



Research Paper

Right to Education in India: From Human Rights Perspective

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Abstract:

Human Rights are known as universal rights for every human being irrespective of their caste, gender, nationality or ethnic origin, colour, religion, language, place of residence or any other states. Right to Education is a fundamental human right under Right to Freedom. Right to Education (RTE) Act enacted in the year 2009, which is a momentous strategy of Government of India to achieve the target of free and compulsory education in India. The role of education in inculcating the knowledge of human rights is critical. Education as in concurrent list of India both central government and state governments are now implementing various educational policies and programmes to keep the human rights discourse alive in India. In this perspective the present article attempts to describe various policies and programs for the right to education under the human rights approach. This paper also analyses the constitutional framework of right to education and its current status in India. As education is a fundamental right for every individual the Right to Education Act makes it obligatory for appropriate governments to ensure that every child get free and compulsory education between the age of 6 to 14. Even government permitted to private institutions to take responsibility the educational right of children.

Key Words: Right to Education, Human Rights, Right to Freedom

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I. Introduction:

Knowledge derives from education which is the best defence for human beings to protect their rights from violation; through education we get information about the human rights. Learning about one's rights which build about others' rights and which helps to establish a peaceful and tolerant society. The promotion of human rights can be fulfilled with the mass awareness program about human rights issue (Yadav,2020).

The Constitution of India guarantees six fundamental rights to its citizens as follows: right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights, and right to constitutional remedies. Right to Education is an important fundamental right which comes under Right to Freedom in Indian Constitution (Alam and Halder, 2018). Education as an important fundamental right, so government of India now making continuous efforts to increase quality and to make it more accessible for all. Because education is the most powerful tool and resource which can shape the destiny of an individual as well as the whole nation. The right to education is clearly acknowledged in the United Nations' Universal Declaration of Human Rights (UDHR), adopted in 1948, which states:

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 equally accessible to all on the basis of merit. - Article 26(1).

“Education shall be directed to the full development of the human personality and to the strengthening of respect for Human Rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.” Article 26(2).

Objectives:

The study based on following objectives:

1. To make a comprehensive study on the Human Rights in India.
2. To study constitutional framework for right to education in India.
3. To study various governmental programs and policies on education in India.

Methodology:

The study is based on secondary source of data collected through various books, articles and research papers published in various national, international journals, websites.

II. Literature Reviews:

Kaushal (2012), published a paper named as “Implementation of Right to Education in India: Issues and Concern”. The aim of the present article to evaluate the initiatives of Right to Education in India, with the compliance of the 86th Amendment Act. The study showed that although the implementation of RTE Act provides various benefits to the education system, still there are serious barriers and roadblocks like psychological insecurities, quality and quantity, variation across the country, policy deficits etc. in way desired objectives of 86th Constitutional Amendment Act. These issues need to be addressed on an urgent basis to strengthen the scene of education at the grassroots level.

Soshte (2017), published an article entitled as “Human Rights Education in India”. The article studied the human rights in India and the constitutional framework for right to education in India and different governmental schemes on education in India. The article is based on purely secondary source of data. The article summed up that there is an almost need for realizing that provision for universal access to quality school education is the groundwork of development and a fundamental condition in the process of creating India as a knowledge society.

Viswanath (2014), published a paper on “Right to Education using Human Rights Based Approach: A Policy Perspective for India”. The paper inspected various polices and programs of education and identified the urgent need of human right based approach. It also examined the current status of right to education in India and to understand the policy level and identified responsible factors. The present study revealed that the right to education can be fully realized only if it is implemented with a concerted right-based approach to education.

Human Rights in India:

India was a signatory to the Universal Declaration of Human Rights. A number of fundamental rights guaranteed to the individuals in Part III of the Indian Constitution are similar to the provisions of the Universal Declaration of Human Rights.

The Constitution guarantees six fundamental rights to Indian citizens as follows: (I) right to equality (II) right to freedom (III) right against exploitation (IV) right to freedom of religion (V) cultural and educational rights and (VI) right to constitutional remedies.

Originally, there were seven Fundamental Rights in the Constitution. Besides the above mentioned six rights, there was the Right to Property also. Due to some of problems created by this right, it was removed from the list of Fundamental Rights in 1978 by 44th constitutional amendment. However, its deletion does not mean that we do not have the right to acquire, hold and dispose of property. Citizens are still free to enjoy this right. But now it is just a legal right and not a Fundamental Right (Halder,2018).

Six Fundamental Rights of Indian Constitution:

(I) Right to Equality

Article 14: Equality before law: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

Article 16: Equality of opportunity in matters of public employment.

Article 17: Abolition of Untouchability: “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

Article 18: Abolition of titles.

(II) Right to Freedom

Article 19: Protection of certain rights regarding freedom of speech, etc.

Article 20: Protection in respect of conviction for offences.

Article 21: Protection of life and personal liberty.

Article 21A: Right to education. Article 22: Protection against arrest and detention in certain cases.

(III) Right against Exploitation

Article 23: (1) Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. (2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Article 24: 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.

(IV) Right to freedom of religion

Article 25. Freedom of conscience and free profession, practice and propagation of religion

Article 26. Freedom to manage religious affairs

Article 27. Freedom as to payment of taxes for promotion of any particular religion Article 28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions

(V) Cultural and educational rights

Article 29. Protection of interests of minorities

Article 30. Right of minorities to establish and administer educational institutions

Article 31. [Repealed.]

Saving of Certain Laws Article

31A. Saving of Laws providing for acquisition of estates, etc. Article 31B. Validation of certain Acts and Regulations

Article 31C. Saving of laws giving effect to certain directive principles

Article 31D. [Repealed.]

(VI) Right to constitutional remedies

Article 32. Remedies for enforcement of rights conferred by this Part

Article 32A. [Repealed.]

Article 33. Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.

Article 34. Restriction on rights conferred by this Part while martial law is in force in any area.

Article 35. Legislation to give effect to the provisions of this Part

Rights to Education in India:

Right to education is a basic fundamental right for every individual. Because education plays an important role to maintain and sustain a country. Without education a person is like an animal. Education provides tools to keep ourself healthy and happy and also keeps others happy and healthy. So to realize the importance of education both central government and state governments are now taking several landmark steps towards this.

The Right to Education (RTE) Act was enacted in 2009, and this Act made education as a fundamental right for every child between 6 and 14 years. With the enactment of RTE act some basic norms set for every elementary school in the country, which must be followed. This act made elementary education as free and compulsory. Thus, children got the right to receive free elementary education. This means that no child has to pay any kind of charges or fee to complete education up to elementary level. The RTE act also aims at the development of a curriculum that makes sure the child receives the benefit of all-round development, building their knowledge, talent, and potential. The Right to Education Act has made it compulsory to reserve 25 per cent in private schools for children from economically weaker families.

Constitutional Framework of Right to Education in India:

Article 21A: The Right of Children to Free and Compulsory Education Act (RTE, Right to Education): The Right of Children to Free and Compulsory Education Act' or 'Right to Education Act also known as RTE', is an Act of the Parliament of India enacted on 4th August 2009, which describes the modalities of the importance of free and compulsory education for children between 6 and 14 in India under Article 21A (Article 21 is the Fundamental Right to Life under Right to Freedom) of the Indian Constitution. India became one of 135 countries to make education a fundamental right of every child when the act came into force on 1st April 2010. "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".

Article 41: Right to work, to education and to public assistance in certain cases. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 45: Right for Early Childhood Care and Education (ECCE) to all children until they complete the age of six years. This article is considered as a directive principle of state policy. It states "The State shall endeavour 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 Government of India has included ECCE as a constitutional provision through the amended Article 45 (as per the 86th Amendment of December, 2002 and passed by Parliament in July 2009) which directs that "the State shall endeavour to provide Early Childhood Care and Education for all children until they complete the age of six years".

Article 46: Promotion of the economic and educational interests of the Scheduled Castes, Scheduled Tribes and other weaker sections: The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

MDGs and UEE:

The Millennium Declaration was adopted in September 2000 by all 189 member states of the United Nations General Assembly, as the world leaders agreed to a set of time bound and measurable goals and targets for combating extreme poverty, hunger disease, illiteracy, environmental degradation and discrimination against women by the year 2015 (Mandal, 2018). Achieve Universal Primary Education is the second most important goal of MDGs. It also requires a 100% primary school completion rate, that all students entering grade 1 are retained until grade 5. The MDG couched in these terms reflects recognition of the importance of basic (primary) education. This is particularly pertinent in India where primary education has historically been neglected by the state, with educational expenditures being concentrated on the tertiary sector (Dreze and Sen 1995). It had one major target, “ensure that by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary education” (Mandal, 2018). The 86th Constitutional Amendment Act, 2002 has made elementary education a Fundamental Right for children in the age group of 6-14 years by providing that “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”.

Various Governmental Programs related to Right to Education in India:

1. **Right of Children to Free and Compulsory Education Rules, 2010:** These rules were framed under the RTE Act 2009 and provide detailed guidelines and procedures for the implementation of the act. They cover aspects such as the appointment of teachers, pupil-teacher ratios, and monitoring mechanisms.
2. **Beti Bachao Beti Padhao:** This scheme initiated in 2015 is one of the most vibrant scheme of government of India. It specially focuses on girl’s education. The main objective of this scheme was initially to stop foeticide and infanticide and protect them from various violence and later, provide assistance for their education. Other objectives of the plan include stopping the practice of gender-determination tests and discrimination against girl children. The Beti Bachao, Beti Padhao scheme ensures the protection of girls and their survival and makes sure that girls participate in educational activities alongside boys. This scheme thus spreads the awareness that girl children are not a burden.
3. **National Education Policy (NEP) 2020:** The NEP 2020 is a comprehensive policy that aims to transform the education system in India. It focuses on several key areas, including early childhood care and education, foundational literacy and numeracy, curriculum reforms, multidisciplinary education, teacher training, and the use of technology. The policy emphasizes holistic development, flexibility, and the integration of vocational education and skills training.
4. **Sarva Shiksha Abhiyan (SSA):** SSA is a flagship program launched in 2001 to achieve universal elementary education. It aims to enhance access, enrolment, and retention rates in primary and upper primary schools. SSA focuses on bridging gender and social gaps in education, improving the quality of teaching and learning, and promoting community participation in education. It also addresses issues such as infrastructure development, provision of free textbooks, and support for children with special needs.
5. **Mid-Day Meal Scheme (MDM):** The MDM scheme is a centrally sponsored program that aims to enhance enrolment, retention, and attendance in schools by providing free and nutritious meals to children. The scheme covers government and government-aided schools, and it aims to improve the nutritional levels of children, reduce malnutrition, and promote better learning outcomes.
6. **National Skill Development Mission (NSDM):** The NSDM was launched in 2015 to address the skills gap and promote skill development among Indian youth. The mission aims to provide vocational training, upgrade existing skills, and create a skilled workforce that meets the needs of various sectors. It focuses on industry-relevant training programs, certification, apprenticeships, and entrepreneurship development.

Various Issues and Challenges to Achieve Right to Education in India:

There are several obstacles which blocked the road to implement right to education in India, those are discussed below:

1. Inadequate infrastructural facilities in schools:
2. Lack of teaching and non-teaching staff in school
3. Lack of sanitary facilities in school
4. Low rate of enrolment of girls
5. No library facilities
6. Inadequate teaching and playing instruments
7. High student-teacher ratio

8. No computer facilities
9. Outdated curriculum and teaching methodologies involving only memorizing of the subject without any understanding of the subject
10. Lack of vocational training and non-availability of such courses help students to get employed on completion of their schooling

Most of study identified various issues and challenges in schools which greatly affecting the quality of education. Infrastructural deficit, lack of trained or skilled teachers in schools, various non-academic burden on teachers, absence of teachers in schools, high dropout rates etc. are highly responsible for poor quality education imparting in primary schools of India (Jyothi, 2022). Some of other common issues of primary education like, neglecting education by the foreign rule, various political problems, lack of knowledge in administrative policies, defective educational administration, lack of teachers in schools, defective curriculum, stagnation and wastage etc. are remain unresolved even after thousands of efforts by government (Oomman,2019).

III. Conclusions:

Education is a fundamental right for every citizen in India. Article 21(a) of the Constitution is read in conjunction with the right to life with dignity. In this context, with the clauses of child-centred learning, the NDP and CCE, the RTE Act represents a legal framework guaranteeing an education that is not based on the undemocratic practices of punishment, penalty, humiliation and stifling competition. These provisions are meant to ensure that children learn for the reason that they are interested in learning (Sharma, 2016). According to Right to Education, education as a fundamental right everyone has right to take quality education. So government needs invest more on the most disadvantages and underprivileged sections in India and ensure that they can access quality education. It is, therefore, important for the government to pay more focused attention to pre-school education (which is currently grossly neglected) and to primary education by enhancing financial as well as academic resources to create good quality schools accessible to all children (Ramchandran,2009).

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