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RIGHT TO EDUCATION AND THE CONSTITUTIONAL PROVISIONS



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ABSTRACT

Education is an important human activity. It was born with the birth of human race. Now it will continue to function as long as the human lives. The boundaries of education are wide as those of life. Indian civilization recognizes education as one of the pious obligation of the human society. Education is awakening the child to cultural values in preparing the child for later professional training in and helping him to adjust to the environment. Education nourishes intellectual advancement to develop no dignity of person without which there is neither intellectual excellence or pursuit of happiness.



KEYWORDS : *human activity , Indian civilization , human society , environment.*

INTRODUCTION:

Education is very foundation of good citizenship. Education is both the development of mind and personality of the individual and his development as a useful member of the society. The primary education is to prepare the individual to participate in the democratic process which is the life of the nation. Education is the key to personal enlightenment and also the instrument of nation and world progress. Education is any process by which an individual gains knowledge or insight or develop attitude or skills. The function of education is both social and individual its social function is to help each individual become a more effective member of the society by processing along with the collective experience of the past and present.

Among primitive people formal and institutional education plays distinctly a minor role. The school is entirely absent. Organize and systematic instruction of any kind is restricted to very narrow areas. But as knowledge grows, and the social structure undergoes differentiation, there appears a special class of persons variously known as priests, humans, wizards or medicine men, who

increasingly take charge of group ritual and oversee the religion and moral instructions of the young. It is probably at this point that the first true schools appeared.

Under Mohandas Karamchand Gandhi's leadership, an All-India National Education Conference was convened at Wardha in October 1937. The conference proposed what became known as the mother tongue, with the curriculum organized around manual and productive work in the form of a basic craft. The period of university compulsory education was to be divided into a junior level (age 6-11) and a senior level (age 11-14). Those desiring secondary education would, at the age of 11, enter the schools for a six year course. Two types of secondary schools were to be provided; the academic high school, preparing for the university, and the technical or vocational school complete in itself.

After India become independent, its leaders save clearly the need of a comprehensive plan for a national system of education. Two proposals have guided the thinking of Indian Planners. The Wardha Scheme and the Sargent report. The later entitled post-war Educational Development in India, was prepared by Sir, John Sargent, educational adviser to the Government of eight years, subdivided into junior basic (age 6-11) and the senior basic (age 11-14). About 20 percent of admitted for secondary education, which was bifurcated into the academic high school and the technical high school. The university would take 1% or less of the gifted pupils completing the high school.

The influence of the Wardha Scheme on the Sargent report is obvious. Needless to say, such a plan could not be carried out in a short time, and in the early 1960's compulsory universal education in India remained a hope to be realized in the future. There were not enough schools and not enough teachers for a nationwide program of universal popular education, and financial limitations prescribed slow progress towards the goals.

The British Patrice of leaving education to the provinces still prevailed, and there was no direct control or supervision of education by the government of India. The local schools were ill-equipped, the teachers inadequately trained. Many pupils who started primary education dropped out prematurely; only a third reached the fourth class.

Theoretically, the academic high school still enjoyed a much higher prestige and most young people chose it in preference to the vernacular vocational school. A rigid curriculum in the English language still characterized the academic high school; it was the gate way to the university and government service and was dominated by the matriculation examination.

Nevertheless, note worthy progress was made. The constitution of the Indian republic laid down the principle of compulsory education till the age of 14, and it stipulated equality of status and opportunity for all citizens, scholarships, though limited in number, were provided for needy students. Teacher's salaries were provided for needy students. Teacher's salaries were raised and the number of trained teachers increased. Attention was given to adult education and to the gradual elimination of illiteracy. Hindi was declared the state language of independent India, and Indian thought and culture became appropriate subjects for study and research. As the tempo of economic development is stepped up in India, educational progress will doubtless also be accelerated there.

The Indian society before Independence was mostly traditional, agrarian and suffering from casteism, communalism and other social evils. But on the eve of freedom recent notion has to break off the shackles of the British rule, but also the bondages of the old society. The Indian social order has to be modernized and the constitution of Indian declared the nation to be sovereign democratic republic. Socialism and secularism were also adopted as the guiding philosophy of citizens' life and government's activities. In this now direction, education was regarding as a potential instrument of social change and powerful means of modernization.

India is a sovereign democratic republic with a parliamentary form of government, based on

universal adult franchise, and is governed of the people. The constitution of India is a document which governs not only the administrative machinery but also the social economic and political, educational development of the country. The preamble to the constitution stating to secure justice, liberty, equality and fraternity has no meaning apart from providing education to the people.

India has adopted the socialist pattern of the society as its goal which envisages among other things that the benefit of education must spread among the masses in an equal measure. In a democratic set of fruits of democracy cannot be realized without the removal of ignorance and apathy of the people which stem o a large extent from illiteracy. This is besides the higher purposes which education in any organized and free society may strive to achieve. Acharya Vinobha Bhave has linked education with defense and had said that it has “ a social and a notional goal as well as an individual goal”. Education is also important in the field economic progress of the country. It would also contribute as a most potent force in the national integration it is all embracing importance is thus fully recognized by educationists, statesmen and planners. It has always been so even before India achieved independence.

One of the fundamental rights is education, without the education no economic, social or political development is possible in actual practice. Right to equality and right to freedom becomes sub-servant to right to education. Uneducated and illiterate millions remain only down trodden and dependent upon other. It is the therefore well said, “upon the education of people fate of a country depends”.

There are a number of articles and clauses of some articles which directly or indirectly explain the type of provisions the constitution makes the education and the type of responsibilities shared by the centre and the states.

The constitution of India makes the following provisions for education:

S.No	Provisions of Education in the Constitution of India	Articles
1	The state shall make provisions for right to education	Article 41
2	Free and compulsory education for all children up to Age of 14	Article 45
3	Education including the Universities as the responsibility the state Government (before the 42 nd Amendment Act)	Entry 11 of list ii of 7 th schedule
4	Economic and social planning as a concurrent reasonability of the centre and the states.	Entry 20 of list III of 7 th schedule
5	Provision of Education in the weaker section of society.	Article 46
6	Provision of grant for education	Article 282
7	Union Government to frame educational policies	Article 257(1)
8	Ban on religious education in public institutions	Article 28
9	No discrimination against women	Article 15(1)
10	Promotion of Hindi	Article 351
11	Union Government to run some special institutions	Entry 62 to 66 of list I of 7 th Schedule
12	Union Government to undertake educational tasks through UNO and foreign affairs	Entry of 12 list I and entry 10 of list I of 7 th Schedule
13	Education as joint responsibility of the Centre and the States (after the 42 nd list III Amendment)	Seventh Schedule List III

Constituent Assembly debates of Art, 45 can be summarized as follows:

Sir, B.N. Rau, Sardar Harnam Singh, Prof. K.T.Shah and Shri K.M. Munshi had suggested the need for a provision for education in the constitution “the Art. 36 (of the draft) as amended stand part of the

constitution" – the motion was adopted. Art. 36 as amended were added to the constitution.

In the final draft no distinction was made between primary and secondary education which meant that education need not be confined to primary but also to secondary till the age of 14. The Article was made unenforceable and non-justiciable right.

A note worthy feature of Art, 45 draws our attention is the only Article in the constitution where in a time-limit has been set for the achievement of the ideal or goal. The reasons for fixing a time limit to this article and justification for the same could be located in the nature of the provision that this article seeks to embody. On the analysis of this article, the subject of free and compulsory education is normally included in other constitutions and even in the Indian constitution it was sought to be included as a fundamental right and if that had been so it would have become absolutely obligatory, almost immediately, to achieve it since it was possible in view of the limitations on the financial resources subject was included in the directive principles. But to stress the fundamental importance of the same the urgency in its implementation a time limit had to be fixed. The time limit was fixed at ten years and not three years as suggested for the provision relating to the separation of the judiciary from the executive in the separation of the judiciary from the executive in view of the enormity of the task and financial implications. In others, it was to avoid any room left for what might be called 'procrastination' in a matter of this kind, as a time limit should not be fixed for the achievement of this objective but as he said, he was not heard relating to the separation of the judiciary from the executive in any bodies guess, The chances, however are that the time limit would have still been there in this article, for the simple reason that this provision unlike the other one where the time limit was withdrawn is a fundamental right in all the constitutions of the world and is of such vital importance to the progress and welfare of the nation.

The need for this article is that illiteracy should be eliminated and free and compulsory primary education should be provided for all, as soon as it practicable.

Civil liberty would be hollow unless it provides for education to the citizen according to his choice. But the state may also make education compulsory up to a certain maximum extent. A statute imposing compulsory for no one has any right to remain ignorant.

The education of the children must necessarily be compulsory in the interest of the nation. The mind of the child is like a clean state and therefore it is essential that the child should be engaged in studying and should get little time for mischief that may lead to delinquency. A child is the father of the man and a future citizen. The state is therefore, under a duty to make provisions for education of children.

Art. 41 of the constitution of India provide that the state shall, within the limits of its economic capacity and development make effective provision for securing the right to education. Once the state takes action by legislation or otherwise to make the right to education available to every citizen of India. The statutory right or the statutory facility should stand in practice (if notion theory) on the footing of a fundamental right. The right to education included in Art.21 of the constitution. Article 24 ban employment of a child below the age of 14 years, Art 45 is the supplementary to Art 24 for if the child is not to be employed below the age of 14 years he must be kept occupied in some educational institution. Art 45 also supplements Art.39 (e) and (f).

EDUCATION FOR WEAKER SECTION: Art. 46 of the constitution under Directive Principles of State Policy, the state shall promote with special importance of the educational development and economic interest of the weaker sections of the people, particular of the scheduled castes and scheduled tribes and shall protect them from the social injustice and all forms of exploitation. Art. 17 of the constitution

declared that the untouchability is abolished and its practice in any form is forbidden. So, scheduled castes got not only equal treatment but also further encouragement. The Government has taken up programs for expanding education of the scheduled castes, of all stages of education scholarships have been given, hostels set up and financial assistance provided. Similar facilities are given to scheduled tribes. Special attention is paid to the development of tribal language. Special institutions have been opened for the education of the handicapped. The Union or State may make any grants for any public purpose. Evidently, this includes 'education' which is a public purpose. It is thus the responsibility of the government to make grants for educational purposes. As education under the Indian Constitution is a state subject, the major responsibility of financing education rests with the state government. The Central government also shares the obligations to some extent. The expenditure on education is both direct and indirect. The state government also gives grant-in-aid to schools and colleges run by voluntary agencies and private bodies.

Art. 257(I) States:

The executive power of every state shall be so exercised or to impede or prejudice the exercise of the executive powers of the union and the states may be appear for the Government of India to be necessary for that purpose. This article means that union government can frame and dictate the education policies of the state Governments.

Article 27 and 30 deal with secular education.

Article 15 (1) provides that the state shall not discriminate any citizen on grounds only ...sex.

Article 16 (1) provides equality of opportunity for all citizens men as well as women in employment or appointment to any office under the state.

Hence the constitution has given women absolute equality with men. It is only through full opportunities given to girls for education that we can aspire for 100 percent literacy.

Entry 12 of list I (Union list) of 7th Schedule mentions United Nations organizations and this means that Union will have relations with such foreign educational organizations as UNESCO. Similarly, entry 10 (foreign affairs) also concerns educational assistance from foreign countries.

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