

EDUCATION AS HUMAN RIGHT: PROVISIONS AND IMPLEMENTATION

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ABSTRACT

The present article is a reflection on the different provisions given in our constitution. The different programmes and projects launched by the Govt. of India have been included in this article. Sufficient light has been thrown on different schemes and RTE.

INTRODUCTION

Education has proved itself as a tool to improve the individual's life as well as the development of the Society. Through education, individual does not get knowledge only, but also knows how to lead his life and to adjust himself in the society. Know thyself and to know others is the motive of education. The ultimate aim of education for the individual is to be good human being first, then other prospectus of life begins. It is well known that the education is process as well as means of human development. No development can be complete without education, which alone ensures that the citizens enjoy their rights and are not deprived for the same.

The notion of human rights connotes the equal dignity and autonomy of human beings in their pursuit of their conception of a good life, a life worth living. At a fundamental level, to speak of something as a human right is to not just make a legal claim to resources or for protection against an abuse of power, but it is also to insist that without those resources or that protection, one's equal dignity, autonomy and participating parity are fundamentally impaired. The externalities that make the public provision of education welfare-enhancing as a public good are also effects that broadly correspond with the achievement of equal dignity and autonomy. According to Dreze and Sen (1996). "enumerates programme of universal education contributes to social interaction, attainment of employment negotiate and cope with circumstances, discussion on social needs,

eradicate social problems etc." The authors points out the close conceptual kinship between education and human right by quoting the example of Kerela- the spread of education helps to overcome the traditional inequalities of caste, class and gender, just as removal of these inequalities contributes to the spread of education.

The right to education has been universally recognized since the Universal Declaration of Human Rights in 1948 and has since been enshrined in various international conventions, national constitutions and development plans. The right to education is recognized as a human right by the United Nations and is understood to establish an entitlement to free, compulsory primary education for all children, an application to develop secondary education accessible to all children as well as equitable access to higher education and a responsibility to provide basic education for individuals who have not completed primary education. Parkash (2011) has rightly quoted that education is important as it enables the child (a) to develop and realize full potential as human being (b) to develop the ability to take independent decisions (c) to develop sense of self-respect (d) to develop human dignity (e) to develop self-confidence (f) to develop moral values (g) to develop love and respect towards human beings (h) to develop tolerance (i) to develop love towards nature (j) to develop sense of democracy and good citizenship.

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REVIEW OF RELATED LITERATURE

(A) Preamble for universal declaration of Human Rights by UN

"This declaration is common standard of achievement for all people and for all nations, to the end that every individual and every organ of society, keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measure, national and international, to secure their universal and effective recognition and observance both among the people of member states themselves and among the people of territories under their jurisdiction."

EDUCATION AS HUMAN RIGHT

(B) "In Indian Right to Education Act, 2009 which came into force from April, 2010 is a part of Directive Principal of the State Policy under Article 45 in the constitution, is a result of many kind of struggles from civil and social societies and PIL's importantly cases of Mohini Jain Vs State of Karnataka and Uni Krishanan Vs State of Andhra Pradesh (1993). As a result of these PIL's the apex court stated.....," The Right to Education upto 14 years of age contained in Article 45 amounted to a "Fundamental Right" that was enforceable by the courts." It also relied upon a link between the right to life recognized in Article 21 of the constitution as a fundamental Right, and the Right to Education as a Directive Principles. According to Fernandey and Jenkar, Right to Education has been recognized in a great many international human right treaties." Tomasevski (2005) has referred 40 International conventions and Declarations which focused education as a human right." He referred to UN special Rapporteur on the Right to Education indicated that in 2001 that there were explicit guarantees of the right to education in the constitution of 142 countries.

UNDP (200) report assert that there is "human right of every individual to primary education" and stated that if some persons avoidably lack access to it, there must be some culpability somewhere in the social system.

The UNESCO world conference in the

"Right to and the Rights in Education" (2004) concluded that:..... to guarantee access to education by recognizing and safeguarding the educational rights and needs of all students, regardless of race, sex, colour, religion, political or other opinion; national or social origin, economic condition or birth". It concluded that "Education is a fundamental human right and essential for the exercise of all other human rights"

Clemens (2004) stressed on Education as Human Right' by quoting the importance of empowerment and accountability which flow from treating education as a human right also serve to underscore the importance of distinguishing those policy approaches which are premised, to a greater or lesser degree, upon the recognition of the right to education, from those that set broader development goals relating to education."

Alston and Bhuta (2005) wrote on Education and Human Development that efforts should be made to bring the discourses of human rights and development close together, which are capable of mutually reinforcing one another. It does so, by focusing on the right to education.

Kofi Annan (2005), the then UN Secretary speaking on "Education A tool for the elimination of Human Rights violations" stated that "without education, we cannot see beyond ourselves and our narrow surroundings, we cannot realize how people of other races and religious share the same dreams, the same hopes..... We cannot recognize the universality of humour aims and aspirations."

Niranjanardhya and Kashyap (2006) devoted provision of right to education and making education a 'fundamental right', a step ahead towards establishing 'Education as Human Right'. They stressed on legislation, a sole method implementing a human right.

UNESCO-UNICEF (2007) under the heading of Human Rights Based Approach to Education For All (EFA) stated that- the goal of human rights based approach to education is to assure every child a quality education that respects and promotes her or his right to dignity

and optimum development.”

Muller (2009) studied Human Rights Education in German Schools and concluded that it sets students minds, emotions and actions as well as effects their behavior.

Chin (2010) worked in “Exploring Facilitator's Beliefs about Human Rights and Education”: and concluded evidences of universal and local influences of education and its relation to human rights.

Prof. Amartya Sen (2010) the Nobel laureate stated that there is a need for ensuring primary education for everyone in India, the right to education, though lately, has been included as fundamental right in the constitution. He relates education to human, social and national development.

However Irina Bokewa (2010) the Director General of UNESCO expressed her negation by saying 'Human Rights are universal, but they are not universally accepted.' She expressed that education and Human rights are directly connected . Education makes the mindset of people to understand human rights for them and to other. She enforced that education is to be made as human right across the world.

In the last, it is important to be noted that UNESCO (2011) again expressed that “Education is a fundamental human right and essential for the exercise of all other human rights. It promotes individual freedom and empowerment and yields important development benefits.”

EDUCATION INDIAN CONSTITUTION

Regarding fundamental right to education for every citizen, Indian constitution says, “The state is the central actor in any claim to the right to education. It is the prime duty bearer and the prime implementer, it is the guarantor, and it is the state's signature vis-à-vis the international norms and standards which binds it to respect, protect and fulfill the right to education. The state must therefore be judged or challenged on its central text on the right to education, whether this be the constitution, the laws or the policies.”

The provisions made in Indian

constitution regarding education are quoted below:

1) Article-21 A :- The state shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the state may, by law, determine. (Eighty-sixth Amendment Act, 2002).

2. 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.

3) Article-45:- Provision for free and compulsory education for children.

i) 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.

ii) The state shall endeavour to provide early childhood care and education for all children until they complete the age of six years (Eighty sixth Amendment Act, 2002).

4) Article-46 :- Provision of educational and economic interests of scheduled casts, scheduled tribes and other weaker sections.

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

5) Article-51 A (k) :- Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years. (Eight sixth Amendment Act, 2002). This article is also named as 11th Fundamental Duty in Indian Constitution.

The Government of India Dy. Constitutional (86th Amendment Act) Act, 2002 had added a new Article 21 A which provides that “the state shall provide free and compulsory

education to all children of the age of 6 to 14 years as the state may, by law determine". And further strengthened this Article 21 A by adding clause (k) to Article 51-A which provide? Who is a parent or guardian to provide opportunities for education to his child or ward between the age of 6 and 14 years? On the basis of constitutional mandate provided in Article 41, 45, 46, 21A and various judgments of Supreme Court the Government of India has taken several steps to eradicate illiteracy, improvement in the quality of education and make children back to school who left the school for one or the reasons.

EDUCATION AS HUMAN RIGHT

Every human being has dignity and human value. One of the ways that recognize this fundamental worth is by acknowledging and respecting a person's human rights. Every human being has the right to life, free speech and freedom of religion, right to health, education and an adequate standard of living. These human rights are the same for all people everywhere of any age, gender rich or poor, caste, colour and creed. This is what makes human right universal. This nature of universality is meaningless unless they are accepted by everywhere and every citizen of every nation or world. Definitely it is the education which can only led the way to this objective. UDHR 1948 mentioned 3 categories of Human Rights namely a) Civil Rights b) Political Rights c) Economic, Social and Cultural Rights. Right to education has been included in the Civil Rights.

On account of increasing importance of Human Rights at the international level. In 1993 in India, the following rights have been included in the list of Human Rights 1) Right to life 2) Right to Freedom 3) Right to Equality 4) Right to Human Dignity

Indian Constitution Article 45	Universal Declaration Article-14
The state shall endeavour to provide for early childhood care and education for children below six years	The state parties shall draw a plan that within a reasonable number of year's compulsory primary education free of charge for all us juncilitated.

There are many similarities in contents and form between the constitutional provisions and the UDHR and International covenant on

Economic, Social and Cultural Rights. The Fundamental Rights substantially cover almost all the civil and political rights enumerated in Article 2 to 21 of UDHR and hence can truly be designated as Fundamental Human Rights of India.

Education has been a part of the Directive Principles of the state policy under Article 5 in the constitution which is a part of chapter 4 of constitution and these are not enforceable. By passing the right to Education Act 2009, the State of India made this right enforceable by putting it in Chapter 3 of the constitution as Article 21. This entitles children to have the right to education enforced as a fundamental right.

By passing this Act, India became one of the 135 countries to make education a fundamental right of every child. The World Bank education specialist for India, Sam Carlson has observed "The RTE Act is the first legislation in the world that parts the responsibility of ensuring enrollment, attendance and completion by the Government. It is parents responsibility to send children to schools in the United States." As Fernadez and Jenbar (1995), Tomesevsbi (2005), UNDP (2000), The UNESCO World Conference (2004), Kofi Annan (2005) has rightly stressed to include education as Human Right in legal as well social aspects. It is clear from these studies that education has to be given an importance socially and Economically both that it becomes right of everyone in the world.

IMPLEMENTATIONS

In India, before passing right to education Act 2009, there have been different legal and constitutional provisions by the state legislations and to make the primary education free and compulsory to the children of age between 6 to 14 years. This was basically related to Article 45 of Indian Constitution. The several states have enacted legislation to provide free and compulsory primary education such as the Kerela Education Act 1959, the Punjab Primary Education Act 1960, The Gujrat Compulsory Primary Education Act, 1961, U.P. Basic Education Act 1972, Rajasthan Primary

Education Act 1964 etc. It is notable that right to education is concerned to age-group of 6-14 years as provision of eight years of elementary education in an age appropriate class room vicinity of his/her neighbourhood. This Act does not speak about millions of children who are in age group of 0-5 years. The proposal of extending right to education up to age of 16 years under age of consideration of Government of Haryana. Besides the above constitutional provision Govt. of India as well as different states has started different programmes namely :-

- 1) UEE- Universalisation of Elementary Education
- 2) DPEP (1994) - District Primary Education Project
Financed by World Bank to emphasize UEE
- 3) EFA Education for All
Sponsored and supported by UNESCO.
- 4) SSA Sarv Shiksha Abhiyaan
The programme supported by World Bank started in 2001 to strengthen the UEE by 2010. This programme was mainly concerned to student's welfare, teacher's training, infrastructural development and promotion of Elementary education.
- 5) RMSA (2011) Rastriya Madyamik Siksha Abhiyan, basically this programme is improvised form of SSA. This is concerned to library and laboratory development and student welfare.
- 6) Mid-Day Meal- Very prominent programme launched in 2003-04 by Govt. of India. The main objective of this programme was to provide mid-day meal to children in schools so that they may not leave the school in deprivation of food. This programme was a step to check out the drop out of the students. Later on this programme was extended upto 8th standard.
- 7) Scheme to Promote Girl Education- Govt. of India and some states has launched various schemes to promote Girls education increased literacy percentage as a whole of the country and states indicates the effect of legislations and implementation of schemes. Understanding of oneself and others is an indicator of good human being. Education

such as Ladli Yojna, Free Education to Girls in school and in some states upto graduation level. Result of census of 2011 shown a marked promotion in upgradation of Girl's education.

- 8) KGBVS Kasturba Gandhi Balika Vidhyalaya Scheme was launched by Govt. of India to promote Girl's education.
- 9) NPEGEL A similar scheme namely National Programme for Education of Gils at Elementary Level.
- 10) RTE 2009 Right to Education Act is a landmark development which includes education for drop outs 25% seats reservation in Private schools, no capitation fee will be charge for any kind of education. This is a step ahead towards making education as Human Right.
- 11) Pune university is the first institution in India who has made Human Rights Education as compulsory part of each course.

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