

Social Justice And Development - Through The Lens Of Right To Education Movement In India

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INTRODUCTION

The idea of 'development' has been conceptualized in many forms. The mainstream discourse around the idea has been focussed on development as economic growth. In the Sixties, through Dependency theory¹ efforts were made to bring the idea of justice to forefront in development discourse but it was short lived. Domestic and international organizations focused more and more on poverty alleviation for decades and did not try to integrate 'justice' in development studies or goals. This conception of development as economic growth has been now critiqued as rooted in western worldview. It was criticized because of the unexamined assumptions and insensitivity towards the expectations, requirements and values of the 'developing' world. The real living conditions of people were not given any importance. Despite the criticism, core interests of developmental studies still remained unchallenged for the most part.

'Social justice' has occupied a significant role in philosophical, political and legal discourses since the beginning of politico-legal philosophy but its integration in the discourse on development is still in nebulous stage. Scholars like Amartya Sen and Martha Nussbaum have made major contribution in integrating the idea of justice in development discourse. The approach suggested in this paper is an expansion of those ideas.

The conception of the term 'development' needs to be revisited and must reflect the idea of social justice. To establish this, the paper will provide justification for choosing the right to education movement as a case study, establish relationship between education social justice and development and finally answer why is it that the idea of 'social justice' that needs to be part of development discourse.

WHY SOCIAL JUSTICE

The term 'social justice' is a broader concept than equality or equal opportunity. Idea of development that reflects the idea of social justice is more likely to support a movement towards a less oppressive and fairer society. The conception of the term 'social justice' has itself gone through changes ideologically and politically. This can be attributed as one of the reasons for its absence from development studies. The conception of any idea is reflected in the language that is used to express it. This language is not limited to the verbal expression but also includes practices, beliefs and actions that are used by certain agents. The dominant language as applied in development studies is reflective of a top-down approach.

According to Sen, instead of delving into the question of what is justice, we need to have a common agreement on what is unjust and how to correct injustice. In order to achieve this, we need to compare between different situations to achieve a relevant agreement on what is considered to be justice and how to eliminate injustice. The deliberation on the main features of injustice and how to face it, usually happens through "public reasoning" which is a democratic process through which people cooperatively choose between different combinations of alternatives. He claimed that public reasoning might end up changing some people beliefs and attitude towards unjust situations. He agreed with John Rawls on giving personal freedom and liberty the priority, but he disagreed with him on overrating the importance of institutions as a priority in achieving justice.²

Martha Nussbaum a feminist professor and activist, tried to introduce in depth contribution to this approach. She agrees that Sen's attempt to tie social justice and development was a break through. However, He did not present a comprehensive frame of the main or the threshold capabilities that any society needs to protect for its people. She

¹Dependency theory is of the notion that resources flow from a "periphery" of poor and underdeveloped states to a "core" of wealthy states, enriching the latter at the expense of the former.

²AmartyaSen, *Development as Freedom*, 2000.

defined capability as "the freedom to choose among many alternatives, the one you want most." She introduced a list of ten main central capabilities as a threshold for any society to be considered just and fair. She tried to combine many basic freedoms and entitlements whose presence is a must for any society that is trying to have the minimal level of social justice.³

The main diversion from social justice approach has come from the post development approach. It is considered be the most radical approach in development studies. It not only refused all development theories, but also announced the end of development as a way to guarantee the continuity of the exploitative relation between the most powerful societies and the weak ones. Consequently, it refused development policies all together as they didn't present any solutions to get people out of their misery. According to this approach all development theories failed to take into consideration the diversity not only between different societies but also in the same society among different groups. However, it failed to build solid alternative to the already existing theory and practice.

Non-representation or misrepresentation of needs of people from marginalized groups has brought a wave of protests and social movements throughout the globe in the last decade or so. These groups do not consider democracy an effective way for addressing inequalities and injustices. They argue that the socio-economic policies only represent the interests of particular influential groups and are not pro-poor. It has resulted in increase in concentration of wealth and in levels of inequalities. Focus on poverty alleviation programs rather than the sources of such deprivations in development strategies has stirred discontent. The more holistic idea of development is thus required to include these marginalized groups in policy making and goal setting. The social justice approach represents such holistic view.

EDUCATION, DEVELOPMENT AND SOCIAL JUSTICE

It is not novel idea that investment in education leads to individual and social development. Education has been like a buzzword echoing in almost every developmental discourse and finding significant place in developmental goals, policies and planning. In discussions concerning what constitutes sustainable development amidst deep global inequalities, the right to education has been an increasingly central idea.

Ideally, the aim of education is to reflect the ideals and desires of the society. Educational institutions are the micro-societies that reflect the entire society. Reconstruction of values and promotion of equality are considered are social functions of education. The education system in any given society is aimed at instilling those skills that enable a person in realising a life that he values. Sen's idea of development reflects similar notion. The central idea behind the capability approach is also that individuals should have the freedom to live their lives in a way that they value it, that they should be enabled to become agents in their own lives. This approach brings forth the ideas of freedom, social justice, human rights in development discourse. This approach provides a practical framework by which social justice can be achieved rather than just providing a theoretical or abstract idea of social justice.

The introduction of idea of social justice in education creates educational environments that are more conducive to the larger project of empowering historically marginalized groups. By addressing inequitable social arrangements and institutions at a level as basic as primary education can offer strategies for creating a more just society overall and that should be understood as development in true sense.

India is a country where social inequalities are deeply rooted. These inequalities are based on gender, caste, class, region, religion and soon. A national law, that moved beyond those inequalities, to enforce elementary education for 'all' children, is a significant chapter in India's social history.

Before this Act, one of the programmes for promoting literacy was the *Sarva Shiksha Abhiyan* - Education for all. This programme and some others were part of the World Bank's safety net idea. Because of economic liberalization there had been dilution of welfare funds and this programme provided a safety net in case there was some social unrest. But these programmes lead to the weakening of the whole structure, for e.g. hiring of 'para teachers' or contractual teachers' instead of full time salaried teachers. In a country like India, which is so highly stratified and diverse, neo-liberal conceptions of structure and development are difficult to sustain and cannot manage the likely social unrest.

To understand the role of education in the social justice movement, it can be done from two perspectives. First, 'social justice in education' and 'social justice from education'. The former refers to the processes of social justice that appear in the day-to-day running of a schools (e.g. issues related to harassment, inclusion etc.) and the latter to the ways that the results of schooling impinge on the justice of society (access to further and higher education, career prospects, self-esteem, and stereotyping). The RTE Act focuses on the former.

³Martha, C.Nussbaum, *Frontiers of Justice, Disability, Nationality, species membership*, Harvard University, 2000.

The RTE Act, for the first time introduced the idea of social justice with respect to elementary education in concrete terms. It provided for 25% reservation for children belonging to underprivileged sections in government aided and private schools and providing them free and compulsory elementary education.⁴ This provision is a significant step towards breaking the citadel of privilege in our country. Quality education had been a monopoly of economically advanced for far too long. The other significant provision related to social justice in the Act is that it puts a duty upon government and local authorities that children from weaker and disadvantaged group are not discriminated against.⁵ And these groups include group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factors.⁶

The experience of 10-11 years with the Act has witnessed sustained governmental efforts towards universalization of elementary education in India; yet the status of human development in the country is a matter of great concern. It has proven that the provisions, by governments, of educational machinery do not automatically ensure either the availability of education that is socially relevant or opportunities to apply the acquired skills. Universal primary education set up as a political goal has thus proved out to be socially misguided. There has long been a vivid debate between the proponents of a rights-based vision of education as a public good and the proponents of an instrumental approach whereby education should above all be geared towards responding to labour market demand and contributing to economic development. With the worldwide push for expanded school access, India began moving toward universal access, eventually passing the Right to Education Act (Right to information Act, 2009 hereinafter will be referred as “RTE Act”).

To strengthen the interplay between education and human development, Sen proposed that educators, like ‘developers’, seek to conceive of new policies and tools that no longer take economic growth and human capital as sole references. This interplay is exactly what is missing from the RTE Act and the practical modes of education in India. The capability approach offers a critical conduit for emphasising what individuals and institutions value and seek to achieve when evaluating programmes, while it also allows economic objectives to be retained in the equation.

Education: Social Obligation of the State to Fundamental Right

Our Constitution is based on the bedrock of justice and for providing justice to the people of India, Our Constitutional makers cast an obligation on the state to provide education to children up to the age of fourteen years for ten years initially. Part IV of the Constitution of India basically imbibed the idea of justice, particularly social justice. All the directives are the socio and economic goal of the state that has to be fulfilled by the state up to the economic capacity of the state. On the other hand, these directives are not enforceable in the court of law nevertheless these are fundamental in the governance of the country. The first attempt has been made by the government to provide education to the weaker and backward classes of society through the first amendment which it provides certain reservations to some classes of the people. In the case of *Champakam Doirairajan (State of Madras v. Champakam Dorairajan)* (AIR 1951 SC 226), the then attorney general argued in the Supreme Court of India, appearing for the urges that Art 45 and 46 of the Constitution obligates the state to promote educational and economic interests of the weaker sections of the people, particularly the scheduled castes and scheduled tribes and also protecting from the injustices and all form of exploitations. Attorney General pointed out that though these directives are not enforceable in a court of law because they found a place in Part IV of the Constitution of India nevertheless these are fundamental for the governance of the Country and it makes obligatory on the part of the state to apply those principles in making of laws. The Supreme Court reject the reservation based on caste and religion. The Government at that time being aggrieved amended the Constitution and provisions in Art.15 in order to fulfil its obligation prescribed in Part IV of the Constitution. Apart from Art 15, there is various article that directly or indirectly tries to provide education to children, especially Art 24 and Art. 39(f), Art.45 and Art. 46 of the constitution of India. The judiciary in India has played a crucial role in providing justice to the citizen of India including social justice. Social justice in our constitution is considered as the preambular objective and it is the duty of the State to fulfil it. Especially, the judiciary has been very keen in providing free and compulsory education to all the children below 14 years. In the case of *Mohini Jain* (1992 AIR 1858) and *Unni Krishnan* (1993 AIR 2178, 1993 SCR (1) 594) judiciary has tried to enforce the right to education. Both cases have impacted the private educational institutions of higher learning and it also gave the opportunity to the court to develop the precedent relating to the provision of elementary education. The Supreme Court got the opportunity in the case of *Mohini Jain* case to include education (Directive Principle of State Policy) in the Fundamental Rights under Art. 21 of the Constitution of India that cannot be denied by charging higher fees that is known as Capitation Fees. In this case, the Apex judiciary has opened a new horizon of social justice by providing equitable and fair opportunities to every citizen of India to get an education irrespective of their income. The Supreme Court observed by denying education is infringing the fundamental rights under Art. 21 of the Constitution. The Court said the right to education is coming from

⁴ Section 12, Right To Education Act, 2009.

⁵ Section 8 and 9, Right To Education Act, 2009.

⁶ Section 2, Right To Education Act, 2009.

the right to life. Education has been considered as the basic requirement for a better and dignified life without which life is not considered as dignified life. Again, in *Unni Krishnan vs. State of Andhra Pradesh*, the Supreme Court by a majority of 3:2 aligned with *Mohini Jain's* case and opined that the right to education is a fundamental right under Art. 21 of the Constitution of India. Every child is entitled to free education until the age of 14 years. The State's obligation to provide education is dependent upon its economic capacity. The obligation of the state was created under Part IV, especially under Art. 41, 45, and 46 of the Constitution will be carried out by establishing educational institutions or providing some financial help the private institutions. This obligation is extending to providing education to orphan children and children who are rescued from bonded labour or working in different industries or factories, the Court has directed the state to take such steps and evolve schemes assuring education to all children either by the industry itself or in Co-ordination with it. In the case of *TMA Pai Foundation (TMA PAI Foundation Vs State Of Karnataka (2002) 8 SCC 481)* the Supreme Court held that the educational institution has not only the right to establish and administer the educational institution but also has right to admit students and the right to have a reasonable fee structure, which constitutes the governing body. This approach of the Supreme Court made the state accomplish its obligation under the Part IV of the Constitution of India. The Supreme Court of India in *Islamic Academy of Education vs. State of Karnataka*, held that the right of education means that a citizen has right to ask the state to provide educational facilities within limits of its economic strength. On the other hand the citizen of India above 14 years might not have a fundamental right under Constitution but education is part of the human development and it is considered as Human Right. Consequently, the state while ensuring the right of education not only ensures the fundamental right of citizens but also fulfilling its obligation under Part IV of the Constitution of India.

CONCLUSION

There will not be an agreement regarding the idea of development/ justice across civilization or for that matter within a civilization. The reason is not that one culture one way and another one another way but that people think in different ways. But changing demands of societies and thrust from social movements shows an increasing trend towards understanding development from non-economic point of view. For e.g. development as transformation of society (Joseph Stiglitz, *Towards a New Paradigm for Development: Strategies, Policies, and Processes*, 1998, as quoted in *Fair Trade for All: How Trade Can Promote Development*, 1999.), as empowerment (John Friedmann, *Empowerment: The politics of alternative development*, 1992.), as freedom (AmartyaSen, *Development as Freedom*, 2000.). Though the international community has been revising its development policies and discourse to incorporate justice issues like environmental sustainability and gender equality, they are still lagging behind concerning social policies that might help impoverished people to get out the poverty circle and get better opportunities to live the life they are looking up for. Thus, Social justice as a concern for development needs to be revisited.

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