

RIGHT TO FREE AND COMPULSORY EDUCATION AS A MEANS TO ARREST STRATIFICATION IN THE INDIAN SOCIETY: A CRITICAL APPRAISAL

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INTRODUCTION

Indian soil harbours a heterogeneous populace, marked by different castes, different economic statuses, different religions, different cultures and different ethos. These variations in the populace tend to be disruptive directly and indirectly in the overall progress of the nation as well as that of the society. As such there is a dire need of ushering in transformation in the Indian society. It happens to be a bare fact that law alone cannot bring in the requisite change in the society unless and until a volley of other allied features are simultaneously taken care of by the social scientists, the educationalists, the citizens as well as the other stakeholders in the society. It is felt that In India, the dearth of educational facilities and the requisite ambience to make education meaningful and effective is somewhere lacking. This problem needs to be addressed as a pre-cursor to take the society ahead smoothly on the path of progression. The Indian legislature has to be applauded for the strenuous efforts in elevating the educational rights to the level of the fundamental rights. Additionally, the Indian Supreme Court is to be appreciated for its various judgments which had been instrumental in delivering education as a potent tool in the hands of the common populace. It is manifest that all the barriers amongst the masses based on variance in religion, language, culture, etc, can be disfigured by the think tank of educated masses. However, the current state of affairs, as far as educational planning in India is concerned, is far from being satisfactory. A noble start has been introduced by the establishment of the fundamental right to education with the active support of both public and private players in education sector along with the backing of the Supreme Court of India but we are distantly behind the dream to be achieved even after the passage of fifteen long years. It is a wake-up call for the social scientists and jurists along with the other stakeholders to expedite educational planning in the best interests of the society and in transforming the Indian society.

SOCIETAL CONDITIONS IN INDIA

An ideal society is what is required for the well-being of a nation and what constitutes an ideal

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society is the presence of a homogeneous population, a close knit and associated group of people which carries with it a sense of belongingness and is appreciated by the solidarity exhibited by its component members. The Indian society has, however unfortunately, been stratified by the presence of wide spread disparities based on religion, community, caste, class, gender, economic capacity, profession, thus making it a heterogeneous society. The caste system which has all the more plagued¹ the Indian society, has divided² communities into innumerable hereditary groups. Consequently the society here is marked by visible sense of difference and lack of communication amongst the individuals making up the society resulting into an atmosphere of disrespect and even hostility towards each other. Whatever may be the reason behind the high level of social stratification, the harsh fact remains prominent even now when much water has flown since the ancient times and when we have made substantive progress in terms of development in the infrastructure, development of technology, up gradation of vocational skills self-dependence and other allied factors.³ The unfortunate fact remains a constant hurdle and handicap in ensuring unity, fraternity and solidarity amongst the populace which necessarily is the most important goal to be achieved as per the mandates of the Constitution of India.

SOCIAL ENGINEERING

The challenging task, ahead, for the social scientists or the social engineers⁴ is to apply the most appropriate formulae to the peculiar Indian society so as to reduce to a bare minimum the frictions in the society.⁵ The goal ahead is social development, social change and social progress cutting across the most probable hindrances present in the Indian society. It has been aptly

¹ "Classification on the basis of castes in the long run has the tendency of inherently becoming pernicious" per Justice Pasayat and Justice Thakker in *Ashok Kumar Thakur v. Union of India* (2008) 6 SCC 1 at Para 328

² *Ibid* at Para 666 "Caste has divided this country for ages. It has hampered its growth" per Justice Raveendran

³ "On one side we see rising affluence, more prosperity, percentage of people below poverty line declining, improvement in health indicators, increasing rate of literacy and growth in number of educational institutions, world becoming increasingly closer, with rising global interdependence, rising social consciousness and social networking bringing individuals together; but on the other side, we notice rising poverty and wants, increasing hunger and malnutrition, large population suffering from avoidable diseases in want of basic medical facilities and healthcare system, rising assault on human dignity (represented by violence in the name of gender, caste, religion and community), world becoming more uneven and segregated under the influence of forces of global market economy (increasing exploitation of natural and human resource from weak and poor nations), marginalized sections of society amongst and within nations getting further marginalized, education increasingly producing more atomized individuals (self-centred, self-seekers with hardly any major concern for others), increasingly isolated individual (how many are socially networked and even those, they hardly have or refuse to find time for interaction in person with friends or family), rising cult of violence (be it as in the case of terrorism, Maoism or fundamentalism or State of violence)." See Mool Chandra Sharma, *Right to Education: Imperative for Progress 20* (Universal, New Delhi, 2013).

⁴ Sir Roscoe Pound treated the task of the law maker as being analogous to engineering. See R.M.W. Dias *Jurisprudence* 431 (Aditya Books/Butterworths 5th edn.,)

⁵ *Ibid*: Pound Interpretations of Legal History 156; Pound Social Control through Law 65 as cited: In the words of Sir Roscoe Pound, "The aim of social engineering is to build as efficient a structure of society as possible, which requires the satisfaction of the maximum of wants with the minimum of friction and waste."

remarked that:

“A Survey and appraisal of dynamics of the law monitored and law linked social changes in a developing multicultural democracy like India is stupendous task looking to vastness of the area and complexities of issues involved. Pluralism in religion, language and ethnicity, multi-layered caste structure and regionalism have posed severe challenges to the change management process.”⁶

The need of the hour, notwithstanding the complexities involved, however, is to make attempts to reconcile all conflicting interests in the society and to bring at par the underprivileged with the defined target of promoting social harmony, social justice and balance in the society which cannot be based on a mere notion of freedom on paper and geometrical equality. The beauty of a society lies in the solidarity⁷ it possesses and such solidarity is exhibited when individual members of the society are united by a sheer force rather than being ostracized on grounds of caste, creed, colour, economic status, etc.,

LAW AS A MEANS FOR SOCIAL METAMORPHOSIS

The prescribed task can be accomplished by various tools of which the medium of law for bringing about social cohesion is one of the most powerful tools, no doubt coupled with a set of handicaps, too. It has been aptly observed by the Supreme Court of India that:

“In a developing society like ours, steeped with unbridgeable and ever widening gaps of inequality in status and opportunity, law is a catalyst, rubicon to the poor, etc., to reach the ladder of social justice.”⁸

Law has a definite potential of co-existing and functioning within the parameters of social dynamics and springing up with solutions to various social conflicts, needs and exigencies. According to Sir Henry Maine, a shift from a static society to a progressive society has to take place and legislation happens to be an effective instrumentality of social reform⁹. Law can articulate and carry forward the goal of social solidarity effectively.

⁶ P Ishwara Bhat, *Law and Social Transformation* 1-2 (Eastern Book Company, 2009).

⁷ See George Whitecross Paton *A text book of Jurisprudence* 94 (The English Language Book Society & Oxford University Press, 1972). Duguit: “Society rests on the need for satisfying common interests (*solidarite par similitude*).”

Supra note 4 at 437, “People have common needs, which require concerted effort; they have also dissimilar needs, which require mutual adjustment and accommodation.”

⁸ *Air India Statutory Corporation v. United Labour Union* (1997) 9 SCC 377 at 419, para 43

⁹ S.N. Dhyani, *Fundamentals of Jurisprudence (The Indian Approach)* 241 (Central Law Agency, 1997).

EDUCATED MASSES: A NECESSARY PRE-REQUISITE FOR SOCIAL CHANGE

However, Law can create wonders only when complimented with education; law can be effective in transforming a society comprising of educated masses. In order to commence the journey towards social transformation, there has to be a group of respondents who are responsible intellectually, who are well aware of their responsibilities towards their neighbors, towards the environment and towards the society, which attribute can be nourished only with education. It has been emphatically remarked in this context that “The expansion of education at various levels is a vital factor for social change as it enables building of pro-welfare public opinion and diffusion of knowledge that arms the people against exploitation and blind beliefs.”¹⁰

Prof. Amaratya Sen has also observed on similar lines that “*Widening the coverage and effectiveness of basic education can have a powerfully preventive role in reducing human insecurity of every kind.*”¹¹

Law and education is, thus, the required power punch in propelling a society towards progression. It is this combination which has the potential of removing the hurdle blocks in the stratified Indian Society towards actual progress. This remains an unchallenged and undisputable fact that any desirable change in the society, any modification in the society, any improvement in the intrinsic or extrinsic facts of the society shall remain a distant reality if the masses remain uneducated¹². The process of development and social transformation has primarily to start with educating the masses in a society so as to make them realize and understand their role in nation building and social cohesion. The Supreme Court of India, too, has emphatically observed that “Education is a great leveler.”¹³ The Kothari Commission¹⁴ report submitted to the government in 1966 in the First volume in Chapter I has also similarly mentioned that:

“If this change, on a grand scale is to be achieved without violent revolution (and even for that it would be necessary) there is one instrument, and one instrument only, that can be used:

¹⁰ *Supra* note 7 at 19. Also See *Ashok Kumar Thakur v Union of India* (2008) 6 SCC 1 “Education stands above other fundamental rights as one’s ability to enforce one’s fundamental rights flows from one’s education.”

¹¹ *Supra* note 4: Prof Amaratya Sen, The Importance of Basic Education, Speech to Common Wealth Education Conference, Edinburgh UK, October 28, 2003 as cited

¹² *Supra* note 4

¹³ *Supra* note 3 per Justice Pasayat and Justice Thakker at para 238

¹⁴ Report of the Education Commission, 1964-66, Chapter I Vol I para 1.14 & 1.15 Available at: http://www.teindia.nic.in/files/reports/ccr/KC/KC_V1.pdf (Accessed on May 12, 2016).

EDUCATION. Other agencies may help, and can indeed sometimes have a more apparent impact. But the national system of education is the only instrument that can reach all the people..... it is a sure and tried instrument, which has served other countries well in their struggle for development. It can, given the will and the skill, do so for India.”¹⁵

ROLE OF STATE IN PROVIDING EDUCATION

Education has been there in the minds of the policy makers since independence and the time of drafting of the Constitution of India. The fact is clearly established by the presence of various provisions in the Constitution of India, itself.

Constitutional Mandates: Article 41¹⁶ of the Constitution of India has clearly imposed an obligation upon the State to make effective provision for securing the right to education coupled with some other obligations within the limits of its economic capacity and development. Similarly, Article 45¹⁷ has dictated the State in more stringent terms to endeavor to provide for free and compulsory education for all children till the age of fourteen years within a prescribed time limit of ten years from the date of the commencement of the Constitution. Article 46¹⁸, also mandates the state to promote the educational interests of the weaker sections of the people, particularly that of the Scheduled Castes and the Scheduled Tribes. The Constitution of India is, now adorned with Article 21A¹⁹ which mandates free and compulsory education to all children from the age of six to fourteen.

The Government has clearly illustrated its willingness to take strenuous efforts to make education in India meaningful and productive which fact is very clear from the Statement of Objects and reasons²⁰ appended to the Constitution (86th Amendment)Act, 2002. The

¹⁵ *Ibid*

¹⁶ Art.41 of the Constitution of India: “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 in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.”

¹⁷ Art.45 *Ibid* (prior to the Constitution(86th Amendment Act, 2002) “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.”

¹⁸ Art.46 *Ibid* “The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.”

¹⁹ Article 21 A *Ibid*: “The State shall provide free and compulsory education to all the Children of the age of six to fourteen years in such manner as the State may, by law, determine.”

²⁰ Statement of objects and reasons appended to the Constitution(86th Amendment Act, 2002)

“The Constitution of India in a Directive Principle contained in article 45, has 'made a provision for free and compulsory education for all children up to the age of fourteen years within ten years of promulgation of the Constitution. We could not achieve this goal even after 50 years of adoption of this provision. The task of providing education to all children in this age group gained momentum after the National Policy of Education (NPE) was

Amendment Act has further introduced corresponding changes in Article 45²¹ and Article 51 A²² of the Constitution of India so as to bring together the State, the parents²³ and the other stakeholders in the mandate of spreading education amongst the masses. The amendment has been prudently brought about keeping some aspects of education under Part III and some under Part IV of the Constitution and at the same time has imposed duty upon the parents and guardians too to actively assist the state in reaching to the requisite destination.

Legislative Initiatives: The Union Parliament has formulated a comprehensive legislation, The Right of Children to Free and Compulsory Education Act, 2009²⁴ to serve the purpose as laid down under the Constitutional Scheme. The Legislation provides the children between the age of six to fourteen the right to receive elementary education in their neighbourhood schools.²⁵ It also casts a duty upon the parents and guardians of the children to²⁶ facilitate the children in taking admission to the schools. The law restrains charging of any fee²⁷ or any capitation fees²⁸ in the process of admission and imparting of education in the schools. Further the law has

announced in 1986. The Government of India, in partnership with the State Governments, has made strenuous efforts to fulfil this mandate and, though significant improvements were seen in various educational indicators, the ultimate goal of providing universal and quality education still remains unfulfilled. In order to fulfil this goal, it is felt that an explicit provision should be made in the Part relating to Fundamental Rights of the Constitution.

2. With a view to making right to free and compulsory education a fundamental right, the Constitution (Eighty-third Amendment) Bill, 1997 was introduced in Parliament to insert a new article, namely, article 21 A conferring on all children in the age group of 6 to 14 years the right to free and compulsory education. The said Bill was scrutinised by the Parliamentary Standing Committee on Human Resource Development and the subject was also dealt with in its 165th Report by the Law Commission of India.

3. After taking into consideration the report of the Law Commission of India and the recommendations of the Standing Committee of Parliament, the proposed amendments in Part III, Part IV and Part IVA of the Constitution are being made.....”

²¹ Art.45, Constitution of India: “Provision for early childhood care and education to children below the age of six years:-The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.”

²² Art 51 A, *Ibid*: Fundamental Duties: “It shall be the duty of every citizen of India-(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years”.

²³ “Article 21 A read with Article 51 A (k) distributes an obligation among the State and parents: the State is concerned with free education, parents with compulsory. Notwithstanding the parental duty, the State also has a role to play in ensuring that compulsory education is feasible.” (2008)6 SCC 1 at Para 450 and 452

²⁴ No 35 of 2009 Available at: <http://ssa.nic.in/rte-docs/free%20and%20compulsory.pdf> (Accessed on May 9, 2016).

²⁵ Section 3, *Ibid* “Right of child to free and compulsory education.- (1) Every child of the age of six to fourteen years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education.”

²⁶ Section 10, *Ibid*: “Duty of parents and guardian.- It shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to an elementary education in the neighbourhood school.”

²⁷ Section 3 (2) *Ibid*: “For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education.”

²⁸ Section 13(1) *Ibid*: “No school or person shall, while admitting a child, collect any capitation fee” The Act provides penalty of a fine upto ten times the capitation fee charged for the admission.

imposed a responsibility to impart education on all categories of schools whether government²⁹, aided³⁰ or unaided³¹ or even the specified schools³² like the ‘Kendriya Vidyalaya’ or the ‘Navodaya Vidyalaya’. It has been aptly laid down by the Supreme Court of India that:

“The 2009 Act has been enacted keeping in mind the crucial role of Universal Elementary Education for strengthening the social fabric of democracy through provision of equal opportunities to all.”³³

Judicial Impetus: The Indian Judiciary, too, has been quite responsive in making the State realize the significance of education for the growth of a society, manifesting itself clearly through several of its pronouncements. Chief Justice S.R. Das in the advisory opinion of the Supreme Court in the *Kerala Education Bill, 1957* had expressed that:

“One of the most cherished objects of our Constitution is to secure to all its citizens the liberty of thought, expression, belief, faith and worship. Nothing provokes and stimulates thought and expression in people more than education. It is education that clarifies our belief and faith and helps to strengthen our spirit of worship”.³⁴

In *Mohini Jain v. State of Karnataka*³⁵ the Supreme Court of India has very categorically stated that the “State is under a constitutional mandate to provide educational institutions at all levels for the benefit of citizens and that the dignity of an individual cannot be assured unless it is accompanied by the right to education. The Educational Institution must function to the best advantage of the citizens.”³⁶

It has emphatically maintained that without making the right to education under Article 41 of the Constitution a reality, the fundamental rights under Part III shall remain beyond the reach of large majority which is illiterate.³⁷ It has further observed that “the fundamental rights guaranteed under Part III of the Constitution of India including the right to freedom of speech

²⁹ Section 2 (n): (i) “a school established, owned or controlled by the appropriate Government or a local authority”

³⁰ *Ibid* (ii) “an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority”

³¹ *Ibid*(iv) “an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority”

³² *Ibid* (iii) “a school belonging to specified category”

³³ Per Justice S. H. Kapadia in *Society for Unaided Private Schools of Rajasthan v Union of India* AIR 2012 SC 3445 at 3455

³⁴ *In re Kerala Education Bill, 1957*

³⁵ AIR1992 SC 1858

³⁶ *Ibid* at 1864 Para 14

³⁷ *Ibid* Para 9

and expression and other rights under Article 19 can't be appreciated and fully enjoyed unless a citizen is educated.”³⁸

Similarly in *Unnikrishnan v. State of A.P.*³⁹, the apex Court has categorically commented upon the fundamental significance of education to the life of an individual and the nation. It has observed that:

“A true democracy is one where education is universal, where people understand what is good for them and the nation and knows how to govern themselves.”⁴⁰

The Apex Court has again observed in *Ashok Kumar Thakur v Union of India*⁴¹ that “We must provide educational opportunity from day one. Only then will the casteless, classless society be within our grasp.”⁴² The Court has emphatically stressed that “the first place where caste can be eradicated is the class room”⁴³. It has maintained that “Education stands above other rights as one's ability to enforce the fundamental rights flows from one's education.”⁴⁴

Executive Actions: The law has been provided flesh by different executive policies and schemes from time to time in order to educate the masses and integrate the otherwise segregated and stratified Indian society. The policy makers had been taming the notion that the seeds of integration and cohesion have to be implanted in the early days of individual's life. In order to encourage the students to learn, to educate themselves and to form a close knit community, various schemes have been launched by the government viz., Sarva Shiksha Abhiyan,⁴⁵ Mid Day Meal⁴⁶, Mahila Samakhya Programme⁴⁷, Scheme to provide Quality Education in

³⁸ *Ibid* Para 13

³⁹ AIR 1993 SC 2178

⁴⁰ *Ibid* Para 145

⁴¹ *Supra* note 2

⁴² *Ibid* at Para 371, 482

⁴³ *Ibid* at Para 369 per Justice Bhandari

⁴⁴ *Ibid* It has also been emphatically stated that “The Central Government should enact legislation that provides low income parents/guardians with financial incentives such that they may afford to send their children to the schools. The said legislation should criminally penalize those who receive financial incentives and despite such payment send their children to work”. Paras 487(a) and (b), 635 (a) and (b), 482 and 488”

⁴⁵ Inputs Available at: <http://mhrd.gov.in/sarva-shiksha-abhiyan> (Accessed on May 12, 2016). The Scheme has been devised to “provide for a variety of interventions for universal access and retention, bridging of gender and social category gaps in elementary education and improving the quality of learning. The Scheme involves “opening of new schools and alternate schooling facilities, construction of schools and additional classrooms, toilets and drinking water, provisioning for teachers, regular teacher in service training and academic resource support, free textbooks& uniforms and support for improving learning achievement levels / outcome”.

⁴⁶ Inputs Available at: <http://mhrd.gov.in/mid-day-meal>

(Accessed on May 12, 2016). The Scheme has been launched to increase “enrolment, retention and attendance and simultaneously improving nutritional levels among children”.

⁴⁷ Inputs Available at: <http://mhrd.gov.in/mahila-samakhya-programme> (Accessed on May 12, 2016). The Scheme undertakes to use Education “as an agent of basic change in the status of woman in order to neutralise the

Madrasas⁴⁸ etc.,

SOCIAL COHESION THROUGH COMMON SCHOOL SYSTEM

The deep rooted problem of stratification in the Indian Society needs to be resolved through a gradual process planned meticulously and cautiously. Starting with the tool of education as a means to bring about social transformation, the first effective policy initiative, in this regard, can be said to have been taken by the Kothari Commission. The commission under the chairmanship of Prof. D.S. Kothari needs to be applauded for articulating the concept of a ‘neighborhood’ school as a common space, where all children cutting across caste, class and gender lines could learn together in the best inclusive manner. The Commission has categorically emphasized the very predictable role of education in bringing about changes in the society on a massive scale. The Commission had recommended a Common School System “to bring the different social classes and groups together and thus promote the emergence of an egalitarian and integrated society”⁴⁹ and to turn the education system into “a powerful instrument of national development in general and social and national integration in particular.”⁵⁰

PRACTICAL PROPOSITION(S)

There is no doubt that the stage has been actively set by a joint venture of the legislature, the executive and the judiciary in delivering education to the masses. However, It is pertinent at this juncture to analyse the goal before the state, the purpose that needs to be achieved through education of the masses and then the success quotient of the state in approaching to the end. A practical insight into the current education system shows an abysmal picture of it being grossly unequal, hierarchical, discriminatory and class based breeding inequality in the long run and running contrary to the constitutional goal of social justice. It had been observed in the Kothari Commission Report that instead of bringing the populace together and promoting the “emergence of an egalitarian and integrated society, educational system, itself, is tending to increase social segregation and perpetuating and widening the class distinctions.”⁵¹ It is, therefore, significantly important to see that a hasty step towards realization of the long

accumulated distortions of the past”. It aims at fostering “the development of new values through redesigned curricula, textbooks, the training and orientation of teachers, decision-makers and administrators, and the active involvement of educational institutions”.

⁴⁸ Inputs Available at: http://mhrd.gov.in/edu_madrasas (Accessed on May 12, 2016).The Scheme seeks to bring about “qualitative improvements in Madrasas to enable Muslim children attain standards of the national education system in formal education subjects”.

⁴⁹ *Ibid*

⁵⁰ *Ibid*

⁵¹ *Supra* note 15 at Para 1.36

cherished goal of 'education for all' does not turn counter-productive.

PROBLEMS AND ROAD AHEAD

The idea of common school system, with all types of schools adopting a non-negotiable quality education to ensure equitable education for all children needs to be translated into action with honest initiatives. The unfortunate factual situation that exists in India is that instead of prescribing to the desirable common school system, there persist two categories of schools here, the 'ordinary' ones and the 'exclusive' ones. The first class is meant to accommodate children who depend on the Government for their education, and the second class is meant to cater to those children whose educational expenses are the sole responsibility of their parents. The division in the availability of the educational opportunities to children based primarily on the paying capacity of the parents and the schooling offered by the two diverse systems has actually caused havoc over the years, resulting in widening the rift between people and negating the idea of social cohesion. The schools that are administered privately and those which are run by the government have a totally different type of clientage coming from differentiated social categories and economic strata. The unfortunate segregation amongst the children starts from the age of four or five in the nursery stage and the growth of children does happen in different 'laboratory' conditions provided by two distinct service providers, ultimately reflecting a clear disparity between the children from the socio-economically weaker sections of society with those from the better-off strata. This sense of disparity which gets accumulated over the years of being or not being part of a particular system ultimately causes class variation, a sense of inferiority or superiority, leading to discontent and frustration which is definitely counterproductive to the well being and growth of a society. It has been remarked in the context that "The present system is breeding disparity, discontent and disempowerment for a large section of children"⁵²

The current Right to Education Act⁵³ seems to be one attempt at having a common platform for the children to come face to face with each other cutting across the lines of gender, economic disparities and social variations. It encompasses a vision of having in schools a heterogeneous population, comprising children across caste, class and gender biases to provide an enriched learning environment. The ideology of social inclusion appears to be ready to be translated into

⁵² S Seethalakshmi, "Common School System still a mirage", TNN, October 25, 2005 Available at: <http://timesofindia.indiatimes.com/city/bangalore/Common-school-system-still-a-mirage/articleshow/1273593.cms> (Accessed on May 20, 2014).

⁵³ *Supra* note 25

action through the assistance of the legislation. The Act in Section 12⁵⁴ imposes a duty upon the schools to reserve at least twenty five percent seats for the children belonging to the weaker and disadvantaged sections of the society in their neighborhood in class I. It is, however, submitted that the Government must devise adequate means of offering suitable monetary recompense to such non-aided and private schools for supplementing the state in providing education to all.

The proposition seems to be based on the fact that learning occurs, not merely from the study of text books or from the instructions imparted within the periphery of the classroom, but actual learning takes place when there is developed connectivity and a series of interactions amongst children from different castes, different religions, and different socio-economic backgrounds. The class room atmosphere turns all the more conducive for learning when it witnesses variations and diversity since it can then enable the children to understand and foster respect for others who may be different from them. The classroom culture is bound to remain intellectually moribund if it fails to acknowledge the diversity and plurality in the country. A classroom comprising of only a single segment of the society can't cause effective learning and it can in no way cater to the actual purpose of education. The Indian Judiciary has also approved the constitutionality of the methodology of social inclusion through this method. The Supreme Court has categorically upheld the legislative provision, stating that "The 2009 Act seeks to remove all those barriers including financial and psychological barriers which a child belonging to the weaker section and disadvantaged group has to face while seeking admission."⁵⁵

However, howsoever noble the task may seem to be, it is indeed a challenging task for all the stake holders⁵⁶ in the education system to come up with fruitful result of bringing about an integrated society, nurturing our constitutional goals of social justice, equality and fraternity. While the provision is egalitarian in outlook and seems to be loaded with several potential benefits, it is prone to various challenges when it comes to actually translating the idea into an action. The task is indeed daunting for the teachers who are accustomed normally to attend a selective, homogeneous classroom environment and now they are required to respond to a totally heterogeneous group of respondents and gradually convert them into a homogeneous lot by shedding off all artificial barriers amongst children based on caste, class, economic status,

⁵⁴ Section 12(1)(c) *Ibid* "A School...shall admit in class I, to the extent of at least twenty-five percent of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood."

⁵⁵ *Supra* note 34

⁵⁶ *Ibid* at Para 10: "Right to Education places a burden not only on the State but also on the parent/guardian of every child. The right envisages a reciprocal agreement between the state and the parents and it places an affirmative burden on all the stakeholders in our civil society."

gender, culture, etc., A teacher has to see that the apparent segregation amongst students does not perpetuate, there should not develop classes in the classroom itself rather there should develop a homogeneity between all the respondents.

The dilemma is also to be faced by the children since they have also grown up to an age of eight or nine in a purely homogeneous or crudely speaking in a segregated environment. The children also, irrespective of the strata of the society where they come from, have been socialized into a particular structure of norms, standards and behavior for a substantive period of time and they, too, require time for being transformed. The 'class' prejudices might have been imbibed by them in the early years of their upbringing and they might require appropriate time to shed off such prejudices.

A similar confrontation is quite probably to be located in the minds of the parents who may be willing or reluctant to allow their children to associate with children coming from diverse strata of the society, since they too are the victims of the same system which has stratified the Indian society on lines of caste, class, economic means, language, culture, etc., It is submitted that the laws as applicable in India must be modified so as to compel the parents/guardians to send their wards to the schools. The compulsion may be modulated ranging from fear of sanction⁵⁷ as well as the incentive⁵⁸ of certain benefits accruing from the state.

Along with this, the government should also strategise the mode and manner of gradually⁵⁹ eradicating child labour practices so that the formative years of the children are constructively utilized for a better future both of the individual and the nation.

SUMMARISATION

The need of the hour is to realize the opportunity which has been afforded by the Act of 2009 to contribute from our side in the unification and integration of the Indian society. The RTE Act is a modest effort on the part of the State to bring about social integration by causing people from

⁵⁷ Students and parents in the United States face fines in case of the students failing to attend the schools. See *Supra* note 42

⁵⁸ *Ibid* at Para 468/470/479/481: "Financial assistance must be given. If there is no financial incentive programme in place, the government cannot expect the poorest of poor to send their children to the schools." It has also been emphatically mentioned that "at least fourteen countries have cash transfer programmes that target poor households with school –age children. The largest population is in Brazil, where 46 million people receive an education transfer of upto 44 USD monthly per household in extreme poverty with children below age sixteen". See Para 436-439

⁵⁹ A gradual pace has to be picked keeping in mind the extreme conditions of poverty prevailing in India where children ought to earn to keep the family going.

different strata of the society to come together and share their experiences and learn from each other; it is a humble step meant to gradually dilute and ultimately diminish the artificial walls between the individuals so as to come up with a cohesive society. The policy of bringing together on a common platform the children from diverse socio-economic strata has the brightest chance of succeeding if it starts from the formative years of life. The children of a tender age of eight or nine can easily shed off their prejudices and the sooner it is done, the better it is to move towards breaking all such artificial barriers between humans. These children, having remained together as a homogeneous group shall move up with diminished prejudices which shall be further reduced gradually with the passage of time, and a new group of children shall fill the vacuum by entering the school in each successive year. The schools can, thus, be platforms for diverse populations spread across all classes to come together and develop interactivity amongst them. The requirement at this juncture of time is to give a patient observation for the scheme to materialize; the transformation which is desired can't be expected to happen overnight. All the stakeholders in the society have to contribute in their own manner for the success of the scheme and we have to patiently wait and watch for the bright responses to come their way. A gradual progression at this pace, with an active support from the teachers, parents and the community will definitely allow children the opportunity to learn together, to grow up together, to think together, to feel together and to be together. Such an association, if allowed to percolate right from the early years of the age shall definitely create bonds that can survive social walls.