

Emphasising Universal Principles towards Deepening of Democracy

Actualising Children's Right to Education

If we are to nurture and strengthen democracy and build a secular society in India, participation by all as equal citizens is imperative. In this regard, education of the whole population is essential. Although the transformation of a country from a high level of illiteracy to one of near universal literacy cannot be achieved overnight, the fact remains that the status of a child going to school contrasts sharply with that of a full-time worker, even in a situation of low literacy levels. The school going child is treated primarily as a student and any work performed by him/her cannot be at the expense of his/her school activities. In other words, it is accepted that the primary activity of the child is that of a student and not a worker. Therefore, any programme to increase literacy levels among children must necessarily also be a programme to reduce the incidence of child labour. The two objectives are contingent on each other.

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The foundation of a truly democratic and just society can only be achieved by protecting and guaranteeing basic rights to all its citizens, regardless of gender, caste, creed or religious affiliation. This paper contends that an actively democratic society must be founded on a set of principles, which set out to protect the rights of children and guarantee opportunities for them to develop into responsible citizens. The experience on which this paper¹ is based proves that providing education for all children deepens the spirit of democracy in the community and that this is impossible without eliminating all forms of child labour.

In spite of the fact that the future health of the country's democracy depends inevitably on the well-being and participation of the next generation, India has neglected its responsibilities in making education a reality for every child. A damning indictment of the attitudes of the policy-makers is the indifference shown towards the abolition of all forms of child labour, which has made it impossible for working children to alter their destiny. No nation can lay the foundations of democracy on the exploitation of child labour. In order to nurture democracy and to promote a secular culture, India must ensure that every child goes to school and that no child is compelled to work.

Constitutional Mandate and India's Performance

Those who drafted the Constitution of India were in no doubt as to the central role of education in promoting equity and justice for all its citizens. On the issue of compulsory education, two features informed the debate and led to the following provisions regarding education being included:

(a) It was decided that education should be available free of

charge and that attendance in schools should be compulsory for all children up to the age of 14 years as incorporated in Article 45 of the directive principles of state policy.

This was a farsighted provision in contrast to the view that education should only be universalised up to the primary level, i.e., about 10 years. Ambedkar emphasised the need to go beyond the primary school stage as he saw that in doing so, children would be relieved from the drudgery of work.² This provision in Article 45 of the directive principles of state policy reinforces Article 24, which reads, "no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any hazardous employment." The Constitution also directs that children cannot be abused or forced to work and "to enter avocations unsuited to their age or strength" through Article 39 (e) and (f).

By stating that "children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment", the Constitution's drafters underscored the significance of protecting children's rights in the context of building a democratic India. Keeping in mind the need to combat the educational and economic disadvantage of scheduled castes and scheduled tribes along with other disadvantaged sections of society in the past, special emphasis was given to their needs in Article 46. This Article makes a commitment to protect these groups from social injustice and all forms of exploitation.

All the above provisions indicate a clear commitment to giving Indian children in this freedom and dignity and recognising their essential contribution to building a democratic nation.

(b) It was stipulated that the state should provide free and compulsory education to all children up to age of 14 within 10

years of independence, i.e., by the year 1960. This added a sense of urgency to the measure and is the only provision in the Constitution of India that has specified a time limit.³

Regrettably, reality has failed to match the vision of India's first legislators. There has been a gross violation of children's right to education in spite of it being clearly protected in the constitutional framework of India's polity and being an honourable and cherished goal of the Indian Constitution. Millions of children are part of the labour force in the country today. They work in practically every sector of the informal economy, in rural as well as in urban areas. Being out of school, children are denied all their rights, they suffer exploitation and indignity and are made to forego the protected sphere of childhood experience for the sake of someone else's monetary gain.

In India, there are today 296 million people who cannot read or write and this is the largest number of illiterates of any nation in the world. Only about 32 per cent of those who are literate (above the age of 15 years) have completed class X and about 41 per cent have studied only up to class V or below.⁴ Many children who have dropped out of school inevitably join the labour force at the lowest level and, as adults, find they have few opportunities to progress to more meaningful employment. Girls who have not been to school are particularly vulnerable to being married off at an early age as they are deemed to have no other possible option in life.

Growing up as illiterates, the fears and anxieties of one generation are unwittingly transferred to the next and thus the vicious cycle of poverty is not broken. As a result they are totally marginalised with lack of self-worth, self-esteem necessary and the confidence to participate as equal citizens. If more than half of the population in India lacks the capabilities to seize opportunities, the texture and content of India's democracy are flawed. The poor certainly participate in exercising their franchise and the legitimacy of democracy in India is based only in their participation in the electoral process. This has however not enhanced all other forms of participation. There is more to democracy than voting rights.

Having equal respect for all its citizens is a prerequisite of democracy. It is only education that makes it possible to gain acceptance as equal citizens. Excluded from the educated mainstream, it is impossible to cultivate a sense of one's value as an individual and this feeling of inferiority negates any possibility of participating on equal terms.

The discrimination against working children on account of their inability to go to school can be combated without waiting for widespread economic development. The fact that the existing government schools are full to capacity⁵ shows the willingness of economically disadvantaged families to support their children's right to education. The argument that poor families have no interest in educating their children is therefore untenable. It is imperative to instil confidence in the multitudes of poor parents that they are correct in aspiring for their children's education and help them in winning their battles for schools as against the market's demand for child labour.

Lack of Social Norm in Favour of Education

Providing education for all children is possible only in the absence of child labour. Each child enrolled in school is one potential child worker removed from the workforce. In this context, it is essential to establish the norm within the community

that all children should be in school and that no child must work. One way to do this is to give strong backing and support to all parents who, for the first time in the family, are intent on sending their children to school instead of to work.

However, there is no unanimity on the issue that children must not be subjected to exploitation and the drudgery of work. It is incessantly argued that poor children's labour makes a contribution to the family income, without which they will not survive and therefore children's work is indispensable. The prevailing notion is that 'poverty' is the root cause of child labour, which requires children to be out of school and hence any attempt at universalisation of education is futile.⁶ Arguments against the desirability of providing education for poor children are also made – that for some sections of society, classroom teaching is irrelevant and children are better off working and learning skills outside the classroom.

All these arguments find a place in the policy documents of the government and are especially prominent in the logic of the Child Labour (Prohibition and Regulation) Act of 1986, which condones child labour in the so called 'non-hazardous' sector on the grounds that poor children face the harsh reality of having to provide for their families and therefore need to work. This Act has therefore excluded child labour in the farm sector from the purview of the law. In this way it has targeted only some working children and forgotten many others, sending a clear message that it is acceptable for children in India to be out of school and in work.

Even after the enactment of the 86th Amendment to the Constitution of India in 2003, making education a Fundamental Right, there has been no attempt to review or revise the Child Labour Act in order to make it conform to the text of the amendment. In fact, the draft bills that are in circulation do not state categorically that children must not work and that they must be in full time formal day schools. There is neither a "societal consensus" in favour of children's right to education nor is there any whole-hearted attempt to have a legal framework to make education compulsory for every child.

Building a Social Consensus

The indifference to poor children's access to education in formal schools is compounded by the absence of shock and outrage that young children are compelled to work instead of going to school. There is an immediate need to build a social consensus on children's right to education through debates and discussions. Such processes of debate and discussion are possible given the strength of India's democracy, its resilience and capacities to absorb public action as a normal function of a democratic society.

It has been the experience of MV Foundation which has been working in Andhra Pradesh to eliminate child labour that it is possible to change the attitude of the community from an initial position of tolerance of child labour to one where they are proud to defend children's right to education. The debates uncovered sub-human conditions of the world of child labour, the sordid reality in which they lived and worked, their exploitation and loss of childhood. Families of working children were told of similar families in other areas who did send their children to school, despite their impoverished circumstances.⁷ MVF showed using concrete examples of how, in their own milieu, in spite of poverty children were actually going to school. In defiance of the conventional wisdom the argument that children have to work because they are poor got exposed and corrected.

The success of the campaign for children's rights through rallies, village to village marches, door-to-door surveys, street theatre, public meetings by the protagonists of child rights is when the issue gets discussed by the public at bus stops, community drinking water collection centres, on market days at the local shops, at weddings and wakes when the triumphs and tribulations of children being withdrawn from work and joining schools is news and is rumoured about generating excitement and curiosity. The success is when every household discusses the issue in an intense fashion, and the discussion becomes equally vibrant in the public and private spheres and among all classes and social categories in the community. By making adjustments to distribute the work in the family among themselves as adults and planning to contribute to the children's future in schools, they embark on a silent journey to come to the public sphere as equal partners.⁸

To bring the discussion on the rights of children to the public sphere in a atmosphere of complacency is also challenging and a democratic act. If it is a bonded labour child, it is an issue of questioning social and cultural hierarchy as well as the local power structures. In the case of a girl child and her marriage as against her continuance in school, it involves wading through emotions and intergenerational nuances of domination and breaking stubborn attitudes and values that perpetuate gender discrimination within the household and society. In the case of a child working in the family for maintaining the subsistence economy, it is a question of getting out of the habit of using children for all and sundry chores as if they were little unquestioning genies. It is at the same time a discussion on exploitation, profound suffering, denial of rights and the ethics of building a societal and economic system at the expense of childhood.

In a local context, when children's rights are discussed they are not abstract notions or statistical data for analysis. These are actual lives and real children whose misery and despair is an appeal to all in the locality to take a stand on their predicament. At the village level, initiating such a debate is in itself a political act, taking the issue of children out of the private domain to the realm of public action and responsibility. The poor gain confidence even as they are being discussed and they take the courage to fight existing stereotypes about them and are encouraged to stop their children from working and send them to schools.

Dialogue and debate imply mutual respect that cuts across power relations, inequalities, classes and social hierarchies. This dialogue process is inclusive, enables the voice of the weak to be heard and is inherently democratic. While the potency of the instruments of open dialogue and debate in the local context has been explored and found to be a very powerful political activity, the local community now needs to build its capacity to deal with outside forces. In a society that is no longer insulated, where the dominant groups and the voices of establishment from outside the community have an impact, such capacities are indispensable.

Often there is a tendency to disregard such endeavours as impractical as they do not conform to the existing understanding of how communities are capable of transforming themselves. The real challenge is in demonstrating that the community has the capability to take up universalistic principles based on individual rights and that parochial interests and primordial loyalties do not necessarily restrict them. In dealing with external agencies,⁹ which are removed from the local context, the local players need the philosophical and analytical tools to have their arguments heard and accepted. Generating the confidence in poor people to struggle for equity and justice by seeking access to education as a matter

of right requires debate and discussion as much as an 'elite consensus'. It is through establishing processes to make such connections that participation in the democratic processes improves.

Resolution of Conflict and Transcending Caste Identity for a Societal Consensus

This arduous process of debate and discussion at the local level aimed at building a consensus to support poor children and their right to education develops slowly and incrementally in an organic fashion. In the existing caste structures at the village level, the employers are usually the landed class and a culturally dominant upper caste group. The children at work are inevitably from the scheduled caste or scheduled tribe communities or the backward castes/classes. The challenge is to resolve conflicts between the different groups, especially in the case of release of bonded labour children without causing confrontation or widening divisions, while at the same time establishing a consensus for children's right to education.

Dealing with local tensions has typically involved two distinct strategies. The first involves an understanding of Indian society as being caste ridden. In order to combat this, the method used is to galvanise the strengths of the dalits to join together and confront the employer as an upper caste oppressor. Constructing such an image of the upper castes is not difficult as many intensely discriminatory local practices are all too common in the villages. The consequence of stereotyping the upper caste in this way is that it freezes their response precisely in the image that has been constructed of them. Allowing the debate on the child's right to education to be entangled in the web of caste conflicts would have damaging consequences for the issue. The emotive issue of the unequal power relations between the castes would take precedence and the exploitation of children would be forced into the background. This, in turn, would only lead to further polarisation of the groups and perpetuate the isolation of the poor.

The second approach, as practised by the MV Foundation, recognises the existence of caste discrimination. However, instead of reinforcing it, MV Foundation explores the possibility of invoking the liberal and humanistic tendencies of all involved, including the employers, and seeks to build support for children's rights. This is a far more formidable task, but not impossible. Since the ultimate aim is to put pressure on the state to make provision for an effective system of schooling, it galvanises all, especially in the local establishment and the upper castes, to support the struggle of the poor in their fight for their entitlement to education. There are innumerable examples of participation by all classes and castes in over 6,000 villages in Andhra Pradesh alone, showing how an approach characterised by persuasion, dialogue and discussion has caused even the hard-core, deeply casteist and factional leaders to relent.

In defiance of the view that caste discrimination is here to stay and that there is no redemption from such a harsh reality, the MV Foundation activists have been able to motivate hundreds of upper caste landed employers to stop engaging children on their farms and to become part of the fight against child labour. As noted by Mahajan,

Strategies are discussed with great enthusiasm among the activists and generally there is no one technique that is considered sacrosanct or superior to the others. The question, which faced activists against bonded labourers in the initial years, was: how could one bring down the level of tensions in the village? How

could one convince the village community that they were wrong in perceiving bonded labour as legitimate? While thinking of ways to motivate employers and neutralise their opposition, the technique of felicitating them for releasing the bonded labour was hit upon. The names of landlords performing 'vidyadhaan' were given in newspapers and public accolades helped soften the blow.¹⁰

Just as the rich can adopt new attitudes and modes of behavior, caste is not the only reference point for the poor in contemporary Indian context.¹¹ This is an era of possibilities where the development discourse includes, that of the poor's assertion of their rights, their becoming agents in their own development, always reckoning, calculating and questioning and thus no longer passive observers of a fast-changing reality. The poor have much in common in terms of their struggle for resources. They lack the ability to get what is due to them in terms of health, education, water, sanitation, work, food security and so on.¹² Indeed, these common concerns have enabled participation of all the poor in the processes for protection of children's rights.

Inevitably, the debates, discussions and consequent public action are directed towards the state and its perspectives on children's access to education. The limitations of the legal and administrative framework of the state in taking positive steps to universalise education and abolish child labour are brought to the fore. As far as children are concerned, there are a number of children in all communities who are deprived of schooling and are working. This is especially true of girls. Therefore, providing support for poor children as a whole and treating all out-of-school children, as being in a similar predicament, is a logical response.

Resolving the conflict in favour of a particular child, regardless of his/her background, is eminently possible. The process of conflict resolution itself entails creating an enabling atmosphere in society where there is an all-class support for the poor children to break free from the shackles of work. In other words, building a social consensus occurs only in the process of resolving conflicts and not in a vacuum. As mentioned, norms are built by provoking public discussion on the real lives of working children and by winning the support of as many as possible within the community to get her/him out of work and to vouch for children's rights.¹³

In looking at the issue of access to schools of all poor children, the opportunities for creating a consensus among the poor and the rich, upper castes and the deprived exist even in an intensely caste ridden society. There is every possibility of making the issue of equity and fairness a public issue. It is in this process that the provisions of affirmative action for those who are subject to greater discrimination on account of tradition and culture or gender become effective. Without the larger enabling environment, taking up exclusive programmes for those who are subject to specific forms of discrimination would only result in their further isolation.

This view is also in consonance with the understanding of the founders of the Constitution of India that poor children, especially those from the scheduled caste communities, must be integrated into the mainstream. It was vehemently argued that there could not be a policy of providing schools for them exclusively in the scheduled caste localities, as this would entail further isolation and segregation of the community. According to Ambedkar, "the object which all of us have in mind is that the scheduled castes and scheduled tribes should not be segregated from the general public. For instance, none of us I think would like that a separate school should be established for the scheduled castes when there is a general school in the village open to the children of the entire community".¹⁴

There are social welfare hostels that are meant exclusively for scheduled castes and scheduled tribes as well as the provision of scholarships in Andhra Pradesh through the department of social welfare. Most of them were inefficient and worked at a sub-optimal level. Thus, a well-intentioned programme had resulted in the gains not fully reaching the SCs and STs. These systems got corrected when the issue of children's rights was taken up by the community as a whole. The bureaucracy was alerted to the fact that they were not providing charity, but had to abide by the constitutional mandate as an obligation to the scheduled castes and scheduled tribes. In this manner, a policy of affirmative action gains strength in the context of addressing the universal issue of children's rights.

Creating Moral and Secular Spaces through Local Forums

Inevitably the debates and the discussions and consequent public action are directed towards the state and its perspectives on children's access to education. The limitation of the legal and administrative framework of the state to take positive steps for universalising education and abolish child labor is brought to the fore.

Universalisation of education necessitates building new alliances and coalitions revitalising society as a whole. These alliances and coalitions are institutionalised, paving the way for the poor to demand of the state what is due to them. Those who become members of such local institutions are drawn from the entire society, cutting across class, caste, religion and other barriers to provide support and confidence to the poor families in their battles for their entitlement to education.

There are a number of essential characteristics of such local institutions. The members come together because of their concern for all the children. They participate in reviewing the status of children who are out of school and build networks and alliances to motivate more people to take a stand in favour of children's rights. As Aditya Mukherjee noted "The most important development that has occurred in the MVF in the last five years is the creation of community forums like the BKVV and CRPF, their rapid expansion and their growing empowerment. The very idea of a child rights forum in every village is an extraordinarily bold one. It is heart-warming to meet those who constitute these committees and what they make of it. In village after village we would meet illiterate men and women, landless coolies, toddy tappers, village barber, potter, mason or tailor on the one hand and the local landlord, school headmaster, contractor, sarpanch of the gram panchayat, mandal and district-level PRI representatives etc., on the other with all CRPF members sitting down on the floor and proudly flashing their laminated CRPF membership card which they got after paying Rs 25 as membership fee. The CRPF membership cuts across class, caste, gender and political affiliation. In some areas the CRPF was able to form an all-party political alliance on the issue of child rights called the 'Aikya Vedika'. What is noteworthy is the participation of the poorest on an equal basis. The non-hierarchical character of the MVF movement is reflected in the bodies".¹⁵

The process of coming together for a common, public cause, transcending immediate parochial identities and class interests endows them with an authority that is in-built. They become the moral spaces in society even as they play the role of conscience-keepers. They begin to negotiate with the local bodies to remind them of their duties as representatives of the people. In fact, the

process of increasing active participation in democracy actually begins with the emergence of these local institutions, which have far-reaching consequences for the texture of delivery of public services.

The existence of forums has widened the base of the dalit groups and other community-based associations in the same villages. They witness how a societal consensus can result in the poor gaining the confidence to assert their rights and realise that this does not compromise their own status or autonomy. They see how universal principles based on the rights of all children give the local youth the authority to negotiate with officials, non-officials and the local authorities. Their profile shifts from being the lone voice of select victims making a petition for redressing grievances to a position of authority in voicing the concerns of all to bring about a change in society. They are in due course accepted as activists working against injustice on behalf of all. This develops leadership qualities based on tolerance and magnanimity, which are indispensable for building democracy. The point is that, while caste discrimination is a feature of Indian society, it can be overcome by working hard to build a consensus in favour of all the poor, based on the principles of universality and a rights-based agenda.

Democratisation of Local Bodies: Institution Building Mechanism

Making Decentralisation Effective

The need to involve the community and existing local institutions in any programme that requires close interaction with the people is universally recognised. The 73rd Amendment to the Constitution seeks to make local bodies into vibrant institutions in which there is active participation by the community. It is generally acknowledged that the passing of the 73rd Amendment has been a positive development for the participation of previously unrepresented and under-represented groups in the local decision-making process, certain variations in its implementation notwithstanding.

In order to democratise the local bodies or the panchayats, the act has made it mandatory that sections, which were hitherto marginalised and left out of decision-making processes, are given preferential treatment by reserving seats for them. This has been an important step in the emergence of a new leadership from those social groups, and women, who otherwise would have taken a long time to play a key role in the decision-making processes. Although their presence has instilled confidence, it is felt that this is still not sufficient. Therefore, the need to institutionalise processes of decision-making in the village through local committees initially and then through their interaction with the gram panchayats was considered necessary to make the gram panchayats function effectively.¹⁶

The involvement of local bodies in the governance of schools has a long tradition in India with a large network of schools operating under the panchayat raj and the municipalities. Even in recent times, the DPEP had seen the potential of decentralisation by seeking the help of the panchayats to achieve universal primary education. There has been a large-scale involvement of panchayats in the Education Guarantee Scheme implemented by the Madhya Pradesh government.¹⁷ The Lok Jumbish programme to promote a mass movement to provide universal primary education in Rajasthan is also an example of collective action at the village level for school mapping.¹⁸

Although all these programmes involved local institutions, they were limited in their vision as the role of the panchayat raj institutions and the community was not seen within the context of a rights-based framework and they did not address the general body of children in the area. The programmes did not result in the mobilisation of the community to demand more and better from the state. Effective decentralisation to local bodies is possible only when there are locally-based institutions that compel the gram panchayat to take up public issues and when the corresponding staff and line in the government departments are forced to respond to public demands and systematic pressure.

Activating Local Bodies through Local Institutions/Forums

The local institutions/forums bridge the gap between the poor households and the local bodies. In this way, every single member of the local body is representing public interest at the gram panchayat. The ward members who previously had little or no role in the functioning of the local body begin to formulate policies in conjunction with the institutions/forums set up in the village.

Even the role of the sarpanch is altered. At present the sarpanch substitutes the institution of the gram panchayat as a rent seeker or a contractor, taking his/her share in the remuneration from above. Although the sarpanch is consulted on almost every issue in the village such as drainage, land disputes, streetlights, settlement of quarrels between husband and wife, s/he reacts to them in her/his individual capacity. In the altered situation, where grass-root democracy becomes fully operational, the sarpanch is no longer a convenor of the gram sabha who carries out decisions and implements programmes on the instructions of others at higher levels. Instead, he begins to chair the gram panchayat with an authority that has been conferred on him by the community and decisions are taken in consultation with the ward members, institutions/forums from the community. This entire process involves democratisation of gram panchayats which respond to local deliberations and discussions, both formal and informal.

Children began to access schools with greater ease through the process of consultation and dialogue of the institutions/forums with the gram panchayats. For example, the gram panchayats have played an important role in monitoring the attendance of children in schools. In order to equip the village school to respond to the needs of first generation learners, the causes of absenteeism have been taken up on a case-by-case basis. The schools have been asked to be more sensitive to the needs of these children. Gram Panchayats have been involved in correcting false names recorded in the attendance registers of the local schools. There have been occasions when a child's name is entered in the attendance register as in class 3 while the same child is in fact studying in a private school in class 7. There are also instances where children's names are entered in the attendance register but the children are not attending school at all and in fact had dropped out a couple of years previously. Many instances of false reporting have been eliminated through the involvement of institutions/forums and gram panchayats. This is an ongoing effort.

Taking the programme for the protection of children's rights as their starting point, the gram panchayats take up issues concerning the rights and entitlements of every individual in the village. There is no doubt that these are deeply contentious issues and yet they have to be resolved without compromise. It is in

this context that the interaction between the local institutions/forums and the gram panchayats gain significance. The members of the institutions/forums utilise the platform to transcend their immediate interests and instead take up an agenda, which has a universal appeal. They begin to debate, discuss and review the status of specific rights enjoyed by individuals, to interact with the gram panchayats, bring pressure on them if necessary to guarantee these basic rights. The involvement of the gram panchayats in resolving the issues gives the programme a stamp of legitimacy.

It is in the process of incorporating rights-based issues in the activities of the local bodies that the strength of democracy is discovered and even enjoyed. Such a process not only protects rights but also introduces precedents for democratic decision-making. In other words, it establishes systems and procedures where the best interests of the poor are promoted. In such a process there is a systematic introduction of the concepts of individual rights, citizenship and participation in the decision-making process.

Process of Democratisation and Institutionalising Delivery of Services for the Poor

The processes described above run contrary to the way in which the delivery of services is managed in the existing village set-up. More often than not, a culture of patronage characterises the relationship between the public institutions and the poor households. This is not to say that the poor are neglected entirely. Whatever they have gained from the establishment has been either due to their own courage, the determination of their leadership and struggles or their organisational strengths. At times, the presence of a benevolent civil servant or a kind-hearted politician helped them to get what is due to them. Seldom has it been a well-oiled institutional response, the individual proclivities and conscious public action notwithstanding.

In a context where there are no processes to promote active participation in democracy, the delivery of services is based on subjective factors and local power balances and there is an inbuilt element of identification and selection of some to the exclusion of others. Thus, the culture of distribution of patronage is maintained and seeps into the bureaucracy as well as the local bodies as a normal form of the functioning of public institutions. The majority of the poor are seldom in a position to engage in such relations with either the bureaucratic political or traditional elite. If they are not in the loop of networks with the authority they get left out. Thus, all that accrues to the poor through public institutions and policies is regarded as a reward that is gifted from the benefactor to the beneficiary instead of as a right. In a way, while the public institutions and the modern welfare state have an obligation to the poor, the culture of delivery of services does not reflect this. It seems as if the poor have to be grateful to receive such benefits from the state.

This patronising attitude is another obstacle for the poor who wish to gain access to public institutions. They are unfamiliar with the rules and procedures that guide the functioning of the system and often find them quite intimidating and cumbersome. It seems that all the intricacies of the system are designed to cater to those who already know how to utilise the services and not to those who are marginalised. A certain familiarity with these procedures is assumed and therefore these institutions make no effort to inform or guide the public. In fact, officials can be quite

insensitive and unconsciously/consciously subject people to insults and humiliation. As a consequence, it is found that, instead of accessing the public institutions, poor households continue to utilise informal arrangements for their survival. The obligation and contract is often defined by a dependent relationship on unequal terms. Although such arrangements are exploitative and unfair, they know what to anticipate and what their contractual obligations are. In the context of children and their right to education, the poor have found it more familiar to enter into a contract with the employer and engage the child as bonded labour than to deal with the school administration with its seemingly endless procedures which the illiterate parent has never understood.

Altering Systems of School Governance through the Process of Democratisation

It becomes clear that all the rules and regulations that govern the institutions are designed for those who already know how to send their children to schools and who anticipate the protocol of activities necessary to fulfil the requirements of being a student. Conversely, the gram panchayats in consultation with the local institutions/forums are pressing for a review of the school governance system in dealing with the needs of the first generation learners. There are issues concerning the procedures of admission and enrolment of children, conducting examinations and mid-term tests, school attendance and medical certificates, transfer of children from one school to another, policies on school fees, school uniforms and so on.

More often than not such interventions by local institutions/forums and gram panchayats have far-reaching consequences. They disturb the department's own functioning, its logic and hierarchical structure, leading to a redefinition of the roles of the functionaries employed there. In a way, the decisions of gram panchayats begin to inform changes in policy as well as in the administrative functions of the different layers of government.¹⁹ The sequence of these changes does not necessarily follow a bottom to top approach. The flow of information could bypass the intermediary layers and make an impact on the policy-making apparatus at the state level first. In course of time, clarity in the respective roles of all levels in the bureaucracy evolves to meet the demands made by the community at the village level. In this sense, reaching the goal of a more democratic society becomes both an end as well as the means to satisfy specific rights.

Simultaneously, a similar process of clarifying the roles of the different layers of elected representatives begins. At the moment, all of them are more or less doing the same thing – trying to compete for contracts and pursue their political careers as rent seekers. When faced with a more questioning public, they are compelled to define more clearly what their roles and responsibilities are. In an attempt to respond to the demands of the people, the local bodies have to go through processes, which clarify their roles in respect of the bureaucracy and other representative bodies such as the block or mandal panchayats, the zilla panchayats, the members of the legislative assembly, etc.

Conclusion

If we are to nurture and strengthen democracy and build a secular society in India, participation by all as equal citizens is imperative. In this regard, education of the whole population is

essential. Although the transformation of a country from a high level of illiteracy to one of near universal literacy cannot be achieved overnight, the fact remains that the status of a child going to school contrasts sharply with that of a full-time worker, even in a situation of low literacy levels. The school going child is treated primarily as a student and any work performed by him/her cannot be at the expense of his/her school activities. In other words, it is accepted that the primary activity of the child is that of a student and not a worker. Therefore, any programme to increase literacy levels among children must necessarily also be a programme to reduce the incidence of child labour. The two objectives are contingent on each other.

At the same time, this involves changing the mindsets of all involved to accept that every child must be in school as a non-negotiable right. This brings to the fore all the social networks and alliances based on a secular agenda and on universal principles at the community level, which transcend parochial identities and sentiments. The moral and secular spaces created in support of the poor are effective only if the members put aside their immediate interests and negotiate objectively with the local bodies and public institutions. It needs to be explored if the local institutions have the capacity to put aside their differences and can join together to create these moral and secular spaces, before concluding that in Indian society all forms of social and cultural discrimination have come to stay. Vibrant expressions of public action can cause changes in the political and administrative systems, which then become more accessible to the poor and thus result in a deepening of democracy.

In attempting to adjust the functioning of the relevant departments by making them sensitive to the needs of the poor, the gaps in official policies are exposed and the respective roles of different layers of bureaucracy get defined. A similar process is replicated with regard to defining the respective roles of the elected representatives in all the layers of Indian polity and emphasising their obligation towards the poor. This exercise also has the potential to distinguish clearly between the functions of the bureaucracy and the political executive in a democratic state.

It is hoped that the process of deepening of democracy gives all those in authority the energy to put their faith in the poor and the local institutions in order that the foundations for democracy, development and a secular culture are laid throughout the country. [27]

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Notes

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- 1 This paper is based on the experience of MVFoundation, a voluntary organisation working for abolition of all forms of child labour through universalisation of school education since 1991 in Andhra Pradesh.
- 2 Ambedkar "Sir, I accept the amendment proposed by my friend, Mr Maitra, which suggests the deletion of the words "every citizen is entitled to free primary education". But I am not prepared to accept the amendment of my friend, Mr Naziruddin Ahmad. He seems to think that the objective of the rest of the clause in article 36 is restricted to free primary education. But that is not so. The clause as it stands after the amendment is that every child shall be kept in an educational institution under training until the child is of 14 years. If my honourable friend, Mr Naziruddin Ahmad had referred to article 18, which forms part of the Fundamental Rights, he would have noticed that a provision is made in article 18 to forbid

- any child being employed below the age of 14. Obviously, if the child is not to be employed below the age of 14, the child must be kept occupied in some educational institution. That is the object of article 36, and that is why I say the word 'primary' is quite inappropriate in that particular clause, and I therefore oppose his amendment." [The motion of Pandit Maitra was adopted. The motion of Naziruddin Ahmad was defeated.]
- Article 36, as amended, was added to the Constitution as Article 45 of the directive principles of state policy. Extracted from www.ambekar.org
- 3 Vinod Raina, while commenting on the 10 year stipulation mentions "...the leaders of the country were prepared to give no more than 10 years for the democratic governance process of the country to be based on the bedrock of universal education; and was directed to accomplish this task. Article 45 was therefore not guided only by considerations of education, but by the more important aspect of healthy democracy and quality governance." 'Why, What and How Children Learn', Text of presentation made to the CAFE sub-committee on Free and Compulsory Education Bill (unpublished), November 2004.
- 4 NSS 52nd Round, Report no 439 (52/25.2/1).
- 5 Of all children who are in schools (primary, middle and higher secondary) about 72 per cent are in government schools and another 17 per cent in government-aided private schools. This number is even higher (80 per cent in government schools and 11 per cent in aided schools), among rural children. NSS 52nd Round, Report no 439 (52/25.2/1), Table no 12.
- 6 For example, Government of India (GoI) (1979), Report of the Committee on Child Labour, New Delhi, Ministry of Labour while analysing the causes of child labour notes "stronger than tradition is the factor of chronic poverty responsible for the prevalence and perpetuation of child labour. Nearly half of India's population subsists below poverty line... in these families, the child since his very appearance is endowed with an economic mission and is compelled to shed sweat of brow to keep the wolf away from the door."
- 7 See, Shantha Sinha and M Nagarjuna, 'The Poverty Argument: In the Context of Total Elimination of Child Labour', Azad Reading Room, Hyderabad 2004. Also available on www.mvf-india.org
- 8 See case studies in Annual Reports of MV Foundation. www.mvf-india.org
- 9 By external agencies one would include the bilateral and multilateral donor agencies, the bureaucracy and political executives operating at the district, state and national level, corporate and business sector, media, research institutions and the intelligentsia.
- 10 See Sucheta Mahajan, 'MVF India: Education as Empowerment', for a description of the processes of debates and discussion and inclusion in *Mainstream*, August 16, 2003.
- 11 Robert Deliege, 'Is there still Untouchability in India?', Heidelberg Papers in South Asian and Comparative Politics, Working Paper No 5, June 2002, www.sai.uni-heidelberg.de/SAPOL/HPSACP.htm
- 12 Ibid.
- 13 See MV Foundation's Annual Reports on www.mvf-india.org for some case studies of conflict resolution.
- 14 Ambedkar – Discussion on Article 35, CA Debates, ibid.
- 15 Aditya Mukherjee, Evaluation Report (draft) 2004
- 16 See UNDP, New Delhi 'Decentralisation in India – Challenges and Opportunities', Discussion Paper Series – 1, Human Development Resource Centre, 2000; Jain L C 'Panchayats: Re-orientation and Restructuring of the Planning Process and State-level Departments and Agencies Consequent on Establishment of Panchayats in accordance with the 73rd Constitution Amendment' in Amitava Mukherjee (ed), *Decentralisation: Panchayats in the Nineties*, Vikas, New Delhi, 1994; Mathew, George and Ramesh C Nayak, 'Panchayats at Work: What It Means for the Oppressed?' in *Economic and Political Weekly*, Volume XXXI, No 27, July 6, 1996; Govinda, R, *Decentralisation and Education Management: Experiences from South Asia*, UNESCO, 1997.
- 17 S Mehrotra, 'Democracy, Decentralisation and Access to Basic Services: An Elaboration on Sen's Capability Approach', Paper prepared for Cambridge University Conference on Justice and Poverty: Examining Sen's Capability Approach, June 2001
- 18 R Govinda, 'Reaching the unreached through Participatory Planning; School Mapping – Lok Jumbish, India' at www.unescodoc.unesco.org
- 19 For example, the government of Andhra Pradesh has enabled the admission of children at any time during the course of the academic year, relaxed rules regarding procurement of birth certificates, issued orders for institutional responsibility to ensure a smooth transfer of children from the primary school to the the upper primary school and high school and so on.