

RIGHT TO EDUCATION UNDER INDIAN CONSTITUTION

Dr. Manoj Jagannath Pekhale
M.V.P.S. Law College, Nashik 13

Worldwide education has been considered as the first & foremost prerequisite of dignified life. The great statesman political scientist scholars and reformers have always give importance to education as measure for eradication of social evil backwardness etc.

During the early period of Varna, caste, culture the activity of education was made the sole monopoly of Brahmins. But during the British regime the gates of education were partially thrown open to all Indian society, especially to woman and so called low caste men.



Global Online Electronic International Interdisciplinary Research Journal's licensed Based on a work at <http://www.goeiirj.com>

During the British period the reformers like Rajaram Mohan Roy & the govt. policymaker believed that would filter downwards. After 1857 British started Universities in India but continued this kind of policy till the end of British period.

After independence that was consistent demand for right o education with other fundamental rights. There fore in accord with Art 26 of U.D.H.R.1948 our constitution framers made provision U/ Art 41,45,46 in part IV provided for right to education. By these Article's constitution direct the state to act within the time but did not create any constitutional right to the citizen.

From the plain reading of these 3 Article we can understood that every child has right to education until he completes the age of 14 there after his right to education is subject to economic capacity of the state.

Our constitution maker's realized the importance of right to education & they placed the subject of education in state list of the constitution. But unfortunately there was very poor response from state to these provision U/A 41,45,46.

The change has come only after the 42 Constitution Amendment Act 1976 which has placed education in concurrent list & unable both state & other to act upon it. However even after this amendment the stat & other expenditure on education remained very less.

After slow development of education in 5 decades now under the under ship & guidance of the planning commission & the ministry of education there has been a wide growth in all areas of education system at state & national level. The state expenditure on education over the year has increased. The National Policy on education modified & promised the free & compulsory education of satisfactory quality to all children up to the age of 14 years. But unfortunately executive fueled to implement the constitutional provision U/Art 45. First time judiciary stepped in to shoes. First time

in case of.....

Mohini Jain V. state of Karnataka

While deciding the issue of capitation in educational institution supreme court converted Art. 41 in to Art. 21 & held.

Right to education is directly related with right to life. The right to life under article 21 cannot assure unless it is accompanied by the right to education. The state government is under an obligation to make level best efforts to provide educational facilities at all levels to its citizens.

And first time the attempt of conversion of right to education in fundamental rights under part 3 was made by Supreme Court was made through this case because without making right to education as F.R. it shall remain beyond the reach of large majority which is illiterate.

Mohini Jains decision provided sound base to right to education but immediately in the next year in.....

Unni Krishnan vs. State of A.P.

The Supreme Court modified its position and held that the citizen of this country have a fundamental right to education. The solid right flows from article 21.this right is however not an absolute right. In simple words every citizen/child has right to free education till the age of 14yrs.there after the right to education is subject to economic capacity of a state.

Unni Krishnan's decision narrows down the scope of decision of Mohini Jain.

After Mohini Jain & Unnikrishan judgment the development of right to education got speed.& the committee in this regard was appointed by education ministers of states which come out with report in 1997 with a recommendation that the constitution of India should be amended to make a right to education up to 14 yrs of age.

Further to make schooling compulsory the constitution amendment bill was introduced in parliament in 1997.The draft bill was introduced in the Rajya Sabha. The bill proposed to amend article 21 of constitution by introducing the clause, the state shall provide free & compulsory education to all citizens of the age of 6 to 14 years.

From 1997 to 2001 the bill underwent change & it was reintroduced as 93rd Constitution Amendment Bill 2001.The parliament passes the bill inserting a new article 21A.The new Article 21A provides...

“The state shall provide free & compulsory education to all children of age 6 to 14 years in such manner as the state may by law determine”.

The Constitution (93 Amendment) Bill 2001 not only provides 21A but also has added Clause (K) to Art 51 A in part IV & made a deity of every citizen of India who is a parent or guardian to provide opportunities for education to his child between the age of 6-14 yrs.

Thus finally Art. 45 of constitution have given a new life.

However new Art a has no spirit of Art 45 of constitution Art 45 Provides free education for

all children but Art 21 A provides right to education only for the children of the age of 6-14 It is very difficult to understand why the age group of 1-6 have been left out completely from the pre-primary stage of education It means the state has no responsibility & the teacher & institutions such as BALWADI, ANGANWADI are out of the state funding.

In spite of above lacuna we can assume that this new article provide some protection to the right to education the basic question after this amendment is that how the Art 21 A will be implemented ?

Because the Art 21 A provides Rt. to education, but in such manner as state may by law deterrent. It mean's that to implement this right the state has to a law laying down the policy. The Govt. of Ind. announced that it would introduce central legislation to effectively implement the right.

These things are yet to be finalized under the scheme SARV SHIKSHA ABHIYAN (education for all) central Govt. sanctioned thousand crores of rupees to several states. However in the environment of privatization how govt. will implement right to education will be interesting to watch we hope the govt. of India should come out very soon with the require changes funds human resources & necessary political will to implement the right to education.

WEBLIOGRAPHY

- # <http://www.unesco.org/new/en/right2education>
- # http://www.business-standard.com/article/economy-policy/is-the-right-to-education-a-reality-for-india-s-children-113091300395_1.html
- # Ibid
- # https://en.wikipedia.org/wiki/Right_to_education
- # View of Ms. Katerina Tomasevski, former United Nations Special Rapporteur on the right to education, who further developed the concept of '4 As' according to which education can be a meaningful right if it is made available, accessible, acceptable and adaptable.
- # In 1994, female education lagged behind male education rates by an average of 25.5 percentage points for the country as a whole. This statistic masks significant regional disparities in progress towards gender equality in education (Sudarshan 2000)
- # <http://r4d.dfid.gov.uk/PDF/Outputs/CentreOnCitizenship/1052734659-subrahmanian.2002-citizenship.pdf>
- # Consultation Paper on 'Literacy in the Context of the Constitution of India', Advisory Panel on Promoting Literacy, Generating Employment, Ensuring Social Security and Alleviation of Poverty, September 26,2001, <http://lawmin.nic.in/ncrwc/finalreport/v2b1-5.htm>
- # <http://www.archive.india.gov.in/citizen/education.php?id=38>

- # Planning Meeting: Research on child labour in South Asia, Jaipur, June 18, 2000 CUTS-CITEE, Jaipur, <http://www.cuts-international.org/linkages-Meeting-18.htm>
<https://physicscatalyst.com/graduation/constitutional-provisions-on-education-in-india>
<https://www.yourarticlelibrary.com/constitution/12-major-constitutional-provisions-on-education-in-india/45230>
<https://www.dailypioneer.com/2022/columnists/digital-education-for-digital-india.html>
<https://www.ibef.org/blogs/digital-education-initiatives>
<https://www.legalservicesindia.com/article/1925/Right-to-Education.html>
<https://byjus.com/free-ias-prep/right-education-act-rte/>
<https://blog.ipleaders.in/right-to-education-3/?amp=1>

