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**EDUCATION IN THE INDIAN  
CONSTITUTION : HUMAN RIGHTS &  
DISADVANTAGED GROUPS.**



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**A B S T R A C T**

*The very aim of legar education should be, 'Justice oriented' and this can be only furthered if the process of imparting education is viewed differently. In the preamble to the constitution of India, the people of the country resolve to "secure to all its citizens justice, social, economic and political". Rights to education is required for the full development of human personality and sense of dignity. The realization of the right to development of every human being and nation is not possible without recognizing the right to education.*

**Key Words : Human Rights, Education, Indian Constitution, Fundamental Right, Disadvantaged Groups.**

**INTRODUCTION**

A Saying :- "Education is a controlling grace to young, consolation to the old, wealth to the poor and ornament to the rich person in our society, Plant are developed by cultivation and men by education". In common language 'Human Right' may be defined as those fundamental rights which every man or woman inhabiting in any part of the world should be deemed entitled merely by virtue of being born a 'Human being'. Article-I of the Universal Declaration of Human Rights says. "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards on another in a sprit of brotherhood".

Human beings are unique creation of Nature. Nature has provided some special characteristics of human beings through which they can think of ideals and principles. Through the process of thinking man can think about the relation of world. From the beginning of very birth man was curious to acquire knowledge about the peculiar world. He wanted to gain knowledge about the world and

human society. This purpose can be realized only by proper education. Knowledge and education was necessary for the survival of human beings. In other worlds, education, was an essential matter for human beings to develop personality. Right to education has been recognized in a number of International Conventions and Instruments such as article 26 of the universal declaration of Human Rights, (1948). Articles 13 of the International convention of Economics, social and cultural rights (1966), Articles 28 & 29 of the convention on the Rights of the child (1989) and Articles 41, 45 & 46 of the constitution of Indian make, provision regarding right to education have been made in part IV of the constitution dealing with directive principles of state policy which not enforceable by the court, the duty is cast upon the state to fulfill the objectives laid down in this part by making laws.

The Directive principle contained in Articles-45 of the constitution enjoins that "the state shall endeavor to provide, within a period of ten years from the commencement of this constitution, for free and compulsory education for all children until they

complete the age of fourteen years”. The expression “the state” which occurs in the Article is defined in Articles-12 to include, the government and the legislative of each of the states and all local or other authorities within the territory of India or under the central of the Govt. of India. Article 29 (1) of the constitution provides that “any section of the citizens, residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.” Article 29 (2) lays down that “no citizen shall be divide admission into any educational institution maintained by the state or receiving aid out of state funds or grounds only of religion, race, caste, language or any of them.

Special care of the economic and educational interests of the under privileged sections of the population is laid down as an obligation for the state under Article 46, as per this Articles “the state shall promote with special care the educational and economic interests of the weaker sections of the peoples and in particular, of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation. The 86<sup>th</sup> amendment adds a new Article 21 (A) to the constitution that says :- “the state shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the state may, by law, determine. This makes the right to education a fundamental right for children in this age group. Now after five decades the government has realized this and is trying to make education a right for all children up to 14 years of age. A model Bill- “Right to Education 2006”, is circulated for enactment by states. This Bill gives scope for education as a right to all the children up to 14 years to age.

#### **Historical Backgrounds**

The first glimpse of attempting to present the Human Rights is beheld in ‘Chankya Neeti’ as under :- “The life span, deeds, property, education and death all there are bestowed upon living human by almighty from its inception in the mothers womb”. Where as the life span and death call are in the hands of nature.

The three remaining right, i.e.

-Deed or Action-Right to property-Right of Education, rests in the Jurisdiction of living masses

also. Therefore special rights were declared from time to time for women, children, etc., controlled by the family heads at various occasions. The concept of human right is rooted in freedom of through and the dignity of human being. For protection of freedom of thought, Socrates become immortal drinking a cup of hemlock ordered by democratic court. His disciple Plato furthered the cause of freedom of thought and Aristotale, even did not hesitate to differ from his colleagues to tread a new line of thinking and become the most famous original thinker. The first step in this direction may be said as Magna Carta of England (1215) and the other major step may be designated by declaration of Universal Human Rights by UNO (1948). Why the Anthropologists of primitive most and ancient civilization like India, Egypt, Arabia and Chiva etc. remained silent on it is a matter of research. The UNO declaration of Human Rights on December 10 (1948) marks the first corner stone of an International Movement for Human Right. A little later a specific aspect for children’s rights to education, health protection, living and development was proclaimed in November 20 (1959) as “The declaration of the rights of the child”. The main purpose of the human rights was defined as “Energy individual has the right to use his intellect, skill and inspiration in order to fulfill his physical, mental, social, economic and spiritual needs – to enable himself to lead a life of human dignity.” Tragically however, this aim is not fulfilled and though five decades has elapsed, Human Right violation continues.

#### **1993 Vienna Declaration :**

1. To Check these violations, representations of 171 nations, 800 non government organizations; 7000 individuals, met at Vienna in 1993 and brought out an epoch making declaration, on human rights. This declaration upheld the political, cultural, social and economic Right of all nations, as equal. It also emphasized the need to stop exploitation of the poor, the women and children. 2. S e c o n d l y , Rights go had in hand with Duties. This interdependence between the two is the crux of the matter for successful implementation of Human Rights. My right to get knowledge is linked with my duty to study. My Right to get a job is linked to

my passing an examination. My Right to use natural resources is linked to my duty to protect and develop the resources. My Rights to a good married life, is linked to my duty to treat my wife and children well. Politically my right to be a leader is linked to my duty to wards the voters and the nation. Whenever this link snaps, my right also disappear.

#### **Human Rights in the Indian Context**

When our constitution was being drafted the universal declaration of Human Rights (1984) was proclaimed and the constituted assembly incorporated many Human Rights in the form of fundamental rights of the citizens of our constitution. Those were the right to equality before law, freedom from discrimination, freedom of speech and expression and prohibition of employment of children in hazardous occupation, cultural and educational rights. The national Human Rights Commission was constituted in October, (1993) under the human rights ordinance on 28 September, (1993) which was soon ended as the "Protection of human Rights Act 1993".

**Education in Human Rights :** All Human Rights documents give a prominent place to Education. They also stress the importance of Education in promoting Human Rights. UNESCO played a leading role in promoting education in human rights and issued comprehensive recommendations dealing with various aspects of "Education in Human Rights in November 1974". A world plan of Action on Education for Human Rights and Democracy was adopted in March (1993) by the International Congress on Education for Rights and Democracy at Montreal (Canada). It emphasized that Human rights education must be viewed, as an exercise in democracy and teaching of Human Rights and democracy should be included in the curricula at all levels of the school system.

#### **Constitutional Provisions of Education in India :**

Before taking up the constitutional provision regarding education, it is relevant to see the preamble of the constitution, which states as under. A amended in (1976) the preamble states as : "We, the people of India, having solemnly resolved to constitute India into a sovereign socialist, secular,

democratic republic to all its citizens : Justice, social economic, political, liberty to thought, expression, belief, faith and worship". Equality-of status and opportunity and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the nation.

On Education, the Constitution of India lays down as under :

**Article 45 :** Deals with the directive principles of the state policy of India. It lays down that the state shall endeavor to provide within a period of ten years from the commencement of this constitution, free and compulsory education for all children until they complete the age of fourteen years.

**Article 46 :** Deals with the education of weaker sections of the people. The state shall promote, the education and economic interests of weaker sections particularly schedule caste and schedule tribes and shall protect them from social injustice.

**Article 29 (1) :** Regarding language safeguard of any section of citizen, residing in any part of India, having a distinct language, script or culture of its own shall have the right to conceene the same.

**Article 29 (2) :** Regarding individual citizen right, no citizen will be denied admission to any educational institution, which is receiving funds from the state, or centre.

**Article 350 :** Deals with the instruction in mother tongue; up to the primary level of education should be provided through mother tongue.

**Article 351 :** Deals with developments of Hindi as the national language. In the duty of government to promote and spread Hindi so that it can serve as medium of general expression throughout India. There are several other articles like Article 15, 3.37, 62, 63, 64, 65, 66 etc. which also deal with the different aspects of the education. After 42<sup>nd</sup> amendment in the constitution of India, the center can issue any direction on policy matters of states pertaining to education.

#### **UNO and Education**

This declaration of human rights by UNO on 10<sup>th</sup> December, (1948) has been described as an international Magna Carta or International Charter of human rights. The provision of equal educational opportunities for men and women at all levels has

been urged by the Economic and social Council. The Council has recognized the introduction of free and compulsory education as particularly important to the increased school attendance by girls in the areas where comparatively few girls attend primary schools. In (1957) the Council also paid special attention to the importance of campaigns against illiteracy and of the equal participation of women in the fundamental education programme. UNESCO has presented reports to the commission on human rights on the status of women regarding education opportunities.

#### **Education as Fundamental Human Right Need of the Present Era**

Modern era is the era of democracy. In fact democracy cannot be thought in isolation with education. And on the other hand democracy in the field of education i.e. education for all, lays sound foundations of democracy in all walks of life. Education for democracy is the first line of defense. It is the instrument of creating desirable and scientific attitude and modes of behavior. Materialistic development of an individual at the cost of ethical aspect cannot be appreciated. Observance of ethical code can ensure success of democracy for which proper education is a must. Democracy is that form of government in which every body has a share. Now this share in democratic government cannot be realized unless the citizens are properly educated. Accordingly, keeping in view the relevance of democracy education should be a fundamental right of an individual. In a democratic set up, we emphasize brotherhood of man and fatherhood of god. Discrimination on the basis of caste, color etc. finds no provision in a democratic atmosphere for this proper education is one of the pre-requisites.

Democracy is the result of the education for all. Democratic forces all over the world have been strengthened by the progressive trends in education. According to University Education Commission, "education is a great instrument of social emancipation by which a democracy establishes, maintains and protects the spirit of equality among its members". To develop the fundamentals of democracy, education should be made fundamental human right of the citizens. It is the duty of all

sections of society to protect and promote Education as the fundamental human right.

#### **Higher Education & Disadvantage Group :**

A chineed saying :- "If you are plan one years you plants corns, If you are plan ten years you plant trees, But if you are plan a hundred years you educate people's." Students in India although learn in the same class but everybody not come from the same, class or caste. Our society is hierarchically structured into castes system.

As a result the socially disadvantaged groups, particularly Scheduled Caste and Scheduled Tribes faced with an intense discrimination and inequalities associated with caste system and intouchability. There are subjected to social, economical and cultural exploitation. This marginalized group constitutes a very large section of India's population, almost to one-fourth of total population. The progress of Japan suggested that keeping such large population of SC/ST socially and economically backward, goes against the interest of the country. Our dream to be developed nation could not be realized without empowering the disadvantaged group in general and the SC/ST in particular. Education is the machinery which can generate the power from human capital, to be used for the development of the nation. Education was historically confined to certain section of society and excluded large section of population making it highly undemocratic in access (Thorat-2004). Although, concerns for disadvantaged have been shown since long by many, Dr. Ambedkar and Phule remained at the forefront to liberate them from the sufferings due to lack of education. After independence the state made efforts to eliminate the educational disparities. Our constitution enshrined democratizations as one of the main objectives of education and anticipated the democratic expansion of education would serve social and economic mobility. Provisions made for social and educational development could be seen in the Article such as 15 (2), 15 (4), 17, 46, 335 etc. of the constitution. Different commissions and policies on education in independent India explicitly stated the commitment mandated by the constitution (India 1950, 1966, 1986). The spread of education among the SC/ST has been slow compared to non-

SC/ST communities. Only small fraction not more than 2.4% of the SC/ST student which entered in school manages to go to higher education.

The realization of the right to development of every human being and nation is not possible without recognizing the right to education. More than half of the population still lives below poverty line, the country is still ridden with caste based inequalities, women and girls child have still not been given their due. It is therefore, imperative to look at all these as to what are the needs draw a conclusion as to what are the needs of Indian society today. There are more than 1 billions people living in conditions of extreme poverty, countless millions unemployed and underemployed in the developing world, an estimated child workforce of between 100 and 200 Million. Often subjected to the most inhuman of exploitation. The world is increasingly being divided between those who enjoy opulent affluence and those who live in dehumanizing poverty. Evidence of resulting social stress is everywhere: in rising rates of crime, drug abuse, suicides, divorces, environmental disasters etc. At last one of the most important ways to fight poverty is to educate the poor, since education opens up a wide range of economic opportunities for people. Without an educated labour force, neither individuals nor countries may be able to compete effectively in the global labour markets and cope with ever-changing economic environments.

Education Should Be A Right

Finance Minister should come to terms with 86<sup>th</sup> amendment A new fundamental duty was added

making it mandatory for all parents to send their children to school when they are 6 to 14 years of age. The amendment Bill was passed unanimously and without debate in both the houses of Parliament.

He stood firm by the financial formula for implementing SSA, which said. "The assistance to the states will be on an 85:15 sharing arrangement during the IX Plan, 75:25 during the X Plan and 50:50 thereafter". This meant now on it would be 50:50 until the completion of SSA.

### Conclusion

"Thinking well is wise, planning well is wiser, But doing well is wisest & best of all." There is growing consensus that education in and for human rights is essential and can contribute to both the reduction of human rights violations and the building of free, just and peaceful societies. Human rights education is also increasingly recognized as an effective strategy to prevent human rights abuses. From the above discussion, it is clear that the supreme court has recognized human right to education as a fundamental Right under part III of the constitution. It is submitted that the objectives of democracy and independence can be realized only if the benefits of educational jurisprudence and human right to education could be provided to poorer, weaker sections of the society and illiterate women. Social disparities are still prevalent. Since higher education is tool for social and economic equity. UGC has been addressing the national concern of access and equity, by promoting several schemes for the disadvantaged groups particularly SC/ST, that help in eliminating social disparities.

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