

PROBLEMS OF RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION IN INDIA: A CRITICAL STUDY

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ABSTRACT

Human behaviour and the dignity of its intellect are developed through education. Article 21-A, which states that all children between the ages of six and fourteen have the fundamental right to free and compulsory education. It was added to the Indian Constitution by the (Eighty-sixth Amendment) of Indian Constitution. Every child has a right to a full-time elementary education of reasonable and equitable quality in a formal school that complies with certain important norms and standards, according to the Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the significant legislation contemplated under Article 21-A. "In ancient India, education's ultimate goal is not knowledge as a means of preparing for life in the real world.

KEYWORDS: *Compulsory, Education, Problems, Human*

INTRODUCTION

Education is a power full tool for all the problems, every society has a change of powerful tool, thrive and survive through education. It is very essential to pass the knowledge and skills from younger generations to older generations, so that it passes smoothly on to every generation. Education brings us to realize ourselves, visualize dreams and then set forth to accomplish themselves. Therefore, education is a way to prepare good citizenry lives into a meaningful life, empower them through socio-economic mobility, reduce the inequalities both social and economic and in return trigger both the simultaneous concepts of growth and development. There is a paradigm shift to be analyzed from education as a path to knowledge and education as a cost recovery system. Education is the utmost powerful tool which shapes the character, personality of an individual, thereby shaping the personality, character of the country in return. The reasons which are kept in mind, while in understanding developing and under developing countries education is in equity, accessibility and quality education emerges as a single most crucial factor which helps any nation to sprint across to the status of a developed nation. An educated citizenry is an asset to the nation, as they contribute something to the society. United Nations organization expresses on Right to Education as a fundamental right which should accessible to each human being on earth, India was vehemently thrusting to implement Right to Education as a Fundamental Right. National Policy of Education of 1968 is the first official Government of India's document, which reiterated commitment to provide elementary education and this was further incorporated in the National Policy of Education in 1986. Ultimately when NPE 1986 was reviewed in 1990, it was recommended that Right to Education be incorporated as Fundamental Right. This will be helped to implement National Policy of Education 1992. By the same time, India has signed on United Nations Conventions of the Rights of the Child in 1992 and India has also started to work upon the legislation to introduce Right to Education as a Fundamental Right.

EDUCATION IS A HUMAN RIGHT: INTERNATIONAL PERSPECTIVES

According to the UNESCO definition from 1974, "education" refers to the complete social life process through which people and social groups learn to intentionally improve their particular talents, attitudes, aptitudes, and knowledge for the benefit of national and international communities. There are no activities that are excluded from this procedure. During the early stages of developing this domain of international law, terminology like "elementary," "primary," "fundamental," or "basic" were frequently used interchangeably. Since 1948, this has continued. The primary schooling system is the major way that students receive their fundamental education, according to the "World Declaration on Education for All," which was approved in Jomtien in 1990. Universal primary education is necessary to meet everyone's fundamental educational needs. Right of children to free and compulsory education:

In 2001 Constitution (93rd Amendment) Bill. The 83rd Bill was modified and reintroduced as Constitutional (93rd Amendment) Bill 2001 in the Parliament with the following provisions: After Article 21 of the Constitution, the following article shall be inserted namely:

“21 (A)- The State shall provide free and compulsory education to all children of the age of 6-14 years in such manner as the State may by law determine.” For Article 45 of the Constitution the following shall be substituted, namely: “45. The State shall endeavour to provide early childhood care and education for all children until they complete the age of 6 years.” In Article 51-A of the Constitution, after clause (j) the following clause shall be added, namely “(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 6 and 14 years.” Bill was passed unanimously in Lok Sabha November 27, 2001 and in Rajya Sabha on May 14, 2002. 2001-Sarva Shiksha Abhiyan- A Unique Programme for Universalisation of School Education. All children in school by 2003. All children complete five years of primary schooling by 2007. And in 2009- Right of children to free and compulsory education Act 2009 passed.

RIGHT TO EDUCATION: NATIONAL PERSPECTIVES

Article 21-A, which states that all children between the ages of six and fourteen have the fundamental right to free and compulsory education, was added to the Indian Constitution by the (Eighty-sixth Amendment). Every child has the right to a full-time elementary education of satisfactory and equitable quality in a formal school that complies with certain fundamental norms and standards, according to the Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the consequential legislation anticipated under Article 21-A. The RTE Act and Article 21-A both went into force on April 1, 2010. The words "free and compulsory" are part of the RTE Act.

RIGHT TO EDUCATION: JUDICIAL PERSPECTIVES

The judicial decision from which the right to education emanated as a fundamental right was from the one rendered by the Supreme Court in *Mohini Jain vs. State of Karnatak*. In this case the Supreme Court through a division bench comprising of justices Kuldip Singh and R.M Sahai, deciding on the constitutionality of the practice of charging capitation fee held that:

“The right to education flows directly from the right to life. The right to life and the dignity of an individual cannot be assured unless it is accompanied by the right to education. This rationality of this judgment was further examined by a five judge bench in *J.P. Unnikrishnan vs. State of Andhra Pradesh* where the enforceability and the extent of the right to education was clarified in the following words: “The right to education further means that a citizen has a

right to call upon the State to provide educational facilities to him within the limits of its economic capacity and development.” The same has also been reiterated by the Hon’ble Supreme Court in *Bandhua Mukti Morcha, etc. vs. Union of India*. “In *Maharashtra State Board of Secondary and Higher Education. K.S. Gandhi*, right to education at the secondary stage was held to be a fundamental right. In *J.P. Unnikrishnan v. State of Andhra Pradesh*, a constitution Bench had held education up to the age of 14 years to be a fundamental right. It would be therefore incumbent upon the State to provide facilities and opportunity as enjoined under Article 39 (e) and (f) of the Constitution and to prevent exploitation of their childhood due to indigence and vagary.” The role of Universal Elementary Education (UEE) for strengthening the social fabric of democracy through provision of equal opportunities to all has been accepted since the inception of our Republic. With the formulation of NPE, India initiated a wide range of programmes for achieving the goal of UEE through several schematic and programme interventions. Elementary education. Its overall goals include universal access and retention, bridging of gender and social category gaps in education and enhancement of learning levels of children. SSA provides for a variety of interventions, including inter alia, opening and construction of new schools, additional teachers, regular teacher in-service training, and academic resource support to ensure free textbooks, uniforms and free support for improving learning outcomes. The Right to Free & Compulsory Education Act 2009 provides a justiciable legal framework that entitles all children between the ages of 6-14 years free and compulsory admission, attendance and completion of elementary education. It provides for children's right to an education of equitable quality, based on principles of equity and non-discrimination. Most importantly, it provides for children's right to an education that is free from fear, stress and anxiety.

Problems in Implementations of RTE

- The act should also focus on parallel structures like the SCERT, SIEMAT, DIET, as it would highly professionalize teaching.
- Even though the Act enumerates minimum qualifications for a teacher, but it is quite difficult to work upon the qualitative qualification unless, there are more institutes for teacher education, foundations/principles, content and methodologies for in-class development and beyond
- The act does not talk about maintaining quality and adherence to minimum norms, thereby granting or cancelling recognition.
- With the no-detention policy, it is hard to gauge the learning outcomes of any learner, and thus defeats the concept of both mastery learning and universal learning too.
- In order to make RTE effective, it is very important to establish a sound Grievance Redressal Mechanism, which includes registering, investigating thoroughly and replying within a strict time frame.
- The shortage of finances for appointment of teachers, provision of infrastructure, basic building, which does not leak in monsoons, provides protection against the harsh sun in summers and chilly winds in winters, basic sanitation facilities through separate and clean toilets, clean drinking water, blackboard, multiple use open space and likewise.
- Experts have always argued that failure or success of any should always be considered in a particular context. There is a need of a parallel structure both creation and strengthening like the Sarva Shiksha Abhiyaan. The role of Teacher just restricted to provision of service and not actually the one who creates an environment, where the

students themselves are empowered enough to construct knowledge and learning. The whole focus is on the teacher and not the system. Even today 90% of education is still in the hands of private institutes, there is a huge debate why is this not being taken as a priority by the state.

- No provision of any type of education is provided for children from 3-6 years of age. So, there is a need preschool education. which should be included in the main schooling framework.
- The students are facing multiple issues, like for instance, many learners have to be convinced hard to come to school, in that case we need a strong system of motivation and encouragement, to ensure they continue, the emphasis of National Curriculum Framework, 2005 on arts and poetry is altogether sidelined, students should be taught in a language they understand and communicate and not the third language, which makes the process more complex. They can learn or experiment with new languages in higher grades.
- The poor outcomes of Government schools is a result of overburdened staff with non-academic activities, admissions do take place, but learners drop out, books which are to be provided, arrive either when the session is halfway or about to be over, student absenteeism, lack of infrastructure like classrooms, chair, desks, blackboard, toilet, drinking water, the funds are released towards yearend, vacancies in position. So, the basic question how can we question the delivery of quality service.
- The major issues lies in the fact that Education is within the ambit of Ministry of HRD and early childhood education falls under Ministry of Women and Child Development. So, the lack of coordination and difference in orientation is major road block. A longitudinal study by Centre for Early Childhood Education & Development (CECED), Ambedkar University, Delhi has found that 76% of children in pre-schooling age are going to some form of pre-schooling in the country with 65% in private facilities. "0-6 is the age where most of the brain development takes place so appropriate learning ways and concepts are critical in making child ready for school. But unfortunately in absence of a framework, referential curriculum and pedagogic standardization is missing. Various activists feel that the RTE Act should be reworked for the age group of 0-6 years and there should be provisions for the age bracket 14-18 too. The withdrawal of girl students from schools have varied reasons, and therefore the grass-root activists believe that a continuous education, definitely based on merit shall serve to fulfil the socio-economic objectives.

Important Guidelines for Effective Implementation

- Provide 100% funds by the central and state government for education to children and utilize funds for development of children in India.
- Understand that strengthening children mentally, physically, spiritually, socially and educationally is nothing but the real empowerment of children under the RTE Act 2009.
- There is no right to education without the proper duty of the government and other stakeholders, So Respect the life and right of children's in India by every means to achieve the goals under the Indian constitution Article 21(A) and RTE Act 2009.
- There is Corruption and politics in providing and protecting right to education in India and these are the main cause and problems in implementation of RTE Act 2009 in India.

- Basic value and importance of education should be known to each and every person in society by creating awareness.
- There is urgent need to redefine policy and plan of action regarding right to education in India for quality and excellence in future generation of India.

CONCLUSION

Dr. B.R. Ambedkar stated that education is the best tool for ending social slavery and that it will empower the oppressed people to rise up and achieve social status, economic improvement, and political independence. India is a country where education is the most important need and desire of the population. Because Indian children are particularly susceptible, we must take special care to ensure that they receive a decent education. India's Ministry of Human Resource Development produced and it states that "the ultimate aim of education in ancient India was not knowledge, as preparation for life in this world or life beyond, but for complete realization of the self, because education is not preparation for life but education is life in itself " This has to be taken in to consideration while implementation of RTE Act 2009 in India.

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