

RIGHT TO EDUCATION IN INDIA: AN EXPLORATIVE STUDY

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Introduction

Education is a panacea for most of the ailments of society and the benefits of education not only last longer but have an everlasting, sustainable impact on the social, economic, political lives of individuals and institutions. Education alone can produce qualitative human resources, which play a crucial role in the destiny of a nation.

There are strong legal foundations about the right to education in International Law. Political commitments are also being made from time to time with the intervention of the international agencies like United Nations and its organs. Several countries have resolved to "Education For All", fixing specific timeframes within which they have to achieve the goal. Recognizing education's multidimensional positive impacts on the individuals and society, it has been identified as a basic human right by modern democratic governments. Right to education is identified both by international human rights law and municipal laws of some countries. "Right to education" is a unique human right, which has its cascading effect on the other spheres of life and leaves an indelible positive impact on them.

Right to Education in India-A Constitutional Perspective

The founding fathers of the nation recognizing the importance and significance of right to education made it a constitutional goal, and placed the same under the constitution of India. The Preamble of the Constitution summaries the social view point which should govern all our foundations including educational. The Constitution of India provides a few guidelines and propositions in the advancement of education which are also called constitutional provisions. The following provisions have a prodigious bearing on the operation of the educational system in India:

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Article 14

Article 14¹⁰⁹ deals with the provisions concerning the impartiality before law. This article guarantees equality, therefore there will be no discrimination in the education provided to the women community in India.

Article 15

Article 15(3)¹¹⁰ enables the state to make special provisions.

Article 21 A¹¹¹

This insertion of this Article has brought a major turnover of events in India. This Article clearly guarantees the right to education.

Article 24¹¹²

Article 24 speaks about the prohibition of employment of children in factories, etc. and concentrates on the Rights against Exploitation. This will not happen if the strength of education is with them.

Article 41

Article 41 of the Constitution confers on the rights to education, right to work and to public assistance in certain cases. It clearly instigates that "All the citizens have equal right to education".

Article 45

Article 45 confers the provision for free and compulsory education for children.

Article 46

Article 46 spells out the provision regarding the elevation of educational and economic welfares of Scheduled Castes, Scheduled Tribes and other weaker sections.

Article 51A (K)

Article 51A(k) of the Indian Constitution explicitly says that the frameworks of education for the child by providing them with the opportunities rests have to arranged by the child's parent or the child's guardian.

¹⁰⁹ "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

¹¹⁰ "Nothing in this article shall prevent the State from making any special provision for women and children."

¹¹¹ "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."

¹¹² "No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment."

Contribution of the Judiciary

The period of 1993 and 1997 has been a crucial period where the main two landmark cases (*Unnikrishnan's* cases and *Mohini Jain's* case) involved in the fight of making right to education a fundamental right.

Unquestionably, this attached association between the doctrines embodied in the preamble and the aspect of education in understanding them into practicality might have generated an influence. The Supreme Court expressed that, "one of the utmost appreciated substances of our Constitution is to secure to all its citizens the freedom of thought, expression, belief, faith and worship. Nothing incites and stimulates thought and expression in people more than education. It is education that elucidates our belief and faith and assists to strengthen our spirit of devotion¹¹³".

Thus, the state gets a reason that it is education and education alone that can decipher legitimate doctrines into practice. Hence, the right to education should be a prerequisite for the understanding of the intentions and principles in the preamble into considerable realisms.

Schooling was not considered to be a fundamental right at all till the judgement pronounced by the Apex Court in *Ms. Mohini Jain v. State of Karnataka* in 1992 and in 1993, the same followed in the *Unnikrishnan's* case. In other words, there was no pressure on the part of the state to provide for education. Nonetheless, Articles 39(e) & (f), 41, 45, and 46 unmistakably direct the state to safeguard the interests of children. In continuance, Article 37 provides that even though the provisions in Part IV of the Constitution of India shall not be enforceable by any court, but the ideologies laid down therein are nonetheless central in the governance of the country. Also it shall be the responsibility of the state to instrument these principles in the course of making laws. Furthermore, the verdicts given by the High Courts and the Supreme Court from time to time unambiguously recognized the living and indivisible link between the provisions of the Directive Principles in Part IV and the Fundamental Rights in Part III of the Constitution of India.

¹¹³ The Chief Justice S.R. Das in the Kerala Education Bill, 1957.

Finally, taking up the deliberations on the connection regarding Part III - Fundamental Rights of the constitution, and Part IV- Directive Principles of State Policy stated in the Constitution, to its sensible end, the Supreme Court of India in the case *Unnikrishnan J.P. v. State of Andhra Pradesh* in 1993 avowed that Part III and Part IV of the Constitution of India not only jointly supplement and complement each other but one also flows from the other. This is considered to be a path-breaking decree in the history of the right to education. The decree provided the status of a fundamental right to the right to education for all children until the age of fourteen years.

Right to Free and Compulsory Education Act, 2009

Unlike other fundamental rights the right to education needed an authorizing legislation to become operative. The RTE Act is this enabling legislation. The Right of Children to Free and Compulsory Education Act finally came into force on 1st April 2010.

The significant features of the right to education act are:

- ✓ It creates education Free.
- ✓ It makes education obligatory for the state to provide.
- ✓ It make available for Curriculum to be in consonance with Constitutional values.
- ✓ It discourses Quality of Teachers.
- ✓ It cliques norms for Quality of schools.
- ✓ It has a Social Reform function (25% seats in private schools).
- ✓ It Guards the Child and Eliminates Child Labour.
- ✓ It simplifies procedures for parents.
- ✓ It offers for local participation in Education (SMC).
- ✓ It Eliminates oppression of Examinations.

Conclusion

Above all, the implementation of the Right to Compulsory and Free Education Act 2009 must be implemented in letter and spirit to fulfill the desired objectives. There must be appropriate provisions for penalties for those flouting norms. Families and communities need to play a vital role to make the Right of Children to Free and Compulsory Education Act, 2009 a major success in India. The government should immediately taken action to ensure all the basic facilities in the school like proper food, drinking water, sanitation, library, playground etc. At the

government level, allocation of funds required for effective implementation of free and compulsory education as per the RTE Act 2009 should be estimated by the department. The allocation must be planned in different phases. There is a great need for coordinating with various government departments for effective implementation of government programmes and avoid duplication of beneficiaries, fund utilizations etc. At last but not the least, existing monitoring system may be streamlined and a comprehensive monitoring system that looks into academics and administration should be designed to achieve the desired objectives.

