

Compulsory Basic Education and Social Inequality: State of Local Government and Compulsory and Free Education Act 2075 BS

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Abstract

This article analyses the constitutional and legal provisions for school education and particularly Compulsory and Free Education Act, 2075 of Nepal. These provisions are oriented toward creating an environment where all citizens can get basic education so as to enhance equal and just society. Compulsory and Free Education Act, 2075 is enacted to implement the constitutionally assured fundamental right to education, and provision of free and compulsory school education without evidence-based analysis, planning and budgeting. The provisions of Compulsory and Free Education Act, 2075, in essence, are closed to the imposed social order from the top envisioned by Durkheim, influence and control of the powerful section of the society by Weber and inequality in the society due to unequal access to education by the classical Marxists.

Keywords: local government, basic education, inequality, equal opportunity and parental practice

Introduction

The *Constitution of Nepal 2015* has assured education as a fundamental right that every citizen shall have access to basic education and state is liable for that. It assures the right to free and compulsory education up to the basic level (grade 1-8) which establishes the responsibilities to state particularly to the local government. Constitution has granted school education as the single right to local government. To implement the constitution's fundamental right to education, and provision of free and compulsory education, the Nepali state has prepared and enacted the *Compulsory and Free Education Act 2075 BS*. The preamble of the act aims to implement constitutionally guaranteed fundamental right to education as a basic human right by creating easy and equitable access to education with continuity.

After promulgation of *Compulsory and Free Education Act 2075 BS* by the government of Nepal, the question of how local government and federal government can manage to deliver this service to all children has drawn the wider attention. The local government has been assigned to trace all those out of school children and get them enrolled and get continued school at least up to basic level. The act seems ambitious in creating an environment where all citizens can get basic education by 2084 BS. Moreover, the section 19 of the act strictly prohibits that a person not having basic level education will not be

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eligible to be employed in governmental, semi-governmental, non-governmental and private sector after the 1st Baishakha of 2085 BS.

The objective of the article is to analyse the state policy of "Compulsory and Free Education". It discusses the constitutional-legal and policy provisions of the state regarding *Compulsory and Free Education Act 2075 BS*. It also looks at the existing capacity of the local governments and the parental practices for the education of their children. This article is divided into three sections. The first section includes the methods. The next sub section discusses the literatures on education and equality. The second section analyses the constitutional and legal provisions and the policies on education. The third section examines the findings. Finally, it sums up the discussions.

Methods

The three municipalities from two hilly districts of Sudurpaschim Province, Shikhar and Dipayal-Silgadi urban municipalities of Doti district and Bitthadchir Rural Municipality of Bajhang district, is the study area. Among the three municipalities, Dipayal-Silgadhi is the old one as it has been an urban municipality since 2038 BS. Other two municipalities are established in 2017 AD by merging village development committees. This study is mainly based on the qualitative data collected through the consultation with stakeholders of school education, local government representatives, officials of the municipal education branch and representatives of the municipal education committee, school principals, and parents and civil society members in October 2021 and quantitative secondary data drawn from the publication of Centre for Education and Human Resource Development, Ministry of Education, Science and Technology.

The consultation with the stakeholders is largely focused on faced and perceived problems in providing education opportunities to all children. Similarly, consultation with parents and civil society members is focused on the activities done by local government to improve school education, and solve problems in enhancing all children to be enrolled in school and not to be dropped out. The consultation with the stakeholders is based on the focused group discussion.

Education and Equality

Basic education is the foundational educational level (Kanno&Onyeachu, 2015) and perceived as the most fundamental education given to people (Amadioha, &Akor, 2020). In similar vein, Nwana (2005 cited in Amadioha&Akor2020) perceived it as the base-line education on which all others educational advancements depend. Accessibility to basic education enhances the ground for human capital formation (Ajala&Asres 2008) as well as mitigates inequality among the children of global south with adverse topographical condition. The constitution provisions education as fundamental right and for assuring this the recent act has been enacted focusing on enhancing ground for equality among children of in and outside the public school.

State by enacting Act, seeks to educate all children of 4-13 aged up to basic level mandatorily and concurrently maintaining the order having similar human capital

development as citizen to be involved in formal sector has to complete basic level after 2084 BS. Education as basic to human capital development enhances the ground for initial earnings advantage as well as wage premium that increases with time spent in the labour market (Ajala & Asres 2008). It provides not only an initial earning advantage but also a wage premium that increases with time spent in the labour market. Educational attainment and labour market outcomes are strongly connected, and low attainment in the educational sector may easily lead to precarious positions in the labour market (Allmendinger and Leibfried, 2003). The motivation for investment in education is that the acquired knowledge and skills tend to raise productivity, earnings potential and nation's economic growth rate and overall development (Ajala & Asres 2008). The liberal ideals vow that education can create an equal and just society as the educational attainment of working class enhances their bargaining position in the market in turn increases the income (Haralambus and Heald, 1999).

Basic education as base-line education (Nwana, 2005, Cited in Amadioha, & Akor, 2020) may not have directly connected with bargaining position in the market but enhances the ground for technical and vocational education and skills development trainings. The government of Nepal by implementing mandatory provision for basic education by 2084 BS intend to create some level of desired equalities in children and to cultivate similar human capital development through formal schooling (Amadiaha, 2015). In this way, Society maintains expected social order through education by inculcating designed curriculum as Moore (2010) explains education is the commitment by society to have a desirable type of individual and the expected values. Similarly, Durkheim (1956) conceives education as the influence exercised by adult generations on those not yet ready for social life and the shaping of the social being. It is under the influence and control of the powerful and access to education, even if it is open to all or to most people, does not guarantee success (Rao and Singh 2018) which possibly create the inequality (Althusser 1970) in right to freedom and right to employment after 2084 BS. The state of education management of federal government and provincial government as well as the capacity and accountability of local government remain to be same, all the children of the poor and marginalized section as well as children of the remote area will not have been able to complete basic education by 2084 BS that ultimately creates inequality.

Constitutional and legal provision

The *Constitution of Nepal 2015* brings about the federal set up with three tiers of government: federal, provincial and local government. The Article 56 of the Constitution stipulates that the exercise of state power shall be done by the federal, state and local levels. The Article 57 provision the single and common rights of the federal, state and local levels. Pursuant to this article, 22 areas of sole authority have been determined for the local government in Schedule 8 of the Constitution and operation and management of basic and secondary education as sole authority as provisioned in the number 8 of the single right.

The Article 31 states that the basic human rights of every citizen for receiving education as a fundamental right. To ensure easy and equal access to education and its continuity and to make education universal, the responsibility of basic level and secondary level education has been entrusted to the local government. The sub article 1 of 31 ensures every citizen to have access to basic education. It is the responsibility of the state to provide easy access to basic education to all. Similarly, sub article 2 states that every citizen shall have the right to free and compulsory education up to the basic level (grade 1-8) which established the responsibilities to state particularly to the local government.

The *Compulsory and Free Education Act 2075* defines the compulsory education as an education for children of the age group specified by the state to attend schools or other alternative educational institutions and complete basic education. Looking at the provisions of the *Compulsory and Free Education Act 2075*, education up to the basic level can be viewed from the framework of rights and duty of children, responsibilities of state and duties of parents or guardian. Children have right to education with easy and equitable access without discrimination are the rights provisioned by the act whereas receiving basic level education is the duty of all citizens (Section 3 & 5.1 of Compulsory and Free Education Act 2075). The federal government, provincial government and the local government are responsible to provide basic education to the citizens and make necessary arrangements in this regard (Section 4, & 6 of Compulsory and Free Education Act 2075). Similarly, every citizen has duty to send their children aged 4-13 to school regularly for receiving basic education (Section 5.2 & 7 of Compulsory and Free Education Act 2075). Besides, the Act states that citizens not enrolling their children aged 4-13 or depriving them of schooling without completing basic education are subjected to restrict receiving facilities provided by the local government. However local government has not yet put clear steps in this regard.

Compulsory Basic Education and Education Budget

Global community ambitiously focuses on pursuing and achieving the Sustainable Development Goals (SDGs) and Nepal has also internalized it into the policy and budget priority to reflect the commitment. The 4th goal of SDGs is to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all and to achieve this goal Nepal might have enacted the recent Act as Upreti states that apart from some exceptions, the formulation of policies and plans related to education in Nepal is mainly directed by international donor agencies and operated from the center (2079). In line with the target of SDGs, Nepal government sets the target of achieving 99.5 percent net enrolment and completion of primary education by 2030 (National Planning Commission, 2017) the baseline as stated by National Planning Commission is that Net Enrollment Rate in primary education has reached 96.6 percent in 2015. Similarly, numeracy rate for all 15 years and above reached 62.2 percent and literacy rate of population of age 15–24 years reached to 88.6 percent in 2015 (National Planning Commission, 2017) and targeted to ensure that 95 percent of students enrolled in grade one reach grade eight (basic level) hence committed to enhancing access to education, particularly for the poor and disadvantaged groups (National Planning Commission, 2017).

The current Fifteenth Plan has also envisioned to achieve the literacy rate 95 percent from 58 percent for people above 15 years of age as well as net enrolment rate 99 percent from 93 percent in the primary level by 2022 (National Planning Commission 2020). Similarly recent education policy aims to ensure easy and equitable access and continuation of basic education for all for enhancing universal, useful, competitive and quality compulsory and free education (Ministry of Education, Science and Technology, 2016 BS).

State has been assigned huge responsibilities of education to the local government. Despite the ambitious targets set in school education, federal government's education budget has been in decreasing trend since last decade. The education budget of the federal government for the last decade was 16.6 percent in the fiscal year 2068/069 and it gradually decreased to 10.6 percent in the fiscal year 2076/077, while it was 11.6 percent in the 2077/078 and again decreased to 10.9 percent in last and this year. Out of this, most of the education budget is allocated in the name of grant and local government allocates nominal budget in education from their own internal revenue as well as revenue distribution from federal and provincial governments.

Ineligibility and Basic Education

State has defined ineligibility (Compulsory and Free Education Act, 2075 of Section 19) of citizens who have not crossed their thirteen years of age by 1st Baisakh 2085. Citizens who would not have completed basic education in that date are ineligible to be employed, in federal, provincial and local government as well as any organization wholly or partially owned or controlled by federal, provincial and local governments and to be appointed, elected and nominated in any post of governmental, non-governmental and private organizations. Similarly, they would be ineligible to establish any company, firm, co-operative or non-governmental organization as well as being the promoter, board of director and executive member of such company, firm or organization.

State has legally imposed the desired similarity among the citizens through formal schooling (Amadiha, 2015) without adequately assessed the reality about the enrolment, continuity and drop out from public school as well as without adequate management of school education reveals imposition of policy to the local government as well as the imposition of powerful (Rao and Singh 2018) or elite to the poor and marginalized section of the society to be compulsorily complete basic education. The Teacher Service Commission has not been able to manage the recruitment of teachers effectively and federal and provincial governments seem less interested in the management of school education.

State is liable for providing equal opportunity to all children in basic education as it is compulsory education. State has provisioned (compulsory and free education regulations, 2077 section 4) that local government shall provide the education with hostel for those who have not access to school due to economic, geographical, physical and mental condition and other adversity as well as whose guardians are not identified. Similarly the section 6 of the same regulation provisions that local government oneself or in collaboration with other organization shall provide the mobile class by trained teacher to the children with

severely physical disability. Moreover, this rule has also provisioned that local government shall arrange alternative education for those out of school due to drop out and never been to school (compulsory and free education regulations, 2077 section 13) but local government representatives and municipality officials opined that lack of financial and human resources hindering in heading to it. Both act and regulation were promulgated after the 2015 Earthquake which damaged or destroyed 7553 public schools and only 6646 public schools have been reconstructed by July 15, 2021 (National Reconstruction Authority, 2021). All the damaged or destroyed schools have not been reconstructed even after the three years of the enacted act. State instructs all to complete basic education by 2084 B.S. Hence, it reveals that state is legislating laws and policies without evidence-based planning and budget.

Early Childhood Education and Development

Basic education covers the 0-8 grade, 0 as Early Childhood Education and Development (ECED), now child starts school from age of 4 even in public school as 8th amendment, in 2073 BS, of education act 2028 BS introduced it as well as section 3(1) of compulsory and free education Act 2075 also assured this right after the constitution, article 39 (3), guaranteed that every child shall have the right to early childhood development and child participation. The concept of early childhood education was first introduced in the 7th amendment of education act in 2058 BS and even after the 20 years of conceptualization of early childhood education the federal and local government's position seems in the mist. Stakeholders opine that municipalities have not yet made separate laws related to early childhood education and development and federal government allocate nominal resources in education which shows their concern on it and the physical setup of childhood education and development center by nature it is costly in terms of facilities. It demands as well as the number of centers due to geographical condition, as the study area is hilly area, and the age of children. Moreover, federal government seems less interested in the management as most of respondents have opined about the lacking of child development teachers with required trainings as well as other trainings to capacity development.

The Gross Enrolment Ratio (GER) in grade ECED/PPEs increases over the year as it was total 84.7 percent, with 81.2 percent girls and 88.0 percent boys in 2018-19, total 86.4 percent, with 85.1 percent girls and 87.5 percent boys in 2019-20 (CEHRD 2076) and it was total 87.6 percent, with 86.4 percent girls and 88.7 percent boys (CEHRD 2077). This incremental trend shows the girls' enrolment is impressive than the boys. Similarly, out of the total new enrolment in grade one the percentage of children with ECED/PPCs experiences (as a new intake in grade one) was 62.4 percent in 2015 which is gradually increasing as it was 66.9 percent in 2018 and 68.6 percent in 2019 (CEHRD 2076) and in 2020 it reached to 70.1 percent and Sudurpaschim province status (70.2 percent) is closed to national average (CEHRD 2077). The difference between GER in ECED/PPEs and children enrolment in grade one with ECED/PPCs experiences reveals that the net enrolment ratio (NER) in grade ECED/PPEs is quite low and seems low pace to achieve the target by 2028 as envisioned by act. Moreover most of respondents opined that net enrolment ratio in grade ECED/PPEs is low. As a new concept for public school, it is

found to be least managed and focused by the all governments. Hence government seems to just address the targets 4.2 of sustainable development goal that equal access to quality pre-primary education by 2030.

Enrolment and Completion of Basic Level

The enrolment of students in basic level is increasing gradually over the recent years as it was 92.7 percent in 2018-19, 93.8 percent in 2019-20 (CEHRD, 2016) and 94.9 percent in 2020-21 (CEHRD, 2017). The enrolment in initial grades 1-5 or lower basic level is slightly higher than the overall basic level in both national and Sudurpaschim Province shows the increased number of age specific out of school children. The 94.9 percent and 96.3 percent net enrolment rate in basic level of national and provincial level respectively in 2020-21 proves that 5.1 percent and 3.7 percent children are still not in school education system while the age specific enrolment, irrespective of the grade and level of school education, of 5-12 years children shows the less impressive image as the flash report (CEHRD 2017) reveals that only 95.2 percent, 92.7 percent and 92.8 percent of children aged 10, 11 and 12 respectively are in school education system and 7.2 percent of children aged 12 years are not in school education system. The same report also shows that the overall completion rate at basic level is 75.3 percent in 2020-21 which is 2.6 percent higher than 72.7 percent in 2019-20. The higher proportion 7.2 percent of out of school children and 24.7 percent of non-completion rate at basic level in national level and most of respondents opine that such rate might be higher in the study area. This reveals that huge number of citizens after 2084 B.S. would be ineligible to exercise their right to freedom and right to employment. Consequently, the marginalized section of the society would be on the verge of more inequality.

Capacity of Local Government

Municipality as local government has all legislative, executive and judiciary bodies and the article 226 of the constitution and section 102 of the Local Government Operation Act, 2074 provisioned the right to legislate necessary laws for the implementation of matters in the area of single and common rights and basic education is under the single right. All but Dipayal-Silgadh have not legislated basic laws in school education. A separate branch of education has also been established but the responsibilities of all the sub-branches under the education branch have not been assigned yet to specified personnel. Hence, the personnel assigned the responsibilities of education branch is overloaded and seems unable to have put efficient effort to manage school education.

The section 24(1) of Local Government Operation Act 2074 stipulates that local government should formulate and implement the periodical, annual, strategic, mid-term and long-term development plans for the development of the education sector but only Dipayal-Silgadh heads to it by including education into long-term strategic plan. Local government, municipal education committee in collaboration with ward committee, has to update details of all out-of-school children based on age, caste, gender, and families below the poverty line and has to guarantee equal access to education with special incentives for the children of such groups as well as plan to make teaching and learning

child-friendly but all three municipalities yet to heading toward it. Civil society members opined that local government is focused on solving the immediate problems and is not able to move forward by making long-term strategic plan based updated data.

Municipalities have resource problem for the improvement of the school education as the federal government seems not interested in managing necessary teachers, the expenditure burden on municipality has increased. Moreover, many public schools have sub-standard basic physical facilities which seem favorable to expend resources with priority for municipality. Consequently, there is resource management problem to provide educational opportunities to the underprivileged, orphaned and differently able children who are out of school education, as well as to maintain the continuity of the children enrolled in school and to improve teaching and learning.

The elected representatives' inspection of school education has been increased (Parajuli et al, 2076 BS) which had been done by district education office. However, it is limited to enthusiastic level as municipalities have not able to appoint school inspectors to monitor schools as well as develop modality for monitoring schools due to lack of human resource. Federal and provincial governments seem less interested. As the municipalities have not updated the details of out of school children, the merger of schools has also increased the number of out of school children by increasing the distance to the school (Budha 2075 BS) in the remote area.

Parental Practices for Education of Children

Going *Kaalaapahaad*, seasonal migration of marginalized section, for earning is common practice of Sudurpaschim province. Most of the marginalized citizens used to seasonally migrate to the India as impoverishment, indebtedness and unemployment in origin as well as job opportunities in India and the long-standing tradition of migration have led to large-scale labour migration to India (Thieme et al. 2003). The low human development index and high poverty index is compelling to search for alternative livelihood option. The human development index of Sudurpaschim province is lower (0.547) than national (0.587) as well as higher (33.6 percent) multidimensional poverty index than (28.6 percent) national (National Planning Commission 2020b) which ranked fifth among the seven provinces.

The seasonal migration affects children's regularity in school as the lower basic level students, as a dependent, used to go *Kaalaapahaad* with their parents and students of upper basic level at the beginning of the age of being economically active, used to go for work with adults. Moreover, the students, from that group, who are in the village used to involve in household work as well as in labour market. Early child marriage practice is the other cause of out of school education in the studied municipalities as Nepal is home to 5 million child brides and of these, 1.3 million married before age 15 (UNFPA-UNICEF 2019). Most of the parents of that section found to be not aware of the value of education and not ready for investment in education which does not have immediate return as Hyman (1967 cited in Haralambus and Heald 1999) argues that working class and manual workers place lower value on education as they see less value in continuing at school and seek immediate economic benefit.

Conclusion

Local government seems to be in paradoxical position as it has been mandated with the responsibility of managing education up to secondary level but it is not efficiently capacitated yet to manage all the necessities for basic education effectively in terms of both human and financial resources. Federal government still is not ready to share the exercise of state power with provincial and local government as envisioned by the Constitution. Federal government has imposed the responsibility of arranging school education to local government but is reluctant to allocate more budgets as well as amend existing education act 2028 BS and capacitate local government through Federal Education Act.

Legislating laws and policy without evidence-based analysis, planning and budgeting leads society to injustice. Poor and marginalized sections are not able to get school education though government has made education free. State imposes the perceived order of school education and targets to achieve it by 2084 BS. However, it is going to create inequality by having limited to right to freedom and employment. Changing laws and policy as the situation differs is the common practice of less developed society and Nepal government would extend the period to compulsory basic education. However, it seems not easy to achieve until efficiently capacitated local government, close to citizens, as local government can assess the context with evidence-based analysis, planning and budgeting.

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