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RIGHT TO EDUCATION

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ABSTRACT

Everyone is aware of the fact that 'Knowledge is power' but to achieve this power one needs to be educated. Education helps a person to liberate itself from the darkness of illiteracy. Education helps in an overall development in the human being personality. Education has aided in overall development of the society and played an important role in bringing social change. Right to education is the need of hour in international level. Development of the nation depends upon the quality of the education that their citizens have received.

INTRODUCTION

Education is one of the most important things in a person life which starts from the very birth of a person. Education helps in giving shape to the future, personality of a person as well as determines the growth of the nation. A nation whose citizens are well educated has high chance of a better future. According to ancient thinkers in India, Vidya or knowledge or learning or education is the 'third eye' of man, which gives him an insight into all affairs and teaches him how to act; it leads us to our salvation; in the mundane sphere it leads us to all round progress and prosperity.¹ Education in its real sense is the pursuit of truth. It is an endless journey through knowledge and enlightenment. Such a journey opens up new vistas of development of humanism.² Education is such a powerful tool that a person who is economically and socially not that sound can through the help of it uplift itself and can fill the gap that was there earlier. Education is considered as a prominent factor in that spinning wheel which demarcates the line between under developed and developed countries. It is impossible to imagine development of human civilization without education. Education not only provides economical, social security but also develops a person in political scenario also

Education can be termed as that knowledge that is passed down by our ancestors by their experiences to their generation and what we will pass down will also become a part of education. Education has been one of the top most priorities of every country lately all of them are taking initiatives to ensure education for their citizens by making laws regarding education such an

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²A.P.J. Abdul Kalam and Y.S.Rajan , "Beyond 2020: A Vision for Tomorrows India" (Penguin Books Ltd, 2014)., and S. Vijay Kumar "Dr. A.P.J. Abdul Kalam's Vision For The Nation" The Hindu

effort has been done by Indian government by making Right to Education as a fundamental right that is provided under Article 21(A) of the Indian constitution.

International perspective

Education is given equal importance in both national and international platforms and many efforts have been further made to establish education as a fundamental right in every country and to educate maximum amount of people worldwide. Some of the prominent organizations that work for the right to education in international level are UNICEF, ILO, UNESCO and World Bank. Universal declaration of human rights (1948) has laid down the moral obligation that everyone has the right to education. Under its Article 26 it is stated that-

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be accessible to all on the basis of merit....”

In various other treaties also right to education is affirmed, protected and promoted, some of them are as follows:

Article 3 of convention concerning discrimination in respect of employment and occupation (1958)

Convention against d discrimination in education (1960).

Article 28 & 29 of The United Nations convention on the rights of the child (1989).

All of the international treaties not only raised the concerned over making education compulsory but they also laid more emphasis to eradicate the discrimination at all educational institutions that is done during providing education and to focus on setting minimum standard and to improve the quality and surroundings. One of the positive point of these conventions were that the states are obliged to fulfill, respect and protect right to education as per mentioned under these convention. It is a proud achievement that India is a state party to the CEDAW convention, CERD convention, ICESCR and the convention of the rights of the child.

Right to education in India

India is a vast country with a population of 136.64 cores people that belong to different diversity. India is the second most populous country after china and holds 19% of the world’s children’s but one third of the Indian population is illiterate. It’s not like that Indian education isn’t seeing any growth but it is not rapidly increasing as it should have the growth is rather slow. In the 2011 Census, about 73% of the population was illiterate, with 81% for males and 65% for females. National Statistical Commission surveyed literacy to be 77.7% in 2017 -18, 84.7% for male and

70.3% for female.³ Even in its ancient time India was home to many famous scholars like Aryabhata, Kautilya etc and has the world's largest university Nalanda University where students from all over the world came in order to seek knowledge. The highly skilled constitution makers at their time didn't felt a need to devote specifically an article for making education as a fundamental right as they thought that it's the duty of the centre and state government to provide education and health facilities without any prejudice. But the state and centre government failed as after independence for many years still the illiteracy rate was higher in India. Thanks to the constant efforts of our worthy educationists, NGOs and academicians which followed the right approach in spreading awareness about education which led to passing of 86th constitutional amendment by the parliament and through it finally right to education was made a fundamental right under Article 21 A of the Indian Constitution in the year 2002. One of the main reason behind failure in providing education is poverty, maximum people in India believe that it is better to send their children's to work than sending far away to schools. They are forced to send their children's to work as for their own survival and still believes that its better for girl child to learn cooking food in the kitchen than studying books in the classrooms.

After eight years of declaring right to education as fundamental right under the constitution of India finally the government has passed Right To Education act which was given presidential assent on 26th August 2009 and finally came into force on 1st April 2010 making India one among 135th countries that made education a fundamental right. The act talks about providing free and compulsory education to children's from the age of 6 to 14 years.

Constitution on education



“Constitution is not a mere lawyer's document; it is a vehicle of life and its spirit is always the spirit of age”.⁴

While the Indian constitution was first time enacted it conferred the duty to provide education on the states but after the 42nd amendment the education as a subject was shifted from state to concurrent list. Now both centre and the state can make laws for education. Constitution of India is known to promote social welfare and education is looked upon as a tool to make a platform that provides equal opportunities for the society. Initially when the constitution was enacted its Article 45 talks about the state to provide compulsory education to all children's under the age of 14 years. Further the whole scenario changed as after 42nd amendment the education was shifted from state list to concurrent list and finally in 2002 after 86th amendment Article 21 A was added which gave right to education a fundamental right status, Article 21 A says that “state shall provide free and compulsory education to all children of the age of six to fourteen years.” Some other provision that talks about education under Indian constitution are:

³ NSO 2018 pg 43.

⁴ B.R. Ambedkar

Article 28 talks about freedom to attendance or religious worship at religious instruction and worship places.

Article 29 talks about providing equal opportunities in educational institutions.

Article 30 provides about the right of minorities to establish and administrate educational institutions.

Article 46 (DPSP) talks about promotion of educational and economic interest of scheduled castes, schedule tribes and other weaker sections.

Article 337 provides for special provision for the benefit of the Anglo Indians in respect to the educational grants

Article 50(k)

86th amendment in constitution

In order to promote education to rural areas and to make sure the youth of the country are provided the basic education the government has to come up with new policies so it was important for the policy makers to amend the constitution and come up with new educational policy. Which they finally did on December 2002, 86th constitutional amendment act was brought which did bring three revolutionary changes in the constitution for better functioning of educational policies in India. The changes made were as follows:

- 1- Article 21 A was added in the constitution which mandates free education for all children's from the age of six to fourteen years.
- 2- Certain modification and alteration were being made under Article 45 part 4 of Indian constitution "the state shall endeavor to provide early childhood care and education for all children until they complete the age of six years."
- 3- A new clause was inserted under Article 51A which was clause (k) it provides that the parent or guardian of the children should provide him opportunities for education between the age of six to fourteen years.

Right to education act

- **CONSTITUTIONAL BACKGROUND**

India was a part of many treaties and conventions which supported the right to education of children's and after the independence India itself has seen the condition of its people and in order to strengthen the country economy and to safeguard its people interest education was the key to the lock.

In 1976 the education was shifted to the concurrent list and an act was drafted which is known as right to education act after the 86th amendment. The right to education act received presidential assent on 26 August 2009 and was finally implemented on 1 April 2010 with Article 21 A which talks about providing free and compulsory education the children of age 6 to 14 years.

The Right to Education Act mainly pays emphasis on the term “free and compulsory education” which means any children whose parent has not enrolled them in any non government schools they should be provided free education and by stating the term compulsory the act have levied an obligation upon the appropriate government to make sure everything falls in line.

In original document there were total 7 chapters and 38 sections. The government has constantly worked in order to mitigate growing disparities in the education sector and is constantly thriving in order to bring equality of opportunity.

- **REGULATORY AND CONTROLLING MEASURES**

- This act provides that children among the age of 6 to 14 years of age are entitled to get free primary and upper primary education. And the children's should be enrolled in their age appropriate classes to maintain homogeneity.
- Further under this act all schools are prohibited from taking any kind of tuition fees and no school can deny admission to the children's.
- This act at the starting talked about non detention policy according to which no child would be allowed to fail till 8th class but this received several setback hence an amendment was done in 2019 according to which when a child will reach to class 5th and 8th respectively a paper would be conducted and if the child fails in that exam than a few months revisionary classes would be provided after which again an exam would be conducted and if this time the child fails to secure minimum marks as prescribed than it would be totally left over at the state government to further promote or fail the student.
- Further teachers are restrained from providing any physical or mental punishment to the children's.
- The school authorities cannot be allowed to take any kind of screening process for admission of children's
- The curriculum should be developed in consonance to the constitution of India and while making it one should keep in mind learning through exploration and should pay emphasis for overall development of one's personality, interest and a proper healthy atmosphere should be provided to them in order to grow.

New education policy

The government of India has been showing proactive efforts in order to cause modifications in the education system and to achieve the dream of educated India. This policy is introduced in order to replace the education policy of 1968. Under the supervision of former cabinet secretary

T.S.R. Subramanian a committee was formed based on whose report in 2019 a draft was handed over by ISRO chief Krishnaswamy kasturirangan. While drafting the policy the ministry of human resource development did a stern consultation with gram panchayat, urban local bodies and district. The new education policy focuses to transform the higher education and build a sustainable Indian centric education system. In order to achieve its goal and end disparities the main focus point was to increase the expenditure done by the state government from 3% to 6% of GDP.

THE MAIN FOCUS ARE ON

➤ SCHOOL EDUCATION'

A significant shift has been seen in the new education policy as it focuses on a 5+3+3+4 system rather than 10+2 system. This policy is drafted in corresponding to the children of age 3 to 8 years (foundational stage), 8 to 11 years (preparatory stage), 11 to 14 years (middle stage) and finally the secondary stage i.e. of 14 to 19 years of age. This policy basically focuses on promoting inter disciplinary and multi lingual by reducing the burden of the students through bringing a change in their curriculum. For the first time age 3 to 5 years of children are also included under it.

The children's should be provided with free mid day meal. And now the examination would not be held yearly but would be held in 2⁵ and 8th class. The examination for 10 and 12th class would remain same but the syllabus would change and more emphasis would be given over the core centric subjects. This policy thrust upon critical thinking and experiential learning more. This policy desires to change summative assessment to formative assessment.

Holistic undergraduate programme has been set up according to which vocational subjects are included and flexible curriculum has been set up so that children can choose inter disciplinary subjects according to their goals

➤ LANGUAGE

For many decades continuous struggle has been seen in order to decide which language should be given more preference English or Hindi. This policy has proposed to eradicate this problem and to teach children's up to 5th class in their mother tongue or regional language and the school should also focus in Sanskrit as well as other foreign languages.

➤ Others

M-Phil has been discontinued and it is proposed to dismantle UGC, National Council for Teacher Education, All India Council for Technical Education and set up Higher Education Grants Council

In order to promote and foster research culture in higher education a new body is formed National Research Foundation which will further boost research and innovation sector.

Higher education commission of India shall be set up as a sole body in order to regulate the higher education in India except the medical and law field

➤ Teacher

As the main objective of this policy is to achieve the global standards of education so to fulfill it many tremendous changes have been proposed to be made in teaching framework also as it is advised to make a new and national curriculum framework for teacher education 2021 after consulting NCERT and till 2030 the minimum degree required to become a teacher is 4 years integrated B.Ed course. As THE TEACHERs are considered as guide that leads children to success hence they themselves should be passionate and have interest as well as highly qualified.

Implementation of nep

The new education policy would be implemented only after the joint effort of state as well as the

Criticism on nep

The policy can be said to receive a setback due to its over optimism as looking at the policy one can surely determine it needs a huge amount of money to be properly implemented and under estimation of money can lead to its failure

Secondly the policy talks about using the regional and mother tongue language for the students till they reach class 5th this can create a huge gap between private and government schools children as the private schools would continue teaching their students in English medium from the very beginning hence this can cause government school children's problem to cope up.

Secondly the three language curriculum is not appreciated by every state as for eg Tamil naidu has never recognized Hindi as a medium to be taught in the school and are not agreeing still to do so hence it can cause problem

Fourthly already teacher student ratio is not upto the mark and the decision of highly qualified teachers and them to teach in mother or regional tongue will create new problems as they themselves might not be acquainted with the regional languages. under four year graduation programme the children's are given exist options as they would be provided diploma if the drop out in middle hence this will lead to encourage children's to drop out early in order to gain job and earn money hence they would not complete their whole graduation.

Many political parties and student teacher bodies have criticized this policy and called it anti democratic. Political leaders are of the view that education is ain concurrent list hence states should have been asked for their advises which the union government clearly failed to do so they are trying to promote centralization.\

this policy features a point that says that a replacement teachers training board is going to be found out for all types of teachers within the country and no state can change that. The facilities are made more centralized that the choice making regarding education would also be done by the centre itself.⁵

⁵ <https://www.edten.com/blog/advantages-and-disadvantages-of-new-education-policy-in-2020>

CONCLUSION :

Education is a weapon for empowerment, and the RTE Act, despite its flaws, is a good first step. The issue is critical, and the plan will be tweaked as new information becomes available. All parties should take a positive approach and endeavour to put it into action. Universal education will take time, and the first priority should be to provide decent education to everyone who desire it. Even if learning results fall short of expectations, children wearing a neat uniform and attending school has benefits. Instead kids racing about the streets or riding the trains without tickets, this will educate them how to behave properly.

Compulsory admission of pupils from the Economically Weaker Section (EWS) necessitates cautious handling by school personnel. School education is inextricably linked to its social context; individuals who teach and learn bring with them attitudes, ideas, habits, conventions, and orientations that vary by class and caste. Elite schools have their unique culture and teaching-learning methodology. An setting that favours upper-class youngsters but alienates children from lower-class families. The majority of teachers in schools are from the middle class, giving middle-class students an advantage in school. Children from the upper classes are better able to comprehend the material of the curriculum than their peers from the lower levels. India's current mixed or diverse classroom environment is uninspiring. Despite the fact that discrimination on the basis of caste and other social backgrounds is strictly prohibited by the Indian constitution and is a punishable offence, children from marginalize sections of society are discriminated against in the classroom on the basis of gender, caste, and ethnicity. Teachers must be cautious to avoid being discriminated against and having their lack of expertise mocked.

The Act should not be kept in place indefinitely, and adjustments should be made as needed based on experience.