CHAPTER TWO

STATUTORY PROVISIONS ON EDUCATION:
UNITY IN DIVERSITY
CHAPTER TWO

STATUTORY PROVISIONS ON EDUCATION:
UNITY IN DIVERSITY

"No one will doubt that the legislators shall
direct their attention above all, to the
education of the youth."

ARISTOTLE IN 'POLITICS'

PLACE OF EDUCATION IN THE CONSTITUTION:

On July 15, 1947 the British Parliament passed the Indian
Independence Act, 1947, transferring power to the Indians. Thus
India won her long-cherished freedom on August 15, 1947. The
Indians were successful in throwing off the shackles of slavery
and the yoke of the British rule of about two hundred years.
India remained as an independent Dominion of the British Empire
for about two more years, and afterwards on the twenty-sixth
day of November, 1949, the PEOPLE OF INDIA, through their
Constituent Assembly, solemnly resolved to constitute India
into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its
citizens:

JUSTICE: social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the
unity of the Nation.¹

¹Lok Sabha Debates. Preamble to the Constitution of India,
Constitution Bill No. 91 of 1976 Clause 2, Infra p. 60
(44th Amendment).
Recently the Committee on Constitutional Amendments, 1976 has recommended that the concepts of Secularism and Socialism should be clearly spelt out in the Constitution. Accordingly it recommended that the Preamble should be amended by substituting the expression "Sovereign Democratic Secular Socialist Republic" for 'Sovereign Democratic Republic'. It has also proposed that the words "and integrity" should be inserted after the word "unity".

Through their Constituent Assembly as Provisional Parliament, the Indians adopted, enacted and gave to themselves the present Constitution which came into force on January 26, 1950. The Founding Fathers of the Constitution framed it in a manner as to make it play the part of the torch bearer of the new renaissance in the developing free Indian Nation. The Constitution has become the first significant and fundamental law of the country. It is in the form of an elaborate and detailed, comprehensive and lengthy document. In the words of Shri B.C. Chagla, "it is one of the finest documents ever written." There are, in it, 395 Articles, properly classified, under twenty two parts and nine schedules.

Fuly recognising that education is the only means through which a society can seek to secure active and intelligent participation of all its members in the complex processes of

---

1 The Swaran Singh Committee, 1976.
2 The Sunday Tribune, May 23, 1976, and Bill No. 21 of 1976, Clause 2, infra p. 60.
modern living and that it plays the increasing role as the essential infrastructure of the entire national development, the framers of the Constitution gave an important place to education in the Constitution itself. Vide Article I and first schedule of the Constitution, India that is Bharat, is a Union of twenty-two States and nine Union Territories.¹ In the words of Shri P.N. Sapru, "Here in our country we have a Constitution which for want of better expression, may be described as a quasi-federal one. Sovereignty has been split up between the Union Centre and the States, composing the Republic."² Vide Article 246 and Schedule Seven of the Constitution the spheres of action in all matters have been divided into three lists.³ Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I of the Seventh Schedule, referred to as the "Union List." The Parliament, and the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III, referred to as the "Concurrent List." The Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II, referred to as the "State List." Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List. The Seventh Schedule to the Constitution contains the following entries

1. First Schedule to the Constitution of India, p. 159, Appendix 1-2.
relevant to the subject of education:

List I (Union List) : (containing entries 1 to 97)

Entry 63

The institutions known at the commencement of this Constitution as the Banaras Hindu University, the Aligarh Muslim University and the Delhi University, and any other institution declared by Parliament by law to be an institution of national importance.

Entry 64

Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.

Entry 65

Union agencies and institutions for—

(a) professional, vocational or technical training, including the training of police officers; or

(b) the promotion of special studies or research; or

(c) scientific or technical assistance in the investigation or detection of crime.

Entry 66

Co-ordination and determination of standards in Institutions for higher education or research and scientific and technical institutions.

List II (State List) : (containing entries 1 to 66)

Entry 11

Education including universities, subject to the provisions of entries 63, 64, 65, and 66 of List I and entry 25 of List III.
List III (Concurrent List) : (containing entries 1 to 47)

Entry 23
Economic and social planning.

Entry 25
Vocational and technical training of labour.

Entry 26
Legal, medical and other professions.

Parliament has, thus, exclusive powers and responsibilities to legislate on educational matters entered in the Union List under entries 63, 64, 65 and 66. The State Legislatures and the Parliament both share and have the powers and responsibilities to legislate on matters placed under Entries 25 and 26 of the Concurrent List. In case the Union and State Laws overlap, the Union law always prevails.

Education as a social service activity of national development and reconstruction, is, thus a divided area between the Parliament and State Legislatures and there has been a very far-reaching development of a 'working partnership' between the Union and State Governments, during the last two decades. However, the division of spheres of action in educational matters between the Parliament and State Legislatures is not sometimes functionally clear and the Supreme Court of India had occasions¹ to show and define when action by one Government would amount to an encroachment in the sphere of another. In

¹Joshi v. Madhya Bharat, A.I.R. 1965 S.C. 334;
addition to the legislative responsibility mentioned above, the Parliament has the powers to make use of the following Articles of the Constitution to serve the cause of education of the people of the vast country with its immense diversities of language, religion and socio-economic classes.

**Article 14. Equality before law:**

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

According to Shri M.C. Chagla "Article 14 is the corner-stone of our fundamental rights. It is the article which proclaims to the world that we believe in the rule of law, that every body is equal before the law, that we are judged not by men or women but by law."

**Article 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth:**

1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

Clause 3 of this article provides that nothing in this article shall prevent the State from making any special provision for women and children; and Clause 4 provides that nothing shall prevent the State from making any special provision for the advancement of any socially and educationally backward class of citizens or for the Scheduled Castes and the Scheduled Tribes.

---

1Rajya Sabha Debate on The Constitution (Twentyfifth Amendment) Bill, 1971, December 7, 1971, p. 44.
Article 16  Equality of opportunity in matters of public employment:

1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

Clause 4 of this article says that nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

Article 29  Protection of interests of minorities:

1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only to religion, race, caste, language or any of them.

Article 30  Right of minorities to establish and administer educational institutions:

1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the
management of a minority, whether based on religion or language.

Article 29 and 30 are important in diluting any state-attempt to promote regionalism through education. However, the Governmental regulation and control is extended to the privately managed institutions for the common good of the community. The academic equipment of the teaching staff, the adequacy of teachers' salaries, the general terms and conditions of their services, the number of students admitted to the institutions and the use of standard books, all these conditions for maintaining academic standards give the Government the right of interference in the private institutions. In the words of Chief Justice, S.R. Das "the right to administer cannot obviously include the right to maladminister." 1 The Governmental regulations shall be general and they should not violate the constitutional protection guaranteed to religious and linguistic minorities under Article 29 and 30. 2 The managements of private institutions oppose the Governmental interference and control over their institutions. The denominational bodies have claimed protection of their institutions under Articles 29(1) and 30(1). On July 29, 1971 putting a question to the Law Minister Gokhale, Shri Frank Anthony said, "Does (Article) 31C give any legislature the power to take away minority

---


educational institutions, charitable and religious trusts?... It was the fear with me that under 31C any legislature, any ramshackle coalition by one vote could expropriate the Christian colleges and schools, the Sikh colleges and schools, the Muslim colleges and schools, and the Anglo Indian colleges and schools. What the Supreme Court had said in the Kerala Education Bill case 1954, and again recently, was that if you take over the management of a minority institution, it is expropriation.\(^1\)

Article 41 Right to work, to education and to public assistance in certain cases:

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 45 Provision for free and compulsory education for children:

The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Article 46  
Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections:

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

Articles 249 and 250 empower the Parliament to legislate regarding the matters contained in the State List also after declaration of such matters as matters of national importance.

Article 282 provides that the Government of India can give grants in aid to the States for the progress and development of educational programmes in the States. Article 335 provides that the claim of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State. Articles 343 to 351 make provisions for the use of different languages by the Union and States. Article 351 provides that:

It shall be the duty of the Union to promote the spread of the Hindi language to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule and by drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages.

1Appendix VIII-8.
The above mentioned Constitutional provisions influence the philosophy and practice of education based on "the ideas and ideals enunciated in Part III and IV of the Constitution" which "serve as a beacon light to India on her march towards the temple of socio-economic justice" and democratic socialism.

CENTRE - STATE RELATIONS IN THE FIELD OF EDUCATION:

India has a peculiar federal structure. The legislators have been expressing their views on the issues of Centre - State relationship, since the beginning of parliamentary democracy in India. Most of them have immense faith in the resilience of the Constitution. They have a quest for a viable position of balance and equilibrium between the Centre and the States. Their collective wisdom is expressed in the discussions and deliberations of the Parliament. The views of the Hon'ble Members of the Parliament are given below:

On the suggestion of some Members for putting Centre - State relations on a new basis the Prime Minister Indira Gandhi observed in 1971, "I do not know if any useful purpose will be served by freezing the relationship between the Centre and the States into any rigid statutory enactment or even institutional devices, since even the most careful thought now cannot possibly foresee every problem that could arise in the future. That is why a certain flexibility is always helpful in any human relations rather than set and rigid pattern." After five years of this

---


2Lok Sabha Debate, June 24, 1971, Second Session 5th Lok Sabha.
statement she explained why education should be in the concurrent list, saying that "there should be a national base for education so that the younger generations can get the best out of the educational system."¹ She pointed out how because of the changes made in the education system by some State Governments due to local pressure or other reasons people of those States suffered in all-India services. She is justified to have this change in her views when we see the forces of State Autonomy working against the national unity. Chief Minister of Tamil Nadu Shri Karunanidhi once said, "I expect the Central Government to extend its almost cooperation to fulfill my commitment to the people. If that is not forth coming, I will not seek to cover that and take shelter for my inability under the plea of my not having enough powers under the federal set up. On the contrary, I will draw the Centre to answer my charges before the Public. I will expose it to the world at large and make it clear that though India is a federal set-up, nothing can be done without the Centre's Concurrence." According to Shri Morarji Desai, "there cannot be two sovereignties in a country. There can be only one sovereignty and that can only be of the whole nation, that is of the Centre. This is essential if integrity of the nation is to be preserved." In the opinion of Shri Bhupesh Gupta the existing constitutional structure is an opportunistic compromise between demands of

¹Speech at the A.I.C.C. Meeting at New Delhi on 29.3.1976.
federalism and pressures of unitarism. Underlying its scheme of Centre-State relations, is the concept of power by the Congress Party; the concept of power by one class, the capitalist class. The concept of strong Centre can be accepted in so far as it means that the strength of the Centre arises from the voluntary acceptance by the States, but not if it means that the Centre would be a steam-rolling institution to work the power and autonomy of the States.

Shri S. Kandappan says that though subjects like Health, Agriculture and Education fall within the jurisdiction of States, the Centre too has its Departments for dealing with these subjects. This duplication of Departments at the Central level and the creation of new All India Services cannot but have a crippling effect on the initiative and efficiency of State administration.

According to Shri L. K. Advani the Constitution may be described as federal in form and structure but unitary in content. Since we have accepted the federal form for normal times, it is essential that the States should be allowed to function as separate entities and completely free and autonomous in their respective spheres and the Centre should not interfere in their working. An Inter State Council under Article 263 of the Constitution should also be set up.

Shri Ram Narain Chaudhuri is of the view that the IAS and the IPS are a great impediment in the development of healthy Centre State Relations. Officers of these services function as agents
of the Central Government and are, to a considerable extent, responsible for creating differences and misunderstanding between the Centre and States.

Shri T. N. Viswanathan feels that the Centre has not been treating the States as co-partners in joint effort for the rebuilding of this nation, but rather as "beggars at the door." The autonomy of the States is being eroded by Centre through the use of its 'money power' as it has exclusive control over currency and coinage. It must use this 'power of printing and coining' for the benefit of the entire country.

According to Shri H. D. Bhandare extra constitutional or conventional relationship between the Centre and States has developed through the forms of the National Development Council and the Planning Commission where the States get the representation in thrashing out in the economic and educational programmes of their States.

On 29 February, 1970, Shri Khobragade Deputy Chairman of Rajya Sabha said, "as compared to the Centre, the States have relatively less resources, although the responsibility for implementing developmental and welfare schemes devolves mainly upon the State Governments. Naturally the States, 'clamour for more resources' and there is friction between the Union and the States. The trend all the world over is for concentration of greater powers in the Centre. In the present conditions of India, the objectives of all political leaders and statesmen should be to achieve from the country's diversity 'national and emotional unity and integration'. If this aspect
is kept in view, then no one would grudge to give greater powers to the Union Government.\footnote{1}

Shri S.C. Samanta moved a Constitution (Amendment) Bill\footnote{2} further to amend the Seventh Schedule of the Constitution with a view to bringing education on the Concurrent List.

Participating in the debates on this Bill Shri Atal Behari Vajpayee said, "Shri Samanta has demanded through this Bill to bring education on the concurrent list. This demand has not been made in the House for the first time but many times great emphasis has been made on this matter. If we want to formulate a national policy in education and desire its implementation in the States, then education cannot be left under the only authority of States. This matter was also discussed in the National Integration Council, where it was felt that necessary steps should be taken in this direction and the States must be persuaded for this. But the States are not ready to part with this right and power. They do not worry about education but have the ulterior motive for the appointment, transfer and rewarding of teachers who may be favoured by discriminating against others. They do not want to give any power to the Centre by bringing education on the Concurrent list. I feel that in almost all the States except Tamilnadu Congress Governments are functioning and this is the proper time when education can be included in the Concurrent List. The State\footnote{3}
Governments have prescribed or published such text-books as are against national integration and are not similar in all the States. The Union Government cannot interfere because education is a State subject.\textsuperscript{1} Shri Vasant Satho supported the laudable purpose spirit and object of the entire Bill brought forward by Shri Samante and said, "It is high time that in this country we had some co-ordination particularly in education between the States and the Centre. Even from the point of view of promoting integration and encouraging a feeling of unity, it is necessary that education should be in the Concurrent List."\textsuperscript{2} Supporting the bill Shri Samar Guha said, "as an educationist, I find that if anything is in a chaotic condition, the structure of education, the structure of the institutions, the system, the curriculum, the syllabi and all these things are almost in a mess as if India is not one, single integrated country and as if each State is sovereign to develop its own system of education or have its own curriculum or its own syllabi or its own method of examination or its own method of teaching. Even in the recent Education Commission Report, it was recommended that the structure of education should be 10 plus 2 plus 2 plus 2 plus 2 including the post graduate courses. What is the condition today? If you go to the different States you will find some States have a ten year school course, some up to the 11th

\textsuperscript{1} Lok Sabha Debates, July 27, 1973, cc. 334-336.

\textsuperscript{2} Ibid. c. 337
standard, some up to the 12th and so on. God knows what is the position in the rest of the States. In West Bengal, so long it was up to 11 years for the secondary stage, but recently they have adopted a bill in their legislature where they have reduced it to 10 years. Suddenly they are talking about the intermediate colleges. If a student wants to migrate from one State to the educational institution of other, he finds it extremely difficult, because the system, the syllabi, the curriculum and the examination are all completely different. Therefore, I say that if India is one country, and if we want to correlate and coordinate the system of education and have a general educational system in the country, it is high time there was a certain coordination between the States and the Centre.... There should be a certain coordination, and a certain co-relation, and though not absolute uniformity but a general uniformity all over the States. If a comprehension bill is brought forward and the Constitution is amended so as to make education a concurrent subject where in the centre also will have something to say, it can act if not as an arbiter but as some kind of agent to secure national uniformity in the system, the objectives, the structure and the concomitant subjects in relation to education.¹

Shri D.C. Mavalankar did not agree with the supporters of the bill. According to him many of us in this country have a wrong notion that if you want unity and national integration,

¹Ibid. cc. 337-339.
somehow everything must be done by one agency at the Centre. This is a dangerous notion. If you consider education merely as an instrument in the hands of the State, then you are looking at the problem only from one aspect. Education is not merely a means; it is also an end. Using education as an instrument in the hands of the State, will not lead to national integration. It will bring national regimentation. Bringing all people together under one umbrella and teaching them exactly the same things must be opposed. We should not do anything which will disturb the State independence and State autonomy. We should not disturb the pattern which has been wisely laid down by the founding Fathers of the Constitution.

In the words of Shri Suraj Pandey, "it is a fact that the condition of education in our country is very bad. In Uttar Pradesh there is neither any educational system nor any educational policy. The students who come out of the schools have no knowledge. English teaching for them has been stopped but they do not know Hindi also. Students with B.A. or M.A. certificates do not have the general knowledge of common things. The State Government apply their minds to the appointment, transfer or dismissal of Managing Committees etc. The Government should not take education directly into their own hands but there must be nationalisation of education to have a national system and national policy of education. It is very necessary for building the nation."

---

1Ibid. ea. 341-343.
Shri Shyamnath Singh was of the view that "the subject of education must be brought on the Concurrent List. The Central Government appoints many Committees and Commissions on education and accepts their recommendations and sends them to the State Governments who do not implement them in the right spirit. The States and universities which are themselves autonomous in the field of education, create many difficulties. Therefore, an amendment must be made in the Constitution so that there may be a Central Policy on Education and there may be a complete revolution in the educational system."¹

Shri B.P. Yadav said that such a Bill had also come before the House on May 12, 1972, and it was decided that it should be sent for public opinion. He gave the following information, "only nine States have responded, of these, six States have opposed, that is Andhra Pradesh, Gujarat, Kerala, Madhya Pradesh, Meghalaya and Mysore. One has supported, that is, Mizoram. Two have given no comments, that is Himachal Pradesh and Rajasthan. Four Union Territories have responded. Chandigarh and Pondicherry have opposed and remaining two that is Arunachal and Delhi have supported the Bill. Ten Universities have sent their comments. Two have opposed, that is, Sardar Patel and Gujarat, and remaining eight have generally supported the view. From the judiciary

¹Ibid. pp. 343-345.
four replies have been received. The Advocate General of Mysore, and Shri Behar Singh, the retired Chief Justice of High Court of Punjab and Haryana have opposed the proposition envisaged in the Bill. During Mr. Chagla's time all the States except Punjab had opposed the suggestion to include higher education in the Concurrent List." Shri Yadav did not agree with the idea that the States had been mismanaging the subject of education. He said that we should not believe in the regimentation of the people and concentrated power, as this was the policy of our Government. He read out Section 15.30 of The Education Commission under the chairmanship of Dr. Kothari, "we have examined this problem very carefully. We are not in favour of fragmenting education and putting one part in the Concurrent and the other in the State List. Education should, under any circumstances, be treated as a whole. We also do not agree with our colleagues.....and are of the view that in a vast country like ours, the position given to education in the Constitution is probably the best because it provides for a Central leadership of a stimulating but non-coercive character. The inclusion of education in the Concurrent List may lead to undesirable centralisation and greater rigidity in a situation where the greatest need is elasticity and freedom to experiment." Shri D.P. Yadav further said, "now the question is whether we can or cannot bring any change in education by

---

bringing education on the Concurrent List. I can assure the
House on the basis of last two and a half years experience that
if we want to do something by interference or coercion or by
making any law, we shall not be able to do so. We shall have
to think whether the Central Secretariat will be a place from
where the Education Minister will function for 9 crores of
school-going children. Can it be possible from Delhi to manage
30-32 lakhs of teachers and about 6 lakhs of educational
institutions for 9 crores of students?\(^1\)

Shri Vishwanath Singh said that the purpose of bringing
education on the Concurrent List was to make the Central
Government to formulate national policy of education and not
to manage the whole educational administration.\(^2\)

Shri B.P. Yadav again said, “in my opinion and in the
opinion of the Government, we cannot impose anything in such
a vast country. Through the establishment of N.C.E.R.T. here
in Delhi, we have evolved a process through which our
experiments, our model text books are very rapidly percolating
into the inner views of the educational system of India. The
N.C.E.R.T. is meant for primary and secondary education. The
Teachers Association of India is involved in the educational
programme. We have started summer institutes in a massive way.
As to the methods of education also, a uniform pattern of
science education is being evolved through N.C.E.R.T. So far
as higher education is concerned, we are just now contemplating

\(^1\)Ibid.

\(^2\)Ibid.
mutual exchange of ideas through UGC, seminars etc. so that
there may be uniformity in science education, technological
education and other types of education say arts, sciences etc. 1

Shri Vasant Sathe said, "What about Indian School
Certificate Examination Board? It is playing havoc with the
school books. Only the other day you saw what they have
published -- anti-national, anti-historical, anti-geographical
and all sorts of perverted things which are going in the name of
freedom in the primary school books and other things. What are
you doing at least with regard to coordination?" 2

Shri D.P. Yadav replied, "The Government cannot allow
anything unscrupulous and injurious to the national harmony and
national integration. With the methodology of persuasion
(1) by involving the teaching community and teachers
Association and (2) exchange programmes between the academicians
right from the grass root level to the top people and over and
above, the involvement of the UGC in spreading a uniform type
of education in the country as a whole.

Shri S.J. Swamte said, "all educationists in the country,
in the core of their hearts, are not happy with the present
system of education. There should be some change. When we say
about change, we are not bringing in any dispute between the
States and the Centre. We think that uniformity in education
which we want is not possible unless the Centre is brought into
the picture. Certain opinions have been received by the Lok Sabha

1Ibid.
2Ibid.
Secretariat. Only 9 States have responded and even those 9 States have not also replied fully. Amongst the States that have responded, all are small States. Calcutta University has been reported to have said as follows:

"The Syndicate of the Calcutta University is in favour of putting education on the Concurrent List. Education at present is not on the Concurrent List; it is a State Subject. The Sapru Committee wanted Government to wait for ten years and see the development according to their recommendations and then decide what should be done. That period is going to lapse by 1973. So I would request the Government to look deeply into this matter which they are thinking of. For the good of the whole country, the Central Government should call the Ministers from all States and try to convince them."¹


After a period of about four years since the withdrawal of this Bill Shri Sudhakar Pandey requested the Parliament "to make higher education a Central subject at this time which is very appropriate for this. Otherwise, the State Governments will open universities under the political pressure. Such universities are accommodated in a bungalow where there are no chairs and no tables. The Vice-Chancellor moves round in a jeep and is satisfied that he would have a comfortable life for three years."² Shri Shankardyal Singh suggested that

²Lok Sabha Debates on UGC (II) August 6, 1973, col. 106.
education must be made a Central Subject and the number of Central Universities must be increased. There must be at least one Central University in each State.\(^1\) Shri P. Ganga Reddi was of the opinion that education must be made as a Central Subject or at least it must be brought on the Concurrent List.\(^2\)

**COMMENTS:**

The suggestion that education be included in the Concurrent List of the 7th Schedule of the Constitution has been made many a time in the Parliament. Recently, the academician's convention convened by the All India National Forum of Teachers at New Delhi unanimously resolved that "to meet the problems that the educational process is facing from regional and local pressures, it would be necessary to make education a Concurrent subject in order to integrate the goals of social and economic planning with the processes of education." In 1964 as a sequel of the Gujarat University case\(^3\) on the medium of instruction, a Committee of Members of Parliament on Higher Education recommended the transfer of Higher Education from the State List to the Concurrent List. Earlier in 1949 the University Education Commission similarly suggested that university education be made a Concurrent subject. The Commission then thought that the all-India aspects of university education, the interchange necessary between universities and the need for

\(^1\)Ibid.

\(^2\)Ibid.

a national guarantee of minimum standards of efficiency made it desirable that university education should not remain purely a State Subject. At the same time, it felt that making university education exclusively a Central Subject was also not desirable as it would discourage local initiative and interest in higher education and in the creation and development of universities. The Commission was of the opinion that since university education was closely linked with primary and secondary education which were subjects of responsibility, States should not be deprived of that power in the interest of the balanced and integrated development of education, though the Centre could have the necessary control and power to legislate upon the subject of education. Thus, whereas the Radhakrishnanan Commission and the Committee of the Members of Parliament would have been satisfied if primary and secondary education were kept exclusively in the State List provided that University education had been brought under the common legislative sway of the Union as well as the State Legislatures, the Swaran Singh Committee and the academicians' convention have gone a step further. On the ground that the entire educational process from the nursery stage to the university stage is one integral and continuous process, they recommended that the whole field of education should be under the legislative control of both the Centre and the States. The effect of keeping education in the Concurrent

1Supra, p. 35.
List would be, that both the Centre and the States would be able to legislate on any and every aspect of education from the pre-primary to the university stage.

The present Constitutional provisions on education have led to some legal anomalies and have, on the one hand, inhibited the formulation of a unified national policy on education and, on the other hand, led to a lopsided development of education. Today we do not have an integrated national plan for education. Nobody is even sure about the goals and objectives of education and we are also not clear about the role of the educational institutions, teachers and students, administrators and parents. The needs and requirements of the various sections of the society in respect of education have not been properly and scientifically assessed and provided for even during the three decades of independence. The Centre cannot legally prescribe national standards for the assessment of the type and quality of education being imparted at various levels, nor it can ensure that this education is socially and economically relevant and useful. It cannot and should not be denied that even the present perfunctory system of education has contributed to some extent to the growth and development of the nation but there has been a criminal and colossal wastage and the investment in education, has not yielded proportionate returns to the community as a whole. The investment in education has been many times more than the rate of development in the national economy would justify.
It is very unfortunate that the educational structure and development today is in the form of an inverted pyramid because in the field of higher education the investment and expansion are the highest but at the pre-primary, and secondary stages they are far less. Though pre-primary and school education form the backbone of the entire structure of education, they have been neglected by the States and the Centre. There is an immediate need to correct this imbalance and make the inverted pyramid of education broad based and erect to give it strength and stability.

It is the most appropriate time that the Parliament should amend the Constitution to give more powers to the Centre over the broad spectrum of education concurrently with the State Governments, by including education in the Concurrent List of the Schedule Seven of the Constitution. The Centre must be given the powers to formulate all-India policies and programmes of education and to create an adequate machinery to execute and implement these programmes and policies without being hindered by the local and regional pressures. Only in this way education will become the powerful means for the realisation of the agreed national goals of socialism, secularism and democracy. As a matter of fact, education shall be transposed to the Concurrent List vide Clause 57 of the Constitution (44th amendment) Bill,1 when passed by Parliament.

1Bill No. 91 of 1976 introduced in the Lok Sabha on September 1, 1976, Hindustan Times, Sept. 3, 1976.