

RIGHT EDUCATION VERSUS RIGHT TO EDUCATION IN INDIA

Author

Amit Ghosh

B.A.LL.B, LL.M

Research Assistant

West Bengal National University of Juridical Sciences,

12, LB Block, Sector III, Salt Lake, Kolkata – 700098, West Bengal, India

Correspondence email amit.law.ag@gmail.com

Abstract

Education is the most potent mechanism for the advancement of human beings. It enlarges the scope, enriches and improves the individual's image of the future. Education plays a cardinal role in transforming a society into a civilized nation. In course of the present article, the authors have traced the importance of quality education in transforming a nation. The articles pertain to primary education system in India and its emergence in its present form starting from its historical perspective. The component of Right to Education has been analyzed, how the judicial precedents have helped us in realizing our rights. The authors have then examined in brief the necessity of quality education in preparing the citizen for more inclusive participation in governance in comparison with US model. The papers also address how the social exclusion prevails in our society. After having traced the necessity of social inclusion of citizen. The authors have then turned their thought to agenda of development vis-à-vis with education. While, doing so the authors have tried to trace out the reasons of lagging behind of many states and achievements of goal of compulsory free education within India. The authors have ventured into the relationship between poverty and education, especially addressing the diversity in pluralistic society. Finally, the article concluding with highlighting the need of hour of achieving the quality education rather than mere Right to education, while pleading for just Right Education for the nation.

Keywords: Education, Right to Education(RTE), Social Inclusion, Development, Poverty, Diversity

Introduction

Education, if simply stated, means the process of gaining knowledge, inculcating forms of proper conduct and acquiring technical competency. It involves the cultivation of an innocent mind, the instilling of values and principles in the minds of the children. It includes the development of skills along with the achievement of one's physical, mental and social development. To put it in technical terms, education consists of different phases starting from formal education that consists of primary, secondary and higher education and ideally it never ends. The process of education that is believed to begin in the womb continues throughout life. While receiving education we seldom think of the purpose of education. We hardly think of the reason behind education. It is while we grow up that we begin to realize the purpose of education and understand its application in the daily life. We begin to realize the purpose of education only after it begins finding application in our professional and personal lives. Education continues through all the phases of our life as knowledge is oceanic and one can never claim to have acquired all at a time.

A country's ability to apply modern technology to agriculture and industrial production is determined largely by the quality of its workforce. Improving the quality of education of students in schools is a prerequisite for developing the human capital required to meet the changing technological demands of the 21st century.¹ To achieve this, a lot depends on the nature of school education and the way it is managed. According to the World Development Report 2007: Development and Next Generation, "Developing countries which invest better in education, healthcare and job training for their record number of young people between the ages of 12 and 24 years could produce surging economic growth and sharply reduce poverty".² With 1.3 billion young people now living in the developing world- the largest ever youth group in history- the report says there has never been time to invest in youth because they are healthier and better educated than previous generation, and they will join the workforce with fewer dependents because of changing demography. The report warns that failure to seize this opportunity to train them more effectively for the workplace and to be active citizens could lead to widespread disillusionment and social tensions.³

Every government, national to local, tries to reshape education to meet the emergent societal challenges. In India the colonial administration in pre-independence days made education a tool to strengthen their control over Indian polity and mind. It is this thinking, which made the British establish colleges and schools in large cities. This was the system which India inherited in 1947- a system, which was iniquitous, distorted and dysfunctional. In the post-Independence period,

¹ Suresh Misra and MamtaPathania, 'Quality School Education in India: Unraveling the missed opportunities' (2010) 56 (3) Indian Journal of Public Administration 462.

² See World Development Report: 2007 'Development and the Next Generation, 2006' <http://www.wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2006/09/13/000112742_20060913111024/Rendered/PDF/359990WDR0complete.pdf> accessed 25 March 2014.

³ Ibid.

country's progress was seen in economic and technological senses alone; in factories and dams. And hence scientific and technical education received prime attention but the pattern set by the British remained intact. As far as basic education was concerned the focus was more on 'quantitative' expansion rather than 'qualitative' expansion. However, the contemporary syndrome of inadequacy, inequality, irrelevance and insensitivity to human values is the outcome of the old colonial base.

Primary Education

In most nations of the world, including India, free compulsory primary and secondary education are regarded as a fundamental constitutional right for all citizens. (The US does not give education constitutional status at the federal level, but many state constitutions do include such a provision, and free public education is mandatory throughout the nation until the age of 16 years whether by constitutional provision or by legislation). Virtually nobody suggests that an antecedent display of merit should be a prerequisite for entry into primary or even secondary education, or that the number of years of education should be proportionate to some kind of testable achievement. Although some nations and regions do favour test- based tracking in high school, on the whole, there is a widely shared idea that all children in a nation are entitled to an education that maximizes their development, even if, at the starting gate, they seem less capable of showing merit on tests. All children are entitled to education on a basis of equality with others.⁴

Both Indian and the US courts have repeatedly affirmed this point. In India, from the earliest days of the republic, education has been recognized as a constitutional issue. The Directive Principle of State Policy state in Article 41 that "The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance". Article 45 states that 'The State shall endeavor to provide, within a period of Ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.' And article 46 states that 'The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Schedule Castes and Scheduled Tribes, and shall protect them from social injustice and all form exploitation.' These goals were obviously not realized within the time specified in Article 45. Most states had introduced regulations making education compulsory, usually up to the age of 14 years, but these laws were not effectively enforced. In addition, although state schools are supposedly free of charge, they charge fees for school uniforms, for transportation, and for examinations, thus putting education out of reach of many poor parents.

Consequently, it seemed time to treat the issue as one in which the courts and constitutional requirements, had a central place. In 1992, in *Mohini Jain v. State of Karnataka*, the Supreme Court

⁴Zoya Hassan and Martha C. Nussbaum (eds), *Equalizing Access- Affirmative Action in Higher Education in India, United States and South Africa* 72 (Oxford University Press New Delhi 2012).

held that *the right to education has the status of fundamental right, and thus belongs in the enforceable Part III of the constitution rather than in the unenforceable Part IV.*⁵ In 1993, the Supreme Court took a further step in *Unnikrishnan J.P. v. State of Andhra Pradesh*, the court held that *the right to education means: (a) every child/citizen of this country has a right to free education until he completes the age of 14 years; (b) after a child/citizen completes 14 years, his right to education is circumscribed by the economic capacity of the state and its development. The right to education flows directly from the right to life and is related to the dignity of the individual.*⁶

Following these decisions, in 2002, the 86th Amendment to the Constitution was added, introducing a right to education as a fundamental right. Subsequently, the Supreme Court has taken an active role in policing the contours of this right, even requiring that all schools serve a midday meal that has at least 300 calories and 15 grams of protein.⁷

As it has been mentioned earlier that, the US has never given education the status of a fundamental right, although Justice Thurgood Marshall made an eloquent argument for so doing in his dissenting opinion in *San Antonio School District v. Rodriguez*⁸ Education has, however, been a distinctive status, rather close to that of a fundamental right. The key argument has been that if education is to have the role of enabling young people to develop their human potential, then the basic education on offer must be ample enough, and at least that minimum amount must be delivered in a way that respects the equal entitlement of all people within the jurisdiction of the states.⁹ In *Wisconsin v. Yoder*¹⁰ it has been held that education is necessary to prepare citizens to participate effectively and intelligently in our open political system if we are to preserve freedom and independence. It is also crucial to individual opportunity and self-development. In *San Antonio School District v. Rodriguez*,¹¹ it held that *illiteracy is an enduring disability. The inability to read and write will handicap the individual deprived of a basic education each day of his life. The inestimable toll of that deprivation on the social, economic, intellectual, and psychological well-being of the individual, and the obstacle it poses to individual achievement, make it most difficult to reconcile the cost or the principle of a status-based denial of basic education with the framework of equality embodied in the Equal Protection Clause.* Let us now step back and Analyze what primary education is concerned?

⁵1992 AIR 1858.

⁶AIR 1993 SC 2178, p. 594, 655.

⁷*Peoples Union for Civil Liberties (PUCL) vs U.O.I* Writ Petition (Civil) No.196 of 2001. The overall responsibility for implementing the orders rests with the State Government. However, the Central Government provides financial assistance under the National Programme of Nutritional Support to Primary Education, in various ways. The Supreme Court has a committee to look upon the implementation of it.

⁸ 411 US 1 1973.

⁹See (n 7) 74.

¹⁰ 406 US 205.

¹¹ 457 US 202, 222.

Preparation for Citizenship and Political Activity

A salient theme running through at least the US opinions on education is the role of education in preparing people, in particular, for taking an active role as citizens in their political culture. Justice Brennan in *pyler* case writes that education is *necessary to prepare citizens to participate effectively and intelligently in our open political system if we are to preserve freedom and independence*.¹² This theme is very old in the western tradition- as old as Aristotle and the Greek and Roman Stocis. It was prominently developed by Scottish philosopher Adam Smith, who greatly influenced James Madison, the main architect of the Bill of Rights of the US constitution. Smith used such ideas as well as of individual human development to argue against the common English practice of sending children into factories with no basic education and to defend the Scottish practice of compulsory primary education. Not educating children, smith argued, is a kind of mutilation and deformation of human capacities, as well as a deformation of citizenship.¹³

It is clear that this idea of public education as a preparation for citizenship has deep roots in the Indian tradition as well, even though it is not as explicit in the case laws. In *Mohini Jain* case, for example, connects the education right with producing all of the abilities mentioned in the Preamble to the Constitution, which itself prominently mentions 'Fraternity assuring the dignity of the individual and the unity and integrity of the nation.'¹⁴ But I think that without achieving the Equality, Fraternity cannot be desired. The government should come forward to work on the matter 'inclusion' rather than hindering at 'exclusion'.

Social Exclusion

It is not a new phenomenon; it has been referred by various political thinkers, scientists and economist that, larger parts of population are excluded from the benefits of the government. Where in, *lassize faire* economy, the individual has to do certain things to gain or achieve certain things. The champion of 'liberty' proposes that everyone is free to do certain things or not to do certain things (with some regulation from the government). But it is often forgotten that the phrase 'Equality' should not be neglected in any aspect, which in turn add as cohesion to achieve the phrase 'fraternity' which is a quintessence in a society.¹⁵

¹² 457 US 202, 221 (citing *Wisconsin v. Yoder*, 406 US 205, 221).

¹³See (n 7) 78.

¹⁴1992 (3) SCR 658, 667.

¹⁵The government, in large spectrum fails to uplift the each of its citizen, although the State has gone through a transition phase from '*lassize-faire*' model to welfare model and now in an era of globalization when each state has to come through interaction with other nations, building a relation in lieu which would be fruitful to each of them. In this period , there is a exchange of Ideas, technology and knowledge apart from exchange of currency. The exchange can be termed as a two way process which in result enriches, both the nations in different facets.

But, there are various reports, which shows that large chunks of the population are excluded, from the fruits of development. The policy is not well equipped to call as inclusive, which in turn dismantle the claim of inclusive growth. The reason behind may be many, to cite few, poverty, ill-health, lack of knowing their rights, illiteracy.

There are not only socially excluded but also politically excluded. A person who does not have basic education, in lieu of that cannot participate in political process (voting right is not the only political participation) there may be some bargaining power in the hand of common citizen. Apart, from that a poor person hesitates to communicate to his own community members.

The government should take some concrete steps to eradicate such exclusion. Exclusion may be divided into two groups' active exclusion and passive exclusion. Active exclusion can be understand by citing an example as Inter-state Migrant workers children are not included in Free and Compulsory Education Act, 2009. Passive exclusion can be understood from the glaring reality of the society for example Girls are not given proper education, because they are not regarded as important as education is for boys (gender discrimination), it may be one reason of poverty but it turns to be impoverishment in long run. It has been identified that impoverished children suffer from ill-health which result in drop-out in the school, but there is a sharp rise in enrollment ratio and drop-outs rate has come down after the introduction of Mid Day Meal Scheme.

It is a true fact to be understood that Education can be tool for social inclusion in the mainstream of the society. Basic Education can be made cannon for everything. Education give us awareness to our consciousness which in result to be conscious about ourselves and towards society. Education diminishes the cause of ill-health (which results in low-mortality rate). Education can make people aware of their rights and government policy. The Right to Education (RTE) Act, 2009 and Mid Day Meal Scheme can be one of the instruments in eradicating poverty, malnourishment of the children as well as Community development.

Consider the experience of Japan. Even in the middle of the nineteenth century, at the time of Meiji restoration, Japan already had a higher level of literacy than Europe, even though Japan had not yet had any industrialization or modern economic development, which Europe had experienced, by then, for a century. The emphasis on developing productive human capability was intensified in the early period of Japanese development, in the Meiji era (1868-1911). For example, between 1906 and 1911, education consumed as much as 43 percent of the budgets of the towns and villages, for Japan as a whole. Already by 1906 there is evidence based on army recruitment information to suggest that there was hardly any potential recruit even from rural Japan who was not literate.¹⁶

In fact, by 1913, though Japan was economically still quite underdeveloped, it had become one of the largest producers of books in the world— publishing many more books than did Britain (then the leading capitalist economy on the globe) and indeed more than twice as many as the United States. The priority to shared basic education and human development came very early to

¹⁶AmartyaSen and Jean Dreze, *An Uncertain Glory India and Its Contradictions* 111 (Penguin Books India Pvt. Ltd New Delhi 2013).

Japan, and even though it is massively high today, the important thing to note is that this relative priority goes back more than a century, and has not, comparatively speaking, intensified as Japan has grown richer and much more opulent.¹⁷

There is perhaps no clear cut answer as to why social exclusion in education has not been properly addressed even after six decades of independence. While some blame faulty implementation others point to policy gaps as being the cause. Some even go as far as drawing a fatalistic causal connection between peoples' origin of birth and their educational achievement.

Can belonging to particular social class cause cognitive deficiency? There is, of course, no such scientific evidence. Rather, as Amartya Sen puts emphasis and said that it depends on one's capability to lead one kind of life rather than another does, it not depend only on what we are, but also on the circumstances in which we find ourselves.¹⁸ The anthropologist, Jared Diamond underlines, that history followed different courses for different peoples because of differences among peoples' environment, not because of biological differences among peoples themselves.¹⁹ Of course, the term 'environment' has been used in much wider sense, where opportunities form a major part of human environment. Again, scientific research has clearly shown that, "social exclusion actually can bring changes in a person's brain function and can lead to poor decision making and a diminished learning ability. Indeed, as a scientist puts it, "social rejection can have a powerful influence on how people act.²⁰ And, this freedom or unfreedom to act plays a crucial role in the overall development achievement of any given society.²¹ The elimination of a particular section from social opportunities does not only affect the concerned group but it also exerts a negative impact on the overall level of progress.

Development and Education

The role of basic education in the process of development and social progress is very wide and critically important. The capability to read and write counts has powerful effects on our quality of life: the freedoms we have to understand the world, to lead an informed life, to communicate with others and to be generally in touch with what is going on.

The ability to understand written information and to keep track of numbers involved in particular tasks can be necessary qualification for even simple jobs, especially with increasing specialization in production and distribution. Illiteracy muffles the political voice of people and thus contributes directly to their insecurity. The connection between voice and security is often underestimated. Basic education can play a major role in tackling health in particular. General education can develop an

¹⁷Ibid.

¹⁸Kumar Rana, 'Social Exclusion in and through Elementary Education: The Case of West Bengal' (2010) <<http://pratichi.org/sites/default/files/Social%20Exclusion%20in%20Education.pdf>> (Visited on March 14, 2014).

¹⁹Ibid.

²⁰ Ibid.

²¹Amartya Sen, *Development as Freedom* (Oxford University Press New Delhi 1999).

individual's capacity to think, and can generate social understanding in ways that may be extremely in facing epidemiological problems. Educational development has often been the prime mover in bringing about changes in public perceptions of the range and reach of what can be called human rights, broadly defined. For example, the educational development in Kerala²² and more recently in Himachal Pradesh,²³ Mizoram,²⁴ Meghalaya,²⁵ Nagaland,²⁶ Tripura,²⁷ Goa²⁸ has been a major factor in the increased demand for health care, based on a clearer perception of the importance of health and the role of the society in providing health facilities and services. It has been perceived that smaller states are functioning well in imparting education. Education can also make a difference to the understanding and use of legal rights (the already legislated rights that the people may already have, but which they are, sometimes, not able to utilize. When people are illiterate, their ability to understand, invoke and use their legal rights can be very limited. This can be applied to particular women. There is now extensive evidence that the schooling of young women can substantially enhance the voice and power of women in family decisions.

The connection between education and development, including the crucially importance role of public services in bringing about an educational transformation, was very clearly seen more than two hundred years ago by Adam Smith, who provided the classic analysis of how the market mechanism can work successfully. He wanted much greater use of state resources for public education and argued "For a very small expence the publick can facilitate, can encourage, and can even impose upon almost the whole body of the people, the necessity of acquiring those most essential parts of education."²⁹ The experience of Europe and America, which have been extensively studied, bring out most forcefully the pervasive role of education, led typically by governmental initiatives, in facilitating and sustaining economic and social development. As I earlier referred the example of Japan in 1868 which has comparatively high level of literacy rate which lead in 1910 into

²²93% in rural areas and 95% in urban areas. Government of India, NSSO Report on Education (Ministry of Statistic and ProgrammImplementaion, 2011) <http://mospi.nic.in/Mospi_New/upload/SYB2014/ch29.html> accessed 16 March 2014.

²³ 82% in rural areas and 91% in urban areas. Government of India, NSSO Report on Education (Ministry of Statistic and ProgrammImplementaion, 2011) <http://mospi.nic.in/Mospi_New/upload/SYB2014/ch29.html> accessed 16 March 2014.

²⁴84% in rural areas and 98% in urban areas. Government of India, NSSO Report on Education (Ministry of Statistic and ProgrammImplementaion, 2011) <http://mospi.nic.in/Mospi_New/upload/SYB2014/ch29.html> accessed 16 March 2014.

²⁵70% in rural areas and 91% in urban areas. Government of India, NSSO Report on Education (Ministry of Statistic and ProgrammImplementaion, 2011) <http://mospi.nic.in/Mospi_New/upload/SYB2014/ch29.html> accessed 16 March 2014.

²⁶75% in rural areas and 90% in urban areas. Government of India, NSSO Report on Education (Ministry of Statistic and ProgrammImplementaion, 2011) <http://mospi.nic.in/Mospi_New/upload/SYB2014/ch29.html> accessed 16 March 2014.

²⁷85% in rural areas and 94% in urban areas. Government of India, NSSO Report on Education (Ministry of Statistic and ProgrammImplementaion, 2011) <http://mospi.nic.in/Mospi_New/upload/SYB2014/ch29.html> accessed 16 March 2014.

²⁸87% in rural areas and 90% in urban areas. Government of India, NSSO Report on Education (Ministry of Statistic and ProgrammImplementaion, 2011) <http://mospi.nic.in/Mospi_New/upload/SYB2014/ch29.html> accessed 16 March 2014.

²⁹See (n 22) 110.

universalization of education.³⁰ The concentration on education determined, to a large extent, the nature and speed of Japan's economic and social progress.

The fact that human development in general and school education in particular are first and foremost allies of the poor, rather than only of the rich and the affluent, is an understanding that has informed the Japanese strategy of economic development throughout its entire modern history. Later on, South Korea, Taiwan, Singapore, Hong Kong and of course China followed the same path and firmly focused on basic education, largely delivered by the state. In explaining the rapid economic progress of East Asia, its willingness to make good use of the global market economy is often and rightly emphasized. But that process was greatly helped by the achievements of these countries in public administration. Widespread participation in a global economy would have been hard to accomplish if people could not read or write.³¹

Why India Left Behind

Oddly enough, despite the strong pro-education rhetoric in the Indian national movement, the expansion of school education has been remarkably slow in India much slower than East Asia. The deficit is particularly striking for Indian women, including young women, a large proportion of whom are illiterate even today, in sharp contrast with East Asia including, for instance, Indonesia, which was earlier on (in 1960) not performing much better in this respect than India,³² but where literacy is more or less universal in the younger age groups today in Indonesia where as India has achieved only 85% in urban areas and 69% in rural areas in 2011.³³ There is also great deficit in female literacy rate in rural India as well as in urban India which is not satisfactory.

To be sure, the different parts of India have disparate records in this field. The state of Kerala did have history of pro-education policy much more than so than the rest of India. This pro-education outlook was continued and intensified after independence, under a left-wing political leadership, placing Kerala substantially ahead of the rest of India in school education. Kerala³⁴ was the exception in otherwise educationally backward post-independent India. But in recent times other smaller states like Himachal Pradesh,³⁵ Tripura,³⁶ Meghalaya,³⁷ Goa³⁸ and Mizoram³⁹ which has the highest literacy rate almost securing universalization of primary education. It can be noted that smaller state is functioning well in imparting education and it is boosting the governance of the state. (Table 1.1)

³⁰See (n 22) 111.

³¹Ibid.

³²See (n 22) 112.

³³Government of India, NSSO Report on Education (Ministry of Statistic and ProgrammeImplementaion, 2011)<http://mospi.nic.in/Mospi_New/upload/SYB2014/ch29.html> accessed 16 March 2014.

³⁴See n 28.

³⁵See n 29.

³⁶See n 33.

³⁷See n 31.

³⁸See n 34.

³⁹ See n 30.

The importance of education cannot be overemphasized. Education participates critically in building individual endowments and abilities, and it drives social and economic development at the national level. For the individual, investment in education means increased earning potential; nationally, it means greater efficiency and productivity.

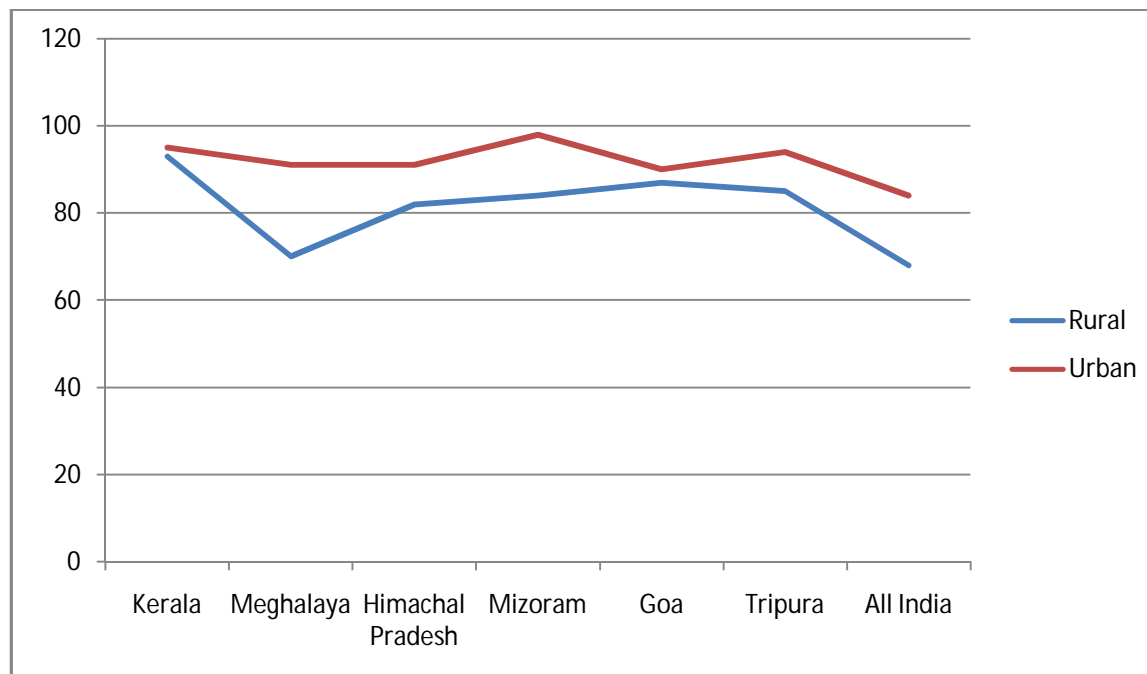


Table 1.1

In the contemporary world, continuous investment in human capital is essential. Such investment yields improved productivity and enhances national competitiveness. Thus, investment in education is investment in human capital. Since school facilities and teaching quality affect the delivery of education, spending money on school buildings clearly falls under the umbrella of educational investment.⁴⁰

The Constitution of India enshrines elementary education as the right of every child. The Millennium Development Goals include universal primary education. According to 2011 NSSO report, however, India's literacy rate was only 69% in rural and 85% in urban areas. Large disparities in literacy, overall access, and education infrastructure exist among the states. Ironically, illiteracy persists alongside cutting-edge scientific and technological research. Moreover, India is among a handful of Southeast Asian and North African countries where education outcomes are better for boys than for girls. However, India has made significant gains in improving education at both individual and national level. Therefore, it makes good sense for government to prioritize education for social investment.

⁴⁰Anouj Mehta and Ameeta Chatterjee, Report on improving health and education service delivery in India through public-private partnership (Asian Development Bank, 2010) <http://www.pppinindia.com/pdf/health-education-delivery-india-ppp_adb_dea.pdf> accessed 21 March 2014.

It is encouraging that in recent years the neglect of school education in India has been addressed. But there is a long way to go to remedy this long-neglect. It is important to ask: what progress has there been, and what failures remain? India's official statistics show a steady increase in school enrollment for both girls and boys and in the facilities available in schools. Governmental decisions as well as orders of the Supreme Court have contributed to these developments, and the enactment of RTE Act, 2010 is certainly an attempt to move things forward.

Poverty and Education

It is widely agreed that the relationship between poverty and education operates in two directions: poor people are often unable to obtain access to an adequate education, and without an adequate education people are often constrained to a life of poverty. However, before addressing the interrelationships between poverty and education, it is important to discuss the concept of *poverty*.

Poverty has many dimensions and does not merely entail low levels of income or expenditure. By the work of Amartya Sen's has broadened our understanding of poverty by defining it as a condition that results in an absence of the freedom to choose arising from a lack of what he refers to as the *capability* to function effectively in society. This multidimensional interpretation moves far beyond the notion of poverty as being solely related to a lack of financial resources. For example, his viewpoint would suggest that inadequate education could, in itself, be considered as a form of poverty in many societies.⁴¹

When considering poverty's linkages with a lack of sufficient financial resources it is useful to consider the two distinct components of absolute and relative poverty. *Absolute poverty* is the absence of financial resources required to maintain a certain minimal standard of living. For example, an absolute poverty line can be set, based on factors such as the financial resources needed for the most basic needs or the income level required to purchase basic food needs.

In contrast, *relative poverty* is seen as poverty that is partly determined by the society in which a person lives. Someone who may not be regarded as poor in Bangladesh may (with the same financial resources) be considered as poor in Sweden and yet a considerable proportion of the population in these countries might be considered to be relatively poor because they are excluded from the mainstream of economic and social life. Such people might experience poverty via sources such as social marginalization, lack of education, low income, poor language skills, and other factors that prevent a genuine integration into mainstream society.

Both absolute and relative poverty are relevant for education. Lack of financial resources may limit school attendance among the absolutely poor in developing countries. The relatively poor

⁴¹See n 7.

in developed countries, however, often feel excluded from the school community, or the whole school community itself may feel excluded from the wider society. Such exclusion affects their ability to gain the full benefits from education or to translate the benefits of education into remunerative employment. This also has a potential impact on motivation to participate or to do well in education. Thus both absolute and relative poverty impact on education.

Where absolute poverty is considered, the focus will be on developing (poor) countries. In contrast, where relative poverty is considered, the focus will usually be on developed (rich) countries (even though relative poverty is also widely present in poor countries).

The Right of Children to Free and Compulsory Education (RTE) Act, 2009 which came into effect on 1 April 2010, has been in raising standards of Primary education. The very fact that such an Act was passed is significant. But assessments are inevitable and the measurable results, although discouraging sometimes, need not mean that the effort has failed.⁴²

Despite this rhetoric, hardly any central government department was able to provide annual reports on outcomes. The central Ministry of Human Resource Development continued to produce annual reports focused on inputs, access and provision as well as financial reports on allocations and expenditures. Periodically it also produced reports on student achievement in government schools.⁴³ The allocations for elementary education, however, saw a significant increase from the financial year 2004-05, after the Union government imposed a 2 percent education cess for elementary education. The cess is an earmarked 'tax-on-tax' that is used exclusively to finance the flagship program for elementary education (SarvaShikshaAbhiyan, (SSA) and the Mid Day Meal scheme.

These background contextual conditions were important in leading us to think about generating an outcome based annual report in education that could push public discourse and action towards focusing on learning and not just on schooling.

The issue is related to what children learn in schools and how to measure what they learn. Over the last couple of years, international and national attention has begun to shift from being input focused to learning outcome oriented. There is no question that schools need to have good infrastructure, but to keep achievement of quality on hold until all infrastructure is taken care of is quite absurd. Discussions being held at different international platforms suggest that the next Millennium Development Goals for education will be much more focused on measurable learning outcomes. In India, the 12th Plan adopted in December 2012 attempts to give a learning outcome

⁴²Economic and Political Weekly (EPW) April 21, 2012 Vol XLVII no. 16 The Union Minister for Human Resource Development seemed to suggest just this even as he acknowledged that despite impressively enhanced investment in primary education, the results so far have not been spectacular. The additional investment, up from Rs 7,166 crore in 2005-06 to Rs 25,555 core allocated for 2012-13, has ensured that some of the glaring gaps in physical infrastructure have been tackled. (Although it will be true to say that by more allocation of fund, doesn't give rise presumption that quality of education also rises with same pace. There are various reports on this point that how funds are allocated for the school and how they are utilized. Although the Act says about decentralized of funds but the process remains in the paper itself.)

⁴³ Government of India, Ministry of Human Resource Development, State wise Report, <<http://mhrd.gov.in/documents/term/142>> accessed 12 April 2014.

orientation to the education sector. For a while, there has been growing consensus that quality of education has to be the focus of education. The question always was; how? The dominant thinking in the education establishment for the last decade has been that if we do more of what we have been doing and does it better, quality of education will improve.⁴⁴ But regardless the effort the quality of primary education remains in a morbid condition which is not good news for the generation. The Annual Status of Education Report 2014 reveals the difficulties that the pupil holds in different part of the country. They point out the difficulties while conducting surveys. There is no reluctant in prioritizing the outcome of the report.⁴⁵ Although, the government comes up with different assessment report to judge the quality of education in India.⁴⁶ The unwillingness to admit that there is a problem is not helpful. The problem won't go away. It will only get worse.

Conclusion

Universalization Rights of the children must go hand in hand with universal governmental obligations to enable equal access to education, quality standards, elimination of discrimination and other related issues. Universal access to education under the Act requires schools of equitable quality. However, all schools are not the same in terms of physical infrastructure or in quality of teaching. There is difference between rural and urban schools, public and private schools and even within public and private schools. Hence all children do not have the same learning opportunities. The proper implementation of the Act thus requires a systemic revamp of the entire content and process of education with significant implications for curriculum. In light of the scale of the task and envisaged challenges, the role and importance of the civil society cannot be undermine to in translating RTE from a legal framework to a vibrant movement cannot be overemphasized. There is need for effective partnership between the government and the civil society. The ASER report 2014 suggests that nearly 96% children (6-14) are enrolled in school. One should turn back and ask whether we reached the fullest potential and efficiency through an efficient and systematic manner?

There is demand for an independent body to oversee the implementation of RTE in different states. The Centre plans to appoint such watchdog for monitoring the progress of the Act. It will term as

⁴⁴MadhavChavan, 'Older Challenges for a new Generation' ASER (2013). Available at: <http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER_2013/ASER2013_report%20sections/madhavchavanarticle.pdf>accessed 12 March 2014.

⁴⁵ ASER introduced a new element in education assessment internationally by using a simple, oral method of home-based assessment of reading and math done one on one with children. The end result is easy to understand and can be communicated transparently whether in a national sample survey or a in a simple village census. Another method - EGRA (Early Grade Reading Assessment- developed by RTI in the US) is also an oral method that can transparently report to parents and lay persons whether the child is reading well or not.

⁴⁶ The governmental system relies on a dysfunctional Continuous Comprehensive Evaluation process in schools, periodic sampled Achievement Surveys (every three years), and possibly Std 10 examinations to assess quality of learning achievements. There is also survey conducted by NCERT known as National Achievement Survey (NAS), 2012 based on Item Response Theory (IRT) or simply to be understood pen and paper test.

the Right to Education Commissioners, who will report to the National Commission for the protection of Child Rights, the apex regulator under the law. Its report will be suggestion for the states for further implementation.⁴⁷ If the government is really sincere to implement the RTE Act in letter and spirit, they would be required to take necessary measures to address the problem of child labour and also ensure that the poor parents of the hapless children are provided with adequate financial initiative to send their children to schools.

⁴⁷Charu Sudan Kasturi, 'Watchdogs to monitor education law in states' *Hindustan Times* (New Delhi, 11 July 2010) <http://www.hindustantimes.com/india-news/newdelhi/watchdogs-to-monitor-education-law-in_states/article1-570507.aspx> accessed 25 April 2014.