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# THE RIGHT TO EDUCATION VIS-À-VIS DEVELOPMENT OF THE SOCIETY: A CRITICAL STUDY

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*“It is not beyond our power to create a world in which all children have access to good education since it is the most powerful weapon which you can use to change the world”*

– Nelson Mandela

## ABSTRACT

The societal growth of every nation can be achieved only through the raising up of the basic standard of living of all the members of that particular nation. The education plays an important role in raising up of the standards of every nation because it not only focuses on the educational upliftment of a person but an overall development of his social, cultural, educational, moral and economic upliftment is happening through the process of education that he receives during his childhood days. Even though everyone says that education is a never-ending process, the importance of education during the childhood is irreplicable by anything else. A human being cannot be molded at every stage of his life but the best time to mold a person to a good person is during his childhood days and thus during that time itself, proper education should need to be given to him. One of the main and paramount objectives of providing education is to acquire the knowledge, competencies and skills that every individual needs in their day-to-day life to have a proper living standard in a good civil society.<sup>1</sup> This is why, Right to Education is considered as a fundamental right in India where new education policies are also implemented by the government.

**Keywords:** Education, Fundamental Right, Democracy, Standard of Living, Development of the Society, Educational Institutions

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<sup>1</sup> Kishore Singh, *Right to Education*, India International Centre Quarterly, WINTER 2015–SPRING 2016, Vol. 42, No.3/4, Education at the Crossroads (WINTER 2015–SPRING 2016), pp. 119-130, India International Centre, <https://www.jstor.org/stable/26316578>

## INTRODUCTION

Every modern nation who acquired the status of a developed country will have a very good literacy rate. This is a globally accepted phenomena that if the basic educational level of citizens in a particular nation is comparatively high, then the basic standard of living of that particular nation will also increase which leads to the overall economic and social development of the nation. According to various survey reports released by different non-profit organizations in the world, the countries with higher literacy rate is having much lower crime rate than that of those countries who is not having much educational opportunities and standards given to their citizens. The educational system is always in a never-ending phase of development and it is being driven by different objectives and motives by public educational systems to private educational systems and even to religious educational systems while on the other hand the education is being provided by various forms of non-governmental organizations as well as community-based charity groups like foundations or trusts and their activities will differ from one place to another.

As per the common principle of a welfare state, the state is giving the right to education to the common citizens is not only for his own good but it is for the common social good of the nation by the contributions that will be derived from the person who gets proper education from the state who provides him the right to get proper and adequate education.<sup>2</sup> The education also plays a key role in making a man prudent and conscious because through proper education he will get some Morales and values which depicts relationship with the state is not only based only mere self-interest, but he will get to know certain rights and duties which is vested on him as a member of the society where he is duty bound to do certain duties in proportion to the right that he receives. The Constitution of India through the eighty-sixth amendment in the year 2002 inserted the clause for getting right to free and compulsory education to all the children in India irrespective of any form of discrimination from the age group of six to fourteen years as a basic fundamental right and the state also mentioned that it should need to be available for free of cost.<sup>3</sup> Thus, the government implements various educational policies in order raise the standard of education in the nation.

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<sup>2</sup> Syed Ali Akbar, *The Right to Education*, The Indian Journal of Political Science, July-September & October-December,1952, Vol. 13, No. 3/4 (July-September & October-December,1952), pp. 89-94, Indian Political Science Association, <https://www.jstor.org/stable/42743404>

<sup>3</sup> Article 21A, The Constitution of India - Right to Education

## THE RIGHT TO EDUCATION: EMERGENCE AND GROWTH

The education system in India has a very long legacy and it started even during the British era itself. Before the time of 1600's, during the Mughal emperor reign and during the ruing of Portugese period as well, there were slight advancements in the educational system in India. But the British authorities in the mid sixteenth centaury makes revolutionary changes in the Indian educational system. In order to understand the local customs and laws of the land which were prevailed in India during the British era, the British East India Company wanted some educated Indians in order to communicate the same to them and the British rulers thinks that, those educated Indians can be appointed as their staffs who may helps in the local administrative processes of the East India Company as well.

Like every other institution, firstly the educational institutions were also imparted with religious values and philosophies. Lord Warren Hastings in the year 1781 established the Calcutta Madrassa for educating the Muslim people regarding the personal laws. Likewise in the year 1791, Lord Jonathan Duncan established the Sanskrit College at Varanasi in order to propound the Hindu personal laws to the said community members. The Christian missionaries plays a very prominent role in imparting the western educational system in the then existing British India. The established many schools and academic institutions only with the aim to provide education to all Indian citizens without any form of discrimination which were prevailed during that time. The Charter of 1833 enacted during the British era was one of the initial concete stages which promotes the idea of right to education.

The system of education after the 1900's was very different. Many philosophical and socialist ideas also emerged during that time. The Gandhian philosophies were highly reflected in the Indian educational system at that point of time. Mahatma Gandhi lays down the structure and framework of the education system in the modern India where he focuses education as a means which focuses primarily on Morales and values, mass oriented as well as job oriented.<sup>4</sup> Thus he focused on the activity based and practical based system of education rather than the mere classroom model of teaching which is very well present in the modern educational scheme of the Indian educational system. These all are the reasons for which the father of the nation, Mahatma Gandhi is also known as the first blue print of the national education system in India.

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<sup>4</sup> Shant Bala, *Gandhian Conception of Education-Its Relevance in Present Times*, The Indian Journal of Political Science, July-Sept., 2005, Vol. 66, No. 3 (July- Sept., 2005), pp. 531-548, Indian Political Science Association, <http://www.jstor.com/stable/41856147>

He provides the idea of manual work along with the intellectual exercises which has a special place in the academic curriculum. Thus, the first model of vocationalisation of the Indian educational system can be seen through this idea of modern education.

After India got its independence in 1947 and became a republic nation in 1950, many governments who comes and go implemented certain welfare policies and educational policies in order to uplift the standard of the people. In the mid 1960's itself, the governing authorities of the nation came to know that without having a good educational system and a mass who all are illiterate is actually a threat to the welfare state principle. So, they implanted the idea of giving education to everyone in order to achieve self-development, societal development and through these as a final result, in order to achieve the overall development of the nation. The Right to Education Act was enacted in the year 2010 where it provides "free and compulsory" education to all the children belonging to the age group of six to fourteen years of age. The National Education Policies implemented by the government also plays a key role in the advancement of the educational system in the nation and the very first policy was implemented in the year 1986 while the latest in the year 2022 all with the same idea of transforming the Indian educational system to the world class level of education which promotes great opportunities to the student communities as well.

## **THE RIGHT TO EDUCATION AS A FUNDAMENTAL RIGHT**

The educational system in India is existed from time immemorial but the right to education is being considered as a fundamental right only in the year 2022 by the eighty-sixth amendment of the Constitution of India which is enshrined under Article 21A. Even though the right to education for all those below the age of six years were enacted in the Constitution as a Directive Principle under Part IV of the Constitution of India under Article 45, it only became an effective fundamental right after it is being placed under Part III of the Constitution of India in the year 2022.<sup>5</sup> The founding fathers of the Constitution were aware of the fact that only with a society who is prudent and have enough education or literacy rate can choose a good government through the casting of votes without any external influences. Thus, they started to promote the education system in the early periods of the independent India itself, the it was not easy to make

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<sup>5</sup> PP Rao, *Fundamental Right to Education*, Journal of the Indian Law Institute, OCTOBER-DECEMBER 2008, Vol. 50, No. 4 (OCTOBER-DECEMBER 2008), pp. 585-592, Indian Law Institute, <https://www.jstor.org/stable/43952178>

a drastic change in a very big nation like India in matters relating to education or holistic development of the society.

The right to education is being considered as a part of Right to life and personal liberty enshrined under Article 21 of the Constitution of India by the judicial decisions made by the Supreme Court and various High Courts even before the specific enactment of Right to Education as a distinct and separate fundamental right. In the famous *Capitation Fees Case*,<sup>6</sup> the court held that the right to education is also considered to a part of Article 21 of the Constitution which itself denotes that it is a fundamental right and thus no one in the nation should be discriminated or avoid from seeking admission to any educational institution in India on the basis of the higher capitation fees instituted by them which may not be affordable to the common citizens of the nation. This is because India is not a well-developed nation like the United States where the standard of living of people are much higher and they can afford costly education system as well. Later, the Supreme Court of India through another judgment stated that the right to education in between the age group of six to fourteen years is a mandatory one but after the completion of fourteen years, the right to education is limited on the economic capacity and the development of the state as well.<sup>7</sup> This was not being formerly accepted by everyone since it diminishes the judicial pronouncement made in *Mohini Jain's* case. Later in the year 2003, a eleven judge Constitution Bench of the Supreme Court of India overruled the decision made in *Unni Krishnan's* case partly by stating that the scheme relating to the admission and fixing of the fees are not correct on side of these private educational institutions and this an alarming matter to be looked into.<sup>8</sup>

Thus, the judicial wing in the India governing system plays a very prominent and paramount role in imparting the Right to Education as a distinct and separate fundamental right rather than viewing it as a fundamental which is impliedly provided under Article 21 of the Constitution of India.<sup>9</sup>

## **THE STATE AND RIGHT TO EDUCATION**

The state has a prominent role in the development of the educational standards of the common

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<sup>6</sup> *Mohini Jain V State of Karnataka* (1992) 3 SCC 666

<sup>7</sup> *J P Unni Krishnan V State of Andra Pradesh* (1993) I SCC 645

<sup>8</sup> *TMA Pai Foundation V State of Karnataka* (2003) AIR 2003 SC 355

<sup>9</sup> S P Sathe, *Supreme Court on Right to Education*, *Economic and Political Weekly*, Aug. 29, 1992, Vol. 27, No. 35 (Aug. 29, 1992), pp. 1847-1848, *Economic and Political Weekly*, <https://www.jstor.org/stable/4398806>

citizens of the nation. The State should need to transform their role from a mere protector and care taker to a developer as well as promoter. The concerned ruling government must need to take proper and appropriate measures in order to check whether the current educational policies are fair enough to provide free and fair education to the whole citizens and whether the same is being effectively running in the state. The government is duty bound to implement proper and effective educational policies because the rate of return of investment in the primary education system is the highest while taking into account with the wide spread social benefits that will gain from these modern and welfare education policies.<sup>10</sup> The Supreme Court of India through various judicial pronouncements made it clear that the right to education should need to be considered as an effective public policy which will have benefits in the social and economic development of the society in the long run which ultimately leads to the welfare of the nation.

That is why the Right to Education Act was passed in the year 2010 by the Government of India with an intention to provide free and compulsory education to all the children from the age of six to fourteen years without and form of discrimination. The made it very clear that the term “compulsory education” means that the state is duty bound to give free elementary education to the concerned age group of children. The government is duty bound to share the functions and responsibilities between the Central and the state governments including the financial liabilities that is being there in the concerned government while providing the education to the concerned age group of children.<sup>11</sup> The National Education Policies initiated by the Government of India from time to time is focusing on the upliftment of the common people of the society. Through these educational policies, a large group of people will be benefited and they will be able to attain good system of education. Thus, the role of government in imparting these educational policies are very high and they are duty bound to do the same since they are considered to be the watchguard for the protection of these fundamental rights of the common citizens.

## **RIGHT TO EDUCATION IN CONTEMPORARY INDIA**

The right to education is being considered as one of the predominant right provided to any citizen in India. This is because, education is considered to be the basic starting point and cornerstone of development which leads the path for further development of the society as well as for the all-

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<sup>10</sup> G Thimmaiah, *State and Right to Education*, Economic and Political Weekly, Oct. 17, 1992, Vol. 27, No. 42 (Oct. 17, 1992), pp. 2331-2332, Economic and Political Weekly, <https://www.jstor.org/stable/4399032>

<sup>11</sup> Anil Sadgopal, *Right to Education V Right to Education Act*, Social Scientist, September-December 2010, Vol. 38, No. 9/12 (September-December 2010), pp. 17-50, Social Scientist, <https://www.jstor.org/stable/27896288>

round development of the concerned individual as well as the whole nation itself. Since the right to education is being considered as a basic human right even by the Universal Declaration of Human Rights (UDHR), it cannot be kept aside by the Indian government since India is also a signatory to the United Nations. As per the Universal approach to the right to education, everyone should need to be literate enough to maintain their own livelihood and the government should also need to provide educational facilities to the needy ones rather than limiting the same to the primary and elementary level of education only.<sup>12</sup> The government of India also makes specific focuses on the aid that is needed by the person with disabilities. Rather than being considering them as a secluded group, the government is actually providing various welfare and additional benefiting schemes to these persons with disabilities in order to gain good and adequate educational standards.

The idea of providing education to the person with disabilities is being originated in the western countries. Thus, while the same being adopted in India, through special treatment in a special and peculiar environment, proper and adequate education can be given to persons with disabilities who themselves tries to be secluded from the common society.<sup>13</sup> The idea of “inclusive education” was thus adopted in India which radically altered the basis for the special education in India especially for the education of children who suffers some sort of disabilities.

The government through the imposition of compulsory elementary education also supports the educational system to a very great level because the children in tender years of age, who will get the chance to get educated, will surely be an asset to the nation as a whole. Therefore, the Integrated Child Development Scheme (ICDS) established by the government for providing nutritious food and basic elementary education below the age of six years can also be considered as one among the importance of having a proper policy regarding the status of these elementary education in our nation. Thus, the government is not only focusing on the educational standards of the students but their overall development including the quality food that they may receive through their elementary schooling and that is one of the sole reason to provide the “mid-day meal scheme” in the government schooling institutions where the children will get good quality nutritious food from the school itself where the government focuses not only on the educational

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<sup>12</sup> Tristan McCowan, *Reframing the universal right to Education*, Comparative Education, NOVEMBER 2010, Vol. 46, No. 4 (NOVEMBER 2010), pp. 509-525, Taylor & Francis, Ltd., <http://www.jstor.com/stable/25800021>

<sup>13</sup> Ritika Gulyani, *Educational Policies in India with Special Reference to Children with Disabilities*, Indian Anthropologist, Vol. 47, No. 2 (July – December 2017), pp. 35-51, Indian Anthropological Association, <https://www.jstor.org/stable/10.2307/26494030>

standards but in the overall health and growth of the children which will be the concern of every welfare nation.<sup>14</sup> Thus, the government will look after the matter very clearly while providing the basic elementary education.

The citizens of the nation are the actual strength of the society and thus India should need to promote the citizens by providing proper education in order to strengthen our basic structure. By providing good and quality education, it is sure that those educated literate people will surely be an asset to the nation in one way or the other and sometimes their contribution to the development of the society is an irreplicable one which has that much of status to the contribution of the development of a welfare state. Thus, we can say that, the proper education system will surely lead to the proper welfare state and these proper welfare state will further lead to the whole economic, social and cultural development of the society. So, by considering educating citizens as a predominant policy of every ruling government, the country can attain great success through the proper all-round holistic education of the citizen as well as with the overall development of the nation.

## CONCLUSION

The education is considered to be one among the noble quality of every citizen. This is because, the education is considered as a tool for attaining the economic, social, cultural and over-all development of a person. Thus, it is the duty of the concerned government to provide free and fair education to the concerned sections who are in need of that. By imparting the Right to Education as a Fundamental Right, the government is duty bound to provide the same. Education is not a choice but consider it as a right that every citizen of the nation possess. Through good educational system, the development of the society can be achieved because the basic standard of living of the people will get increased since there will be a deep decline in the unemployment rate of the nation since they people may be able to do some jobs based on their skills and educational status rather than being roaming around and doing bonded labour activities mainly because of the illiteracy and without having the proper knowledge to acquire the basic fundamental right to get free and fair education which is enshrined under the Constitution of India.

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<sup>14</sup> Madhav Godbole, *Elementary Education as a Fundamental Right: The Issues*, Economic and Political Weekly, Dec. 15-21, 2001, Vol. 36, No. 50 (Dec. 15-21, 2001), pp. 4609-4613, Economic and Political Weekly, <http://www.jstor.com/stable/4411465>



The Right to Education Act and the new National Education Policies made by the government from time to time also plays a prominent role in developing the educational status of the common citizen in the Indian nation. The National Education Policy submitted by Dr, K Kasthurirangan in the year 2019 is considered to be a completely new and farsighted educational policy which will transform the educational status of India with that of those in the highly developed nations.<sup>15</sup> Thus, through the implication of innovative and far sighted education policies like these, the government will be able to promote a new educational standard in the society as a whole where the people will get so much benefits out of the concerned educational system.

The right to education is thus having such a crucial role in the nation building as well because these educated children will be the actual nation builders of the future. Thus, through providing basic education and morale values to the children of tender years of age, the government will be able to build a society who is having a lot of good individuals with decent standard of living which ultimately results in the overall development of the nation as well.

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<sup>15</sup> All India Forum for Right to Education (AIFRTE), *Critical Response to the Draft National Education Policy, 2019*, Social Scientist, September–October 2019, Vol. 47, No. 9/10 (556-557) (September–October 2019), pp. 3-26, Social Scientist, <https://www.jstor.org/stable/10.2307/26844282>