) 1995, (Ministry of Law and Justice, 1996) stated to protect and encourage economic and social rights and made provisions of education, employment, creation of barrier free environment, social security i.e. complete participation and equality of the people with disability. This Act also protects the right of children with disability by ensuring that whoever, fraudulently avails or attempts to avail, shall be punishable. PWD acted as a catalyst for various other projects like "District Primary Education Program" (DPEP). In order to

expand educational opportunities for differently abled children, the Central Government's last Five Year Plan (1997-2002), set aside 1,000 million rupees specifically for the provision of integrated education. DPEP was a combined effort of the Indian Government's Department of Education and the World Bank. The primary aim of the DPEP was to provide "education for all" by the year 2000. DPEP (2001)^[5] asserted that the main focus of DPEP was laid on the inclusion of children with mild to moderate disabilities. According to the World Bank (2007), by the year 2006, the DPEP act was enacted in 23 districts in 3 states; Rajasthan, Orissa and West Bengal, and 6,00,000 children with disabilities were enrolled and mainstreamed. Kumar, Priyam and Saxena (2001)^[5] concede that in India, the DPEP was enacted in 240 districts across 16 states. Despite this, surveys mentioned a fall in growth at the primary enrolment stage in most Indian states. In 1999, National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act came. Later, a national level body was constituted. This Act is valid throughout India except Jammu and Kashmir. In this Act, definitions of terms such as 'autism', 'cerebral palsy', and 'Persons with disabilities', etc. were clarified. Ministry of Social Justice and Empowerment (MSJE) 1999 asserted that this trust provides financial assistance for these four disabilities only but it introduced various schemes namely "Reach and Relief Scheme" and "Samarth Scheme", etc. Majumdar (2001) analysed that only few facilities like government scholarships in some institutions for students with disability were available but there was not a single good scheme for the people with mentally disability. In 2002, education became a fundamental right for all children aged 6-14 years in the 86th amendment of Constitution.

India's Stand on International Policies and Guidelines Related to People with Disability

With change in the policies and acts with time, India is also witnessing some international happenings also related to people with disability like the year 1981 was declared as 'International Year of Disabled Persons'. Also the years 1983 to 1992 as 'Decade of Disabled Persons' by General Assembly of United Nation. 1993 to 2002 was declared as 'Decade of Disabled Persons' by UNESCAP (United Nations Economic and Social Commission for Asia and Pacific). These international deeds again bring the focus on 'people with disability'. The World Conference on Special Needs Education in Salamanca in 1994 (UNESCO, 1994), have encouraged many countries, including India to think about the welfare of people with disability. India is also signatory to the Declaration on the Full Participation and Equality of People with Disabilities in the Asia Pacific Region. India is also a participant of the Biwako Millennium Framework for contributing in building an inclusive, barrier free and rights based society and the UN Convention on the Rights of Persons with Disabilities. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) was signed in 2007 by India which was enacted later in 2008.

Analysis of Policies and Acts

In this section, an analysis of pertinent policies related to people with disabilities has been presented. Most of the policies and acts adopted 'binary perspectives' for handling issues of children with disability. First, all these policies emphasized on the mainstreaming of children with disability, i.e. they should not be segregated and on the contrary they stress on special schools too.

Though Sargent Report-1944 (Preindependence) first time recognized the need of education of people with disabilities, but it adopted the 'binary perspectives' to cater to children with disability. After twenty years, Kothari Commission-1966 (Post-independence) also alleged that "many handicapped children feel psychologically broken after being placed in an ordinary school" (Education Commission, 1966, p. 109). This statement conveyed the inclination of the Commission on sending children with disability to special schools. This shows that binary approach of reports continued in education policies from British rule to independent India. The NPE 1986 and POA-1992, both incorporated the educational well being of children with disability as a specific agenda. It was for the first time that education of the people with disability had been recognized as human resource development activity rather than a mere welfare activity. But in Section IV of the National Policy of Education (1986) entitled 'Education for Equality' states that 'where feasible children with motor handicaps and other mild handicaps will be educated with normal children, while special residential schools will be facilitated for severely handicapped children' (MHRD, 1986). It also displays that in independent India even after twenty years, education policies keep going with 'binary perspective'. In 1995 also, 'binary perspectives' can be observed in the act meant for persons with disability called PWD-1995 (Ministry of Law and Justice, 1996), which notes that, "it endeavours to promote the integration of students with disabilities in the normal schools" and also encourages the "establishment and availability of special schools across the nation" in both Government and private sectors. Also, a major drawback of the enactment of the PWD was that in every clause, it was written "within the economic capability of state". Therefore, PWD did not immediately translate their promises into action because of lack of finance, though it acted as the impetus for a number of other development projects.

After reviewing all the educational policies one can see that none of the policies has identified girl-students with disability as a separate group and realised that they are more vulnerable and need specific attention. Only in Draft rights of persons with disabilities bill, 2012, first time issues of women and girls with disabilities was considered. Secondly, most of the policies attempt to demonstrate an inclusive education system under the influence of international policies and guidelines as India is signatory to a number of international declarations. For example, Sargent Report -1944 was criticised to be a copy of the design of the education system practiced in England and the PWD - 1995 Act also showed resemblance with the United State's 'Americans with Disabilities Act' (ADA).

The term used and meaning of disability varies and gradually changes in policies and acts as the time changes. All the policies and acts of 1990's e.g. Sargent Report-1944, Kothari Commission-1966 and even in NPE, 'Handicap' term was used to refer people with disability. In these policies and acts, 'People First' terminology was not adopted. An example of gradually change of definitions was in RCI-1992, which defines many terms such as 'mental retardation' and 'rehabilitation professionals' and the term like 'Handicapped' was referred to PWD Act, 1995, then, later it was replaced by 'Persons with Disabilities' in the amendment of this Act in 2000. Afterwards all the policies and acts of late 1900's tried to pay attention to 'People First' terminology and called 'People with disability'. In National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act (1999),

the definitions of terms such as ‘autism’, ‘cerebral palsy’, and ‘Persons with disabilities’, etc. were clarified. The definition of ‘mental retardation’ was same as RCI Act 1992 and the definition of ‘Multiple Disabilities’ was taken from PWD Act 1995. Yet one can pinpoint many places in these policies and acts, where they did not pay attention to ‘People First’ terminology. In the SSA framework, a new term ‘Children with Special Needs’ (CWSN) was used but the scenario did not change much for the people with disability. All the policies from late 1960’s seem to lean towards inclusion. But in real terms these policies were not impeccably inclusive. Most of such policies were having discriminating elements against people with severe or intellectual disabilities, regarding regular vs. special schooling. Some policies did not specifically mention about people with disability. Even some acts gave very limited categories of disability. For example PWD defines disability by listing only seven categories of disability. National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act include only these four disabilities. (MSJE, 1999).

Conclusion

The references from ancient and indigenous stories and poems gave the idea that people with disability were always neglected and were subjected to shame. The indigenous education services were more or less not available to people with disabilities, irrespective of their caste associations. In the age of British rule, a new chapter marked its presence in the history of education for people with disability with the opening of schools in different parts of the country for blind and other categories. Even the educational policies after independence did not distinguish people with disability as a separate category for planning and execution. The definition of inclusion also varies with different setting. In fact, inclusion sometimes leads many people to confusion, as it is seen in India. The actual meaning of inclusion taken and the practices related to the inclusion and teacher’s attitude is different. What teachers believe, think and do are completely different. Due to the ambiguous description of inclusion, it has led to confusion as to what is Inclusive education in real practice? Therefore, it has become the topic of various debates such as whether or not inclusion is an educationally sound practice for students who require special or additional educational support.

In India, all the policies, commissions related to education which came early in 1900’s did not pay any attention to people with disability. Even after independence, education of people with disability did not get enough weightage in the policies. We have seen that a number of policies and acts continued to approach ‘binary prospective’ decades after decades. In late 1960’s, policies seemed inclined towards inclusion. Special acts and policies related to disability came in late 1980’s. Years 1992 and 1995 were significant years as RCI and PWD covered diverse facets for the betterment of people with disability. These acts also set laws for people with disability. All the acts and policies did not achieve their target as there were always a lack of implementation of promises because of poor coordination and few grants. In the late 1990s and the beginning of the 21st century, plenty of educational reforms came into the existence in the country, e.g. DPEP, SSA IEDSS and RMSA, etc. in order to universalise elementary education. In these nationwide programmes, efforts were made to improve the infrastructure of schools as a first step to integrate children with disability and

major programmes were initiated in all the states for infrastructure development and for the pedagogical material. Even so, a great deal needs to be accomplished in terms of genuine inclusion and pedagogic processes.

Undoubtedly, all the policies and acts did not meet their target fully and strong implementation of these policies is a must for successful inclusion of all the people with disability. Especially women with disability should be dealt with on a priority basis. It is important as girls with disability are at double discrimination on the ground of their gender and handicap. Some research works loudly say that men with disability often get better education than the women with same disability. (E.g. Rouso and Wehmeyer, 2001; Tiwari, 2009) ^[13, 14]. Statistical reports and data also reinforce this argument. As per the census 2011(Registrar General of India, 2011), the male and female literacy rate is 82.14 per cent and 65.46 per cent respectively. Women share the 44.10 per cent of the overall population of disabled people and also decadal increase in proportion is higher among women with disability which become 2.01 percent from 1.87 per cent as per Census 2001(Registrar General of India, 2001). No attempts were put to acquire data on disability through census from 1951 to 1991. There is no single policy or act which includes all kinds of disabilities. With evolving time, different policies and acts include different categories. In Draft Rights of Persons with Disabilities Bill, 2012 ^[7], eighteen types of disabilities were included, but severe and mental disability should be dealt with priority basis.

As discussed in this paper, one can infer that there has not been a proper conceptualisation of the life of young people with disability. None of the policy has given due weightage to the empowerment of girls with disability. Their issues often appear as an afterthought or one more point. The current education system and policies in India has not been able to address the diversity of students completely. There are many physical and social barriers for children with disability. There has not been a single educational exercise which was undertaken primarily to conceptualise the challenging life of children with disability. This add-on approach resulted in the formation of fragmented schemes and provisions, aimed at governing the educational and professional life of children with disability.

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