

## HUMAN RIGHTS EDUCATION AND RIGHT TO EDUCATION

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### *Abstract*

*Education plays a very important role in the development of Human Resources. Education is the only instrument which has been considered important tool in the transmission of values and for the accumulation of knowledge of a society. Thus broadly, speaking education refers to any act that has direct and indirect effect on the personality of an individual. "A key and most prominent pillar of education is learning, how to live in peace and harmony". This process of education involves the three important processes; first of all, strengthening one's own identity, self-worth and self-confidence. Secondly, it provides learning to appreciate the cultures of others, to respect others as individual and groups. Thirdly, to apply the same ethical principle to decisions about other people that one would apply within one's own culture. These are the key processes of education which tend to play a very important and crucial point in the life of human beings in the modern world of science and technology. Man has recognised as a supreme creature of all species on earth, yet man is the only one who has unpardonable record of his own destruction and degradation.*

*Thus in the threshold of new millennium, today we are witnessing mass violations of Human rights within the nations.*

*"If we want to preserve this humanity we need to adopt the values of Human Rights through Education".*

**Keywords:** *Human Beings, Rights, Education, Humanity and Personality*

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*Education shall be directed to the full development of Human Personality and to the strengthening of respect for human rights and fundamental freedoms”<sup>1</sup>*

## INTRODUCTION

*“Education is the most powerful weapon which can use to change the world”-Nelson Mandela*

Education plays a cardinal role in transforming a nation into civilized nation. It accelerates the progress of the country in every sphere of national interest and activities. Education operates as ‘Multiplier’ by enhancing the entitlement of all individual rights and freedom. Education has referred as a key to unlock and protect other human rights. It embodies all civil, political, social, economic and cultural rights. It is the duty of the state to do all it could, to educate every section of citizens who need a helping hand in marching ahead along with others.<sup>2</sup> According to sociological perspective<sup>3</sup> education does not arise in response to individual needs, but it arises according to the needs of the societies. The educational system of the society is related and derived from the social pattern followed by the people. In a static society, the main function of the education is to transmit the cultural heritage to the new generations. But in the dynamic society (changing society) the main function of the education is not only to transmit the cultural heritage but also aid in preparing the youth for the adjustments to any changes in them that may have occurred or likely to occur in future. The right to education directly flows from the ‘right to life’ as right to life and dignity of an individual cannot be assured unless it accompanied with right to education.<sup>4</sup> The right to education is the fundamental right that establishes the proximate relationship with life of the individual, protection of environment, eradication of untouchability and other related rights of humanity. The right of education has been recognised as *Human Right* by the United Nations and is made to establish an entitlement to free, compulsory primary education for all children, an obligation to develop secondary education accessible to all children, as well as equitable access to higher education and a responsibility to provide basic education to all the individual who do not have the primary education. In addition to all the objectives mentioned above, the right to education also encompasses also the obligation to eliminate discrimination

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<sup>1</sup> Article 26 of Universal Declaration of Human Rights 1948

<sup>2</sup> Quadri, J. in *T.M.A.Pai Foundation v. State of Karnataka* (2002) 8 SCC 481 as a referred in *P.A.Inamdar v. State of Maharashtra*, (2005) 6 SCC 537 at 588 para 85

<sup>3</sup> Kulbir Singh Sidhu, *Education the Hope for a Better World*, (Sterling Publishers Pvt. Ltd., 2010.) p.11- 14

<sup>4</sup> *Mohini Jain v. Union of India* AIR 1992 SC 1858

of all sets that have been prevailing in the society in order to improve and provide each and every individual a quality life which provides Right to life, personal liberty, equal opportunities to develop him to the fullest extent.

Thus, Education is that primary vehicle from which the Human beings derive social, political, cultural, economic and civil rights without which the Human existence in any man made society won't be possible.

## **MEANING AND DEFINITION OF HUMAN RIGHTS**

Human beings are rational beings. They by virtue of their being human possess certain basic and inalienable rights which are commonly known as Human Rights. Since these rights belong to them because of their existence they become operative with their birth. Human rights being the Birth Right are therefore, inherent in all individuals irrespective of their caste, creed, colour, religion, sex and nationality. Because of their immense significance to human being; Human rights are also sometimes referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights<sup>5</sup>. In general terms Human Rights may be referred as all those rights that all people have by virtue of being human are human rights. The idea of human rights is bound up with the idea of Human Dignity. Chief Justice of India, J.S Verma has rightly stated that 'Human dignity is quintessence of human rights'<sup>6</sup>. All those rights which are essential for the protection and maintenance of dignity of individuals and create conditions in which every human being can develop his personality to the fullest extent may be termed as "Human Rights"<sup>7</sup>. Modern concept of Human rights is that the rights possessed by the Human beings in their natural capacity of being human and not because of any particular system of law under which they happen to live.

## **HUMAN RIGHTS EDUCATION**

According to Amnesty International defines Human Rights Education as a deliberate, participatory practice aimed at empowering individual, groups and communities through fostering knowledge, skills and attitudes consistent with internationally recognized Human Rights Principle.<sup>8</sup> As a medium for long term processes, Human Rights Education seeks to

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<sup>5</sup> Maurice Cranston quoted in L.J Macfarlane *The Theory and Practice of Human Rights* (1985) p.7

<sup>6</sup> David P. Forsythe, *The Internationalization of Human Rights* p.1

<sup>7</sup> P.N Bhagwati J. in *Maneka Gandhi v. Union of India*, AIR 1978 SC 597 at 619

<sup>8</sup> Oppenheim's , *International Law*, Volume 1, 9<sup>th</sup> Ed. Edited by Sir Robert Jennings and Sir Arthur Watts, p.847

develop and integrate people's affective, cognitive and attitudinal dimensions including critical thinking to human rights. Education in itself is a goal to build the culture of respect for and action in the defence and promotion of Human Rights for all. Human Right Education is not just for Human Rights i.e., acquiring knowledge. It is also an education for Human Rights, helping people to feel the importance and need off Human Rights, to integrate them in a way they live and to take action to promote and protect the rights of other on individual, local, national and at international level. Human right education directly contributes to improve the life of both individuals and the community. It is an education which not only provides understanding of one's own rights and therefore inculcation of one's own rightful place in the society also fostering an attitude of tolerance, goodwill and removal of prejudices towards fellow human beings. Human rights Education is all about helping people to develop to the point where they understand Human rights and where they feel that they are important and should be respected and defended.<sup>9</sup>

### **IMPORTANCE OF HUMAN RIGHT EDUCATION**

The increasing recognition of the universal right to learn about human rights is making Human Right Education, a vital part throughout the world. In recent years there has been tremendous growth in how we think about and apply Human Rights ideals. Values of tolerance, equality and respect can help to reduce friction within the society. Putting Human Rights Education into practice can help us to create the kind of society we want to live in.

Human Rights are an important part of how people interact with others at all levels in society- in family, community, in schools, in groups, in workplace, in politics and international relations. It is important that people everywhere should strive to understand what Human rights are.

*“When people better understand Human rights, it will be easier for them to promote justice and the well –being of society. Human rights education develops awareness that there is a guarantee of equality before law”.*

### **CONCEPT OF RIGHT TO EDUCATION**

*“Nation as well as human Beings will be strengthened if education is of higher quality”*

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<sup>9</sup> Henle, S.J., *A Catholic view of Human Rights*, A Thomistic Reflection in Alan S. Rosenbaun, 1980 p. 1445

The right to education is a fundamental human right. It is the key which unlocks the treasure of sustainable development and peace and stability within and among countries and thus, indispensable means for effective participation in the societies and economies of 21<sup>st</sup> century which is effected by rapid globalization. It is essential, when looking at the sustainable development from a right perspective to first acknowledge that in order for a person or society to continue advancing; right to education shall be the basic need for every individual. Social and economic conditions like lack of education and information, as well as poor health conditions, severally limit the person's ability to work and enjoy personal economic growth and development. Education helps the individual to achieve their own social and economic status and helps society to better protected, better served by its leader and more equitable in many ways. The difference between education and poverty reduction is quite liner as education is empowering; it enables a person to participate in the development processes, it inculcates the knowledge and skills needed to improve the income earning potential and in turn provide the quality of life, which is the need of the time.<sup>10</sup> Education is a process which provides for intellectual, moral, social, economic and physical development of a child of good character formation; mobility to social status, an opportunity to secure equality and a powerful instrument to bring attainment of employment and other sources of income and help in eradicating specific social problems such as child labour, oppression and any kind of discrimination that may be prevailing in the society.<sup>11</sup> Education therefore, should be correlated to the social, political or economic and cultural needs of our developing nation fostering secular values, breaking the barriers of casteism, linguism, religious bigotry and should act as an instrument of social change. Education kindles its flames for pursuit of excellence, enables and ennobles the young mind to sharpen his or her intellect more with reasoning than blind faith to reach intellectual heights and inculcate in him or her to strive for social equality, justice and dignity of person.

## **INTERNATIONAL INSTRUMENTS**

### *Universal Declaration of Human Rights*

The Universal Declaration of Human Rights was adopted on 10<sup>th</sup> December 1948 and two International Covenants were adopted in 1966 codifying the two sets of Rights outlined in the

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<sup>10</sup> Bhandari J. *Bandua Mukti Morcha v. Union of India & Others*, (1997) 10 SCC 549 p.547 para 11, referred in *Ashoka Kumar Thakur v. Union of India and Others* (2008) 6 SCC 1

<sup>11</sup> Dreze, J. and Sen, A. *India: Economic Development and Social Opportunity*, (Oxford University Press, New Delhi, 1996) pp.14-15

universal Declaration. International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights came into force in 1976. The Declaration has been hailed as an historic event of the profound significance and as one of the greatest achievements of the United Nations.

The declaration'..... is the mines from which other conventions as well as national constitutions protecting these rights have been are being quarried.<sup>12</sup>

### **PREAMBLE OF UNIVERSAL DECLARATION OF HUMAN RIGHTS;**

It is as follows;

*“Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the Human family is the foundation of the freedom, Justice and peace in the world”.*

The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for the people, and of all nations, to the end that every individual and every organ of the society, shall strive by education to promote respect of these rights and freedom and by international measures shall try to secure the universal and effective recognition of the Human Rights by the member states among the people of their territories under their jurisdiction. Thus, under Article 26 of the Universal declaration of Human Rights deals with Right to Education. It has been considered important from the viewpoint that Right to education is a Human, Fundamental right that every individual of the society is entitled to have.

*Education shall be directed to the full development of Human Personality and to the strengthening of respect for **HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS** ”<sup>13</sup>*

*International Covenant for Civil and Political Rights & International Covenant on Social, Cultural and Economic Rights*

The International Conference of Human rights at Tehran has pointed out that without “Education the full realization of economic, social and cultural rights the implementations of

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<sup>12</sup> J. E.S. Fawcett, The Law of Nations(1968), p.158; See also Percy E. Corbett, The Growth of World Law (1971), pp. 181-182.

<sup>13</sup> Article 26 of Universal Declaration of Human Rights 1948

Civil and Political Rights was not at all possible.<sup>14</sup> The International Covenant of Social, Economic and Cultural Rights include the following Rights; Right to work<sup>15</sup>, Right to education<sup>16</sup>, Right to health<sup>17</sup>, Right to adequate food<sup>18</sup>, Right to culture and Social Security<sup>19</sup> and Right to adequate standard of living<sup>20</sup>.

## RIGHT TO EDUCATION AND NATIONAL PERSPECTIVE

*“A man without the education is equal to animal”. Education means Knowledge and Knowledge itself is POWER”.*

Initially the Constituent Assembly did not make the education a fundamental right, it provided for free and compulsory education as Directive Principle of State Policy which are although not enforceable in the court of law but are made fundamental in the governance of the country and it has been the duty of the state to apply these principles in making laws. In the original constitution the term education was confined to Part IV of the Indian Constitution; Article 41 of the Indian Constitution provides that the state within its limits of its economic capacity and development make effective provisions for securing right to work, and right to education.<sup>21</sup> Further to protect the educational interests of religious and linguistics minorities’ special provision has been inserted under Part III of the Indian constitution under Article 30, entitling to establish and administer educational institution of their choice. Further Article 26 provides that every religious denominations or any sect thereof have been authorised to establish and maintain religious institutions and charitable purposes. On the other hand Part IV of the Indian Constitution deals with the Directive Principles of State policy which are non-justifiable rights. The failure of the policy makers in implementing the provision of Article 45 of Indian Constitution even after five decades seems to have a serious problem. The words of C. Gopalchari seem to be true in this context;

*“Corruption, injustice and the power and tyranny of wealth, and inefficiency of the administration, will make a hell of life as soon as freedom is given to us. Men will look*

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<sup>14</sup> United Nations action in the field of human rights, United Nations, New York and Geneva, 1994, p. 131, para 1142

<sup>15</sup> International Covenant on Economic, Social and Cultural Rights Article 6

<sup>16</sup> *Ibid* Article 13 and 14

<sup>17</sup> *Ibid* Article 12.

<sup>18</sup> *Ibid* Article 11

<sup>19</sup> *Ibid* Article 15 and Article 9

<sup>20</sup> *Ibid* Article 11

<sup>21</sup> Constitutional Assembly Debates, (Vol. II) (1948-49)



*regretfully back to the old regime of comparative justice, and efficient, peaceful, more or less honest administration". He further added that "hopes lies only in universal education by which right conduct, fear of God and Love will be developed among the citizens from childhood".<sup>22</sup>*

Dr. Amedkar the chief Architect of the Indian Constitution wanted to spread knowledge and freedom of thought among its citizens as reflected in the constitution. When the Constitution of India was adopted in 1950, the framers of the constitution were aware of the importance of education as an imperative tool, for the realization of a person's capability and for the full protection of rights. But as the "states" economic conditions was not sound, so it was placed in the directive principles. The Directive Principles which were fundamental in the governance of the country cannot be isolated from the fundamental rights guaranteed under Part III of the Indian Constitution. Indeed the Preamble of the Indian Constitution resolves that these objectives can be achieved only if the country's children are not in work and are attending schools and as far as the dignity of the individual is concerned, without education dignity of the individual cannot be assured. Hence, some child specific provisions are contained both in both the "Directive Principles and Fundamental Rights".<sup>23</sup>

### **RIGHT TO EDUCATION A FUNDAMENTAL RIGHT (ARTICLE 21 A)**

The Constitution (86<sup>th</sup> Amendment) Act, 2002 has added a new Article 21 A after Article 21 and has made education for all children of the age of 6 to 14 years a Fundamental Right. It provides that "*The State shall provide free and compulsory education to all the children of the age of 6 to 14 years in such manner as the state may, by law determine*". It is well known fact that the education is basic human right. For the success of democratic system of

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<sup>22</sup> N.A. Palkhivala (1999), *Selected Writings*; P.P. Rao, *Fundamental Right to Education*, 50 Journal of Indian Law Institute, (2008) p.591

<sup>23</sup> 'Our Constitution-makers, wise and sagacious as they were, had known that India or their vision would not be a reality if the children of the country are not nurtured and educated. For this, their exploitation by different profit-makers for their personal gain had to be first indicted. It is this need, which has fund manifestation in Article 24, which is one of the two provisions in Part IV of our Constitution on the fundamental right against exploitation. The framers were aware that this prohibition alone would not permit the child to contribute its mite to the nation building work unless it receives at least basic education. Article 45 was therefore inserted in our paramount parchment casting a duty on the State to endeavour to provide free and compulsory education to children. (It is known that this provision in Part IV of our Constitution is, after the decision by a Constitution Bench of this Court in *Unni Krishnan, J.P. v. State of Andhra Pradesh*. AIR 1993 SC 2178 has acquired the status of a fundamental right.) Our Constitution contains some other provision also, desiring that a child must be given an opportunity and facility to develop in a healthy manner.' *M.C.Mehta v. State of Tamil Nadu* (1996) 6 SCC 756 p.760



government, education is one of the basic elements. An educated citizen has to choose the representatives who form the government. Education gives the person the essence of Human dignity that develops him as well as contributes to the development of the country. The framers of the constitution realising the importance of the education have imposed the duty under Article 45 as one of the Directive Principle of the State Policy to provide free and compulsory education to all children until they complete the age of 14 years within 10 years from the commencement of the constitution. The object was to abolish the illiteracy from the country. It was expected that the elected governments of the country would honestly implement the directives. But it is unfortunate that since the lapse of 71 years from the independence they did not take any concrete steps to implement these directives and 35% of the population of the country is still illiterate. The framers perhaps were of the view that in the view of the financial conditions of new state it was not feasible to make it as a fundamental right under Part III of the constitution. Article 21 A may be read with new substituted Article 45 and new clause (k) inserted in Article 51 A of the constitution (86<sup>th</sup> Amendment Act 2002)<sup>24</sup>. While the substituted Article 45 obligates the State “To endeavour to provide early childhood care and education for all Children until they complete the age of 14 years, clause (k) inserted in Article 51 A imposes a fundamental duty on parents/guardian “to provide opportunities for education to his child or, as the case may be ward, between the age of six and fourteen years”. To ensure the proper implementations of the provision of the 86<sup>th</sup> Amendment Act 2002 in terms of not just the funds spent but the content of the implementations, Dr. M. M. Joshi, the then Human Resource Development Minister,<sup>25</sup> said that the monitoring system would be put in a place. It is hoped that the measure adopted would herald the Nation’s march to cent per cent literacy.

Justice Earl Warren, Chief Justice of the U.S. Supreme Court in *Brown v. Board of Education*<sup>26</sup>, emphasized on the right to education in the following words;

*Today Education is the most important function of the state and local governments.... It is required in the performance of our most basic responsibility, even services in the armed forces. It is the very foundation of good citizenship. Today, it is the principal instrument in awakening the child to cultural values in preparing him for later professional training and in*

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<sup>24</sup> This amendment is made after taking into the considerations the 165<sup>th</sup> Report of the Law commission of India and the recommendations made by the Standing Committee of the Parliament.

<sup>25</sup> The Tribune, December 17, 2009

<sup>26</sup> 347 US 483 (1954), quoted in *Unni Krishna v. State of A.P.* AIR 1993 SC 2178 and referred to in *Election Commission of India v. St. Mary’s School*, AIR 2008 SC 655.

*helping him to adjust normally to his environment. In these days, it is doubtful any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.*

In *Mohini Jain v. State of Karnataka*<sup>27</sup>, the matter was raised by the petitioner that the right to education is a Fundamental Right under Article 21 of the constitution of India<sup>28</sup> which cannot be denied to a citizen by charging high fees known as the capitation fees.<sup>29</sup>

<sup>30</sup>Stating that “Right to education” is outcome of Article 21 of the Indian Constitution. The Supreme Court in *Bharitiya Seva Samaj Trust Tr, Press. v. YogeshBhai Ambalal Patel* observed that

*“Without education, a citizen may never come to know of his other rights..... Democracy depends for its very life on a high standard of general, vocational and professional education.*

## CONCLUSION

*“EDUCATION is the special mainstream of man.*

*EDUCATION is the treasure which can be preserved without the fear of the loss*

*EDUCATION secures material pleasure, happiness and fame.*

*EDUCATION is GOD in carnate.*

*EDUCATION secures the honour of the hands of the State, not money.*

India is home to 19% of the world’s children that means India has the world’s largest number of youngsters as well as youth which is largely beneficial, especially as compared to countries like China, which has an ageing population. It is curse to say that, India also has one-third of the world’s illiterate population. It’s not as though literacy levels have not increased, but rather that the rate of the increase is rapidly slowing. India is a country where more than 3 million children are living on the streets, more than 150 million children are bonded labourers, one sixth of girl child does not live to see her 15th birthday and only 50%

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<sup>27</sup> AIR 1992 SC 1858

<sup>28</sup> *State of Karnataka v. Associated Management of P. & S. Schools*, AIR 2014 SC 2094

<sup>29</sup> *Ng. Komon v. State of Manipur* AIR 2010 GAU.102

<sup>30</sup> AIR 2012 SC 3285

of children have access to education. Hence, there is always a scope for a need for amendments which makes the Right to Education Act as a *Sunshine Act*.

To combat this worrisome trend, the Indian government proposed the Right of children to Free and Compulsory Education Act, 2009 making education a fundamental right so that every child in the age group of 6 to 14 can have the basic education.

*“The child is a soul with a being, a nature and capacities of its own, who must be helped so find them, to grow into their maturity, into a fullness of physical and vital energy and the utmost breadth, depth and height of its emotional, intellectual and spiritual being; otherwise there cannot be a healthy growth of the nation”.*

*- Justice P.N Bhagwati*