



FORUM

Perspective / Kathyayini Chamaraj

Chalking In Change

The long-term call for structural change in primary education would perhaps materialise if agendas of the government and certain child right activists would be diverted towards providing compulsory primary education.

At the beginning of every new academic year for schools, one begins to reflect on the paradoxical sight in our country of a few, well-scrubbed children in fresh uniforms going to school with school-bags on their backs, while beside them go the unkempt and bare-footed rag-pickers, also children but with sacks of rubbish slung on their shoulders. Our failure to universalise elementary education exposes our betrayal of the trust children place in us and also our scant regard for democratic norms.

That India has continually slid downwards in the human development index published by the United Nations Development Programme each year also indicates the wide gap between the pace with which other developing countries with corresponding economic conditions are moving towards an ethos which considers that "education is a duty of the State", and us.

Despite the shameful reality of our claim to the highest number of illiterates and child labourers in the world, we continue to harangue from public platforms on the inalienable rights of the child, on our total commitment to enforce free and compulsory education and eliminate child labour from the country by the end of this century or even by the beginning of the next year! This radical vocabulary employed when preaching is in sad dissonance with actual practice.

But we may not be able to do this much longer. Various judgments of the Supreme Court have elevated Article 45, the Directive Principle of State Policy which calls on the state "to endeavour to provide free and compulsory education within 10 years of the framing of the Constitution", to the status of a fundamental right, cov-

ered by the right to life itself guaranteed by Article 21. Justice B P Jeevan Reddy's observations in the Unnikrishnan vs State of Andhra Pradesh case (1993) on Article 45 are worth recalling. He said, "It is noteworthy that among the several articles in Part IV, only Article 45 speaks of a time limit; no other Article does. Has it no sig-

more than four times the period stipulated in Article 45- convert the obligation created by the Article into an enforceable right?" Justice Reddy pointed out further (Unnikrishnan Vs State of Andhra Pradesh 1993) that Article 45 does not speak of enforcement of the right within the limits of the State's "economic capacity and development". The Supreme Court finally ruled that the "State should honour the command of Article 45. It must be made a reality- at least now".

Yet, we continue to indulge in double-speak on the issue. We confirm on the one hand that the right to education is a fundamental right of every child, but add in the very next breath, "But we cannot compel parents to send their children to school." Then what do we mean by a fundamental right? This term seems to have the unique meaning in Indian context. In the states that do have a Compulsory Primary Education Act, we say, "By the word 'compulsory' we do not mean what you mean — compulsion, we mean 'persuasion'".

In the light of the above mentioned ruling, a suit has been filed in the Lucknow High Court on whether or not the obligations flowing from this judgment bind not just the state but also parents. The judgment on this suit will undoubtedly put a seal on the current confusion.

At the same time, intellectuals such as Upendra Baxi have argued that Article 24, which bans the employment of children under 14 years in factories, mines and other 'hazardous' occupations, when read along with Articles 45 and 39 (e) and (f), suggests in an incontestable way, that "employment of children stands outlawed by the Constitution" and that the "reformist approach" of accepting child labour as a "harsh re-



Child labourers—victim of a deeper malaise.

nificance? Is it a mere pious wish, even 44 years after framing the Constitution? Can the State flout the said directive even after 44 years, on the ground that the Article merely calls upon it to "endeavour to provide" the same and on the further ground that the said Article is not enforceable by virtue of the declaration in Article 37? Does not the passage of 44 years-

ality" and allowing its "regulation" not only "reinforces the process of moral and material abandonment of India's labouring children but also marks the process of moral abandonment by India's ruling elite of the Indian Constitution itself". (*Mainstream*, October 2, 1993).

This state of affairs is what prompted Swedish thinker Gunnar Myrdal to term our country, more than two decades ago, a "soft State" where lawlessness in the name of freedom is widespread, and in which, a refused to place "firm and specific obligations on its people" results in a lack of social discipline. He warned further that "there is little hope in South Asia for rapid development without greater social discipline, which will not appear without legislation and regulations enforced by compulsion" and condemned the recourse to persuasion, exhortation and incentives. He went so far as to say, "Nothing is more dangerous for democracy than lack of social discipline."

Notwithstanding these constitutional requirements, judicial directives, learned interpretations and the need for respecting and enforcing these if we are to be considered a society based on the rule of law, the number of those calling for a strict enforcement of compulsory primary education in the country is very limited.

Chief among the opponents of compulsory primary education are a section of child rights activists themselves, who may be called the "protagonists of structural change". They believe that those who are calling for compulsory primary education, banning of all child wage employment, imposition of sanctions and boycotts on products made by child labour, etcetra, are being simplistic, and are ignoring the deeper need for structural changes in socio-economic and political spheres. Child labour is only a symptom of a deeper malaise afflicting society and attempts at treating the symptom without addressing the cause of the disease are bound to fail, they say.

This group would rather only work towards ensuring land reforms, minimum wages, meeting basic needs of families for fuel, fodder, water, health and child

care, providing employment in rural areas to prevent pauperisation and migration, overhauling the educational system to make it more accessible, affordable, attractive and relevant to the needs of poor children, and so on. They would further wish to work for a reorientation of the developmental model itself and make it accountable to the needs of the majority, focus on the necessary attitudinal changes to help overcome the con-

deeper structural changes.

Rather, those advocating compulsory primary education believe, first of all, that enforcement of compulsory education is a pre-requisite for even initiating a process of structural change. Secondly, in as much as child labour is itself one of the causes of poverty, breaking the vicious circle of poverty and child labour by putting children into schools is itself essential for structural change. Thirdly, structural change being a gradual and long-term process, compulsory primary education is a viable solution as a short-term measure for bringing relief to all those children who are already in the work force for whom the protagonists of structural change have no viable strategy to offer. Fourthly, compulsory primary education will put the onus of caring for the children, who are victims of the failure of the state to bring about structural change, on the state itself which is the only way of inducing it to effect these changes.

The demand for structural change can gain momentum only when the victims, the parents of child workers, organise themselves and this can be achieved in the shortest possible time by imposing compulsory education on their children now. This was made evident during the total literacy campaigns, during which even the minimal degree of learning imparted,

spurred action among the underprivileged to demand a fair deal for themselves. No sooner were the outlines of a struggle that would change the power structure in favour of the deprived made apparent, many states were found to put an end to the literacy campaign itself. This is quite different from the attempts by some groups to organise working children to themselves fight for their rights such effort is tantamount to thrusting premature adulthood on their already careworn lives, and thereby, a further negation of their childhood.

A measure of social discipline and social awareness is also indispensable for the



Nobody's child.

straints of gender, caste and community biases which foster child labour, and call for the necessary political will without which none of these changes can be brought about. These are imperatives on the agenda of child rights activists, to be attended upon as priority areas before attempting to liberate children from employment, or imposing compulsory education, sanctions and boycotts.

None can quarrel with this agenda. But the misconception of this group lies in its assumption that those who are in favour of compulsory primary education and other measures are not aware of the need for, or are opposed to, or do not seek, these

initiation of structural change. If a government can be blind to the employment of children in hazardous and banned industries flouting all laws, including in its own projects, tolerate the barbaric brutality practised against these child labourers and even get away with its indifference, it is unlikely that it can ever be sensitised to the more subtle needs for land reforms, basic amenities, or minimum wages. Moreover, by stating that it is cruel to impose compulsory primary education on the poor, the opponents of compulsory primary education are allowing even parents who are not poor to get away with wilful exploitation of their children and denial of their fundamental rights, because very often, parents' addictions to drink alcohol intoxicants are the reasons for not sending their children to school. Also, the "culture of literacy" is absent because the parents are themselves illiterate and do not sufficiently value education. The numbers of such children who are out of school merely because the option to remain outside has been given to them, are definitely not small. The M Venkatarangaiya Foundation of Hyderabad has found that motivation sans incentives, like free meals, is efficient lure to induce these children to attend school.

Again, it has to be borne in mind that only 20 per cent of the child students dropouts are in daily wage employment, and of these, only a small percentage have to work for 10 or more hours. Eighty per cent of the children are engaged in agricultural activities or household tasks, situations which can allow them to combine school and work that does not interfere with their development, provided the school or work schedules are made more flexible. More than 90 per cent of children aged 6-9 years would be able to make these adjustments without much ado because their work participation rates are very minimal. Hence, one does not see why the large majority of children should be made to forego their right to education for the sake of a negligible minority. Alternatives need to be found only for this small minority.

Since child labourers are paid about a third of what adults would be paid, removing child labourers from the workforce and providing the same jobs to adults will ensure that the total earnings of the unorganised as a class would increase threefold and as many jobs as there were child labourers would have been created for the adult unemployed. This is a substantial contribution indeed towards bringing about redistribution of income

in favour of the poor, seen as one of the aims by the proponents of structural change. Further, the experience of MV Foundation has shown that once children are removed from the workforce and put into schools, parents demand higher wages as compensation for their loss in income which goes to prove that child labour is itself a major cause of poverty.

The links between female education and fertility, infant and maternal mortality rates, nutritional and health levels are by now, well known enough to not necessitate repetition. Gender, caste and commu-

The "culture of literacy" is absent because the parents are themselves illiterate and do not sufficiently value education. The numbers of such children who are out of school merely because the option to remain outside has been given to them, are definitely not small

nity biases have also been seen to fade with education. As for the argument of the advocates of structural change that the education system itself should be overhauled and made more relevant, before education can be made compulsory, the experience of MV Foundation has shown that parents demand educational reforms in the desired direction when they are made to send their children to school and are given a say in deciding its format and not when they are given the option of escaping from the system altogether.

The only strategy being adopted by the government and many non-governmental agencies is to "rehabilitate" child labourers with non-formal education and a few other inputs, sometimes targeting the parents of such children also. Such rehabilitation is a necessary and meaningful measure as long as there is a guarantee that the place of a child removed for rehabilitation today will not be occupied by another child tomorrow who will also require similar intervention. As it is, Rs 2,000 crores will be required to rehabilitate the two million children alone employed in hazardous industries. An entirely non-formal thrust in the education of these children can also retard their entry into the mainstream.

Putting all children in schools would free from the bonded labour group from the physical and mental torture that they are often subjected to at their workplaces. No doubt, they would be then subjected to the brutalities inherent in the present day educational system but attempts to

reform the educational system have to be undertaken side by side with the enlisting of children in schools. It seems illogical to say that the reforms have to be in place before the enlisting is done.

But all this still does not answer the question of how genuinely poor parents are to be enabled to send their children to schools. If it is accepted that the State is responsible for the poverty of the parents because it has failed to bring about structural changes in society, then the onus of caring for the children who are unable to go to school because of its lapses should be borne by the state itself. How this can be actualised has also been shown by the MV Foundation. While the Foundation has succeeded in motivating many poor parents to send their children to school, those whose parents were unlikely to do so on their own are placed in the already existing, free government hostels for Schedule castes/Schedule tribes (SCs/STs) and backward classes in every taluka which, in effect, makes the government responsible for the food, clothing, shelter and education of these children.

This is what is envisaged in the UN Convention on the Rights of the Child and also the Indian Juvenile Justice Act. The point being, that the onus has to be on somebody, parents, State or society, the responsibility cannot simply be abdicated (Lack of funds for enlarging the capacities of such hostels cannot be an excuse, as funds for the welfare of SCs/STs are routinely returned to the centre unused by most states). If this is considered unfeasible, another alternative is to supply enough foodgrains to the family of each child so that the family can survive, on condition that the child attend school compulsorily.

By harping on poverty and opposing both the release of children from employment and the enforcement of compulsory primary education, the votaries of "structural change" are aiding and abetting the government in abdicating its duty towards children. The government finds it extremely convenient to echo these excuses and escape with the statement, "Child labour is a harsh reality caused by poverty, an issue we are doing our very best to tackle. The advocates of structural change should rather direct their energies towards making the State accountable for its failure to universalise free and compulsory education. Only then will the State be compelled to bring about the structural changes that they desire.

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