

Right to Education and Equal Opportunities in Indian Society

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ABSTRACT

The most important term of reference for the Saman School Pranali Ayog calls for it to specifically recommend ways and means to give effect to Right to Education under Article 21A of the constitution within the framework of a common School System. It presents a brief history of the Right to Education (RTE) in the international and the Indian context. It has also been argued in this paper that the rights to education remains a rhetoric if it is not integrated with equality in educational opportunity and social justice. Furthermore, the Commission regards education a matter of child's right in contrast to her need, and believes that the State must respond to the right as its sovereign duty, and not just as a part of its welfare or humanitarian agenda. Education in the Western world, prior to the age of Enlightenment in Europe, was considered primarily the responsibility of parents and the Church. Education as a matter of public concern' is the product of the modern secular State. The French and American revolutions gave a 'fillin' to the process of the 'democratization of education and moving away from its being the exclusive preserve of a particular social class'. Public education was perceived as a means of realizing the egalitarian ideals upon which these revolutions were based'. Despite education being regarded as a pre-existing and natural right', it did not find a specific mention in the classical civil liberties instruments such as the English bill of Rights of 1689, the American Declaration of independence of 1776 and the French Declaration of the Right of Man of 1789 (ibid). However, the Rights of Man contained roots of the modern thought of inclusion about equality, respect and decent education for all.' The rise of socialism and liberalism in the nineteenth century led nation States to promote education as a matter of citizen's right and incorporate it in their Constitutions and legislations.

Keywords: Opportunity, Equality, Liberalism, Right to life, Education

Introduction:

The Indian concept of right developed during the freedom movement with the demand for self-governance and total independence from the colonial rule, culminated into Part III of the Indian Constitution on Fundamental Right. These Fundamental Rights are close to those embodied in the UN's Universal Declaration on Human Rights. The most important fundamental right impacting on the life of common people in India happens to be Article 21, which guarantees. Right to life and personal liberty'. It declares: 'No person shall be deprived of his life or personal liberty except according to procedure established by law'. This right is akin to the French concept

of Right of Man, which draws from the principle that the people's life chances should not be restricted by irrelevant consideration. Education is key to assuring 'people's life chances'.

RTE: Pre- Independence :

The right to education issue has been debated in Indian for more than a century. A substantial part of the memorandum presented by Mahatma Jotirao Phule to the Indian Education Commission in 1882, dwelt upon how to British Government,s funding of education tended to benefit "Brahmins and the higher classes" While leaving "the masses wallowing in ignorance and poverty". Another

attempt to get elementary education recognized a right was made though obliquely. Way back in 1909 when G. K. Gokhale introduced a Bill under the Indian Council Act of 1909, to make primary education compulsory, and deserving of State funding. However, the Bill was defeated by a large majority. While addressing the legislatures Gokhale made the emotional observation that the issue would keep coming up again and again until all children realised their right to free and compulsory education. In 1937, at the National Education Conference held at Wardha (Maharashtra) Mahatma Gandhi had to use all the moral powers at his command to persuade the Ministers of Education of the newly elected Congress governments of seven provinces to give priority to basic education of seven years and allocate adequate funds for this purpose. The Ministers kept on pointing out that there was no money. In spite of this the Wardha Conference passed four resolutions among which the first one stated. That in the opinion of this Conference, free and compulsory education be provided for seven years on a nation-wide scale. This resolution on free and compulsory education was re-iterated by the 51st annual session of Indian National Congress held at Haripura in February, 1938.

RITE:12950 The country adopted its own Constitution. Which provide Fundamental Rights to equality, to freedom, against exploitation, to freedom of religion, to constitutional remedies and cultural and educational rights of the minorities. The right to free and compulsory education was retained in part IV of the Constitution that incorporates the Directive principles of State policy. Article 45 of part IV of the Constitution declared: The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for children until they complete the age of fourteen years. This policy directive did show some sense

of urgency as it suggested a timeframe to provide free and compulsory education to children below the age of 14, However, the Nehruvian policy of development followed in the early years after independence gave priority to investments in higher and technical education, but public spending on school education remained grossly inadequate. In 1986, when the first National Education policy was being formulated, more than half of the children and two-thirds of the girls in this age group were out of school.

The expert group set up by the government of India after the Unnikrishan Judgment, on the financial implication of RTE, with economist Tapas Majmudar as Chair, chose the right-based approach to providing elementary education. The report said from being an incremental development goal in the process of education for all universalization of elementary education has in consequence of the Unnikrishana judgment now become the legal right of every Indian child entitlements sanctioned by the Constitution cannot be deferred by the state at its convenience. The State has to make the necessary reallocation of resources, by superceding other important claims, if necessary in a manner that the justiciable entitlement can become a reality.

Flaws of Article 21A :

Many activist have criticized the constitutional amendment introducing Article 21A. They have primarily two reasons for it. First they have argued that the Article gives power to the State to decide the manner for providing free and compulsory education. Second it restricts the right to the age group 6-14 unlike the original Article 45 of the Directive Principles of State policy, which referred to all children until they complete age 14.

These activists have further argued that in spite of the insertion of Article 21A, Article 21 itself has not been amended. Besides wider

coverage under right to education in the Unnikrisnan Judgement also remains intact. Consequently the judgment read with Article 21 continues to entitle children below 6 years of age to right to education. Thus education of children below 6 years of age qualifies to be accepted as a fundamental right, not with standing Article 21A(Jha,2007).

The introduction of a new Article 21A in the Constitution provides a renewed opportunity to reduce the increasing inequality in education at the elementary level and achieve the goals of justice-social economic and political- as pledged in the preamble of the Indian Constitution. However the import of this new fundamental right has yet to be properly understood by policymakers and academics, and has yet to appear on the agenda of several influential social and political activists and civil society organizations. The fundamental right to free education of children of ages 6-14 as given by article 21A This artificial classification and hierarchy in Fundamental Rights reflects the class characteristic International instruments on right to education invariably call for equal opportunity with specific focus on minorities, disabled and the disadvantaged. Where does India stand on the issue of equal opportunity? The object of equal opportunity is unequivocally enunciated in the preamble of the Constitution. It solemnly resolves to secure to all its citizens equality of status and opportunity Articles 14,15 and 16 guarantee respectively equality before law non-discrimination on the ground of religion, race caste sex or place of birth and equality of opportunity in matters of public employment. While the principle of equality is strongly expressed in the Constitution and is also in consonance with the commitments made by India by virtue of being a party to a number of international instruments, it has not been effectively addressed in regard to educational

provisioning and services. The right to education received the attention of civil societies and judicial authorities culminating in the insertion in the Constitution of Article 21A but similar activism is yet to be witnessed in respect of demand for equality of opportunity in the Indian school system.

Equal Opportunity in the Indian Policies :

In the earlier post-independence period, concerns were expressed about the glaring inequity in the educational development in the country. The Radhakrishnan Commission emphasized that education is a universal right not a class privilege (Government of India.1950).The Kothari Commission regarded attainment of equality as one the objectives of education. It highlighted the role of education in bringing about social change if this change on a grand scale is to be achieved without violent revolution there is one instrument and one instrument only that can be used education (Education Commission 1966). Following the commission's recommendation the National policy on Education (NPE),1968 devoted one Section (4) on the equalization of educational opportunity and called for among others the adoption of the Common School System as recommended by it. The NPE 1986 (Modified in 1992) state, the new policy will lay special emphasis on the removal of disparities and to equalize education opportunity by attending to the specific needs of those who have been denied equality so far (MHRD 1992). However the Common School System was ever a part of the strategy for ensuring the equalization of opportunity in education and the agenda under this head included specific needs of the disadvantaged group-women SCs STs minorities and the handicapped.

Even in recent years the discourse on education at the school level has remained confined to rights and the equal opportunity and

social justice as applied to education are yet to receive attention from educationists and social activists except perhaps in the shape of demands for reservations for admissions in higher academic institutions.

Conclusion :

Indian policy makers have recognized the right to education at least in theory but the question of quality of opportunity and social justice in the realm of education is yet to figure prominently and effectively on their Agenda. In the meantime the parallel streams of schooling that have emerged in the recent years have put a huge question mark on the prospect of the realization of the objective of equality of opportunity and of putting in place an inclusive school education system. Does the Common School System provide a way education. The Commission is categorically learning of the view that it does by virtue of the obligation that it imposes on all school in the system to comply with a act of minimum norms for providing education of equitable quality to all children.

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