

## **Tracing the Concept of Right to Education from the Buddhist Age till the Modern Era**

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### **Abstract:**

*Education is the most potent mechanism for the advancement of human beings. It enlarges, enriches and improves the individual's image of the future. A man without education is no more than an animal.<sup>1</sup>*

*Education emancipate the human beings and leads to liberation from ignorance. According to Pestalozzi, education is a constant process of development of innate powers of man which are natural, harmonious and progressive. It is said that in the Twenty First Century, 'a nation's ability to convert knowledge into wealth and social good through the process of innovation is going to determine its future,' accordingly twenty first century is termed as century of knowledge.<sup>2</sup>*

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### **I. Introduction**

#### **Prehistory**

Most of human history lies in prehistory, the period before the use of writing, and before written history. Throughout pre-history, most education was achieved orally and through observation and imitation.<sup>3</sup>

From the origin of our species until about 10,000 BC, most humans lived as hunter-gatherers. Some were settled in a given local/region and others exhibited a nomadic lifestyle across a large territory. These bands or tribes had traditions, beliefs, values, practices and local knowledge which were passed orally for generations from person to person. The young learned informally from their parents, extended family and kin. At later stages of their lives, they received instruction of a more structured and formal nature, imparted by people not necessarily related, in the context of initiation, religion or ritual.<sup>4</sup>

Some forms of traditional knowledge were expressed through stories, legends, folklore, rituals, and songs, without the need for a writing system. Tools to aid this process include poetic devices such as rhyme and alliteration. These methods are illustrative of morality. The stories thus preserved are also referred to as part of an oral tradition.<sup>5</sup>

The advent of agriculture prompted the Neolithic Revolution, when access to food surplus led to the formation of permanent human settlements, the domestication of some animals and the use of metal tools. Settlement, agriculture and metalwork brought new knowledge and skills to be learned and taught by each generation. As communities grew larger, there was more opportunity for some members to specialize in one skill or activity or another, becoming priests, artisans, traders, builders or labourers. Many skills would have been learned from an experienced person on the job.<sup>6</sup>

Research shows that in the ancient days, sages and scholars imported education orally, but after the development of letters, it took in the form of writing. Palm leaves and barks of tree were used for education, and this in turn helped spread of written literature.<sup>7</sup>

In large settlements, social stratification began to develop, a hierarchical arrangement of social classes or castes within the society. There might be a king and nobles. There were often priests or other religious leaders, because religious beliefs in deities or spirits often formed an important part of a culture. In some societies, the status of women was lower than that of men; in some there were slaves. A person's social class, caste or gender might in turn determine or limit the occupations which he or she might follow and the education that he or she would receive.<sup>8</sup>

Monastic orders of education under the supervision of a guru was a favoured form of education for the nobility in ancient India. The knowledge in these orders was often related to the tasks a section of the society had to perform. The priest class, the Brahmins, were imparted knowledge of religion, philosophy, and other ancillary branches while the warrior class, the Kshatriya, were trained in the various aspects of warfare. The business class, the Vaishya, were taught their trade and the lowered class of the Shudras was generally deprived of educational advantages. The book of laws, the Manusmriti, and the treatise on statecraft the Arthashastra

were among the influential works of this era which reflect the outlook and understanding of the world at the time.<sup>9</sup>

According to Hinduism, the importance has given to "Gurukul System." In which preferences given to education relating to Vedas given to different categories of 'Varna's'.

When Buddhism spread in India, Education become available to everyone and this led to the establishment of some world famous educational institutions like Nalanda, Vikramshila, Takshashila.

### **Right to Education in Muslims Periods**

Pious and learned Muslims (mu' allim or mudarris), dedicated to making the teachings of the Koran more accessible to the Islamic community, taught the faithful in what came to be known as the kuttab (plural, katatib). The kuttab could be located in a variety of venues: mosques, private homes, shops, tents, or even out in the open. Historians are uncertain as to when the katatib were first established, but with the widespread desire of the faithful to study the Koran, katatib could be found in virtually every part of the Islamic empire by the middle of the eighth century. The kuttab served a vital social function as the only vehicle for formal public instruction for primary-age children and continued so until Western models of education were introduced in the modern period.

As Abdul Tiwari wrote in 1972, the mind of the child was believed to be "like a white clean paper, once anything is written on it, right or wrong, it will be difficult to erase it or superimpose new writing upon it". The approach to teaching children was strict, and the conditions in which young students learned could be quite harsh. Corporal punishment was often used to correct laziness or imprecision. Even at present, it has exhibited remarkable durability and continues to be an important means of religious instruction in many Islamic countries.<sup>10</sup>

### **British periods**

Law member of Govt. Lord Mekaley sported western education in place of ancient by this own document. According to Mekaley the main purpose of education to form a group how's member can be appointment as lower level of job in colonial of Govt. So that it's became easily to rule over India. Governor General of that time Lord William Benthic decide to provide education of western knowledge and science to Indian 1835 on the advice of Lord Mekaley.<sup>11</sup>

Later, when the British arrived in India, English Education comes into being with the help of the European missionaries. Since then, western education has made steady advances in the country. With hundreds of universities and thousands of colleges affiliated to them, India has positioned itself comfort ability as a country that provides quality of higher education to its people in specific and to the world in general.<sup>12</sup>

Growing awareness for the need of technical education in India gave rise to establishment of institutions such as the Indian institution of science, established by philanthropist Jamshetji Tata in 1909. By the 1930 India had but only 10 institutions offering engineering courses. However, with the advent of the 2<sup>nd</sup> World War in 1939 the "War Technicians Training Scheme" under Ernest Bevin was initiated education in India. The role of traditional institutions like tools, Paths Halas, Makita's, Madrassas, and Ashrams especially for Fine Arts and Music both vocal and instrumental was nevertheless intact and diminished only when the role of education as means of employment rose rapidly as the government took the position of largest employer, during the British period.<sup>13</sup>

This system soon became solidified in India as a number of primary, secondary, and tertiary centers for education cropped up during the colonial era. Between 1867 and 1941 the British increased the percentage of the population in Primary and Secondary Education from around 0.6% of the population in 1867 to over 305% of the population in 1941. However this was much lower than the equivalent figures for Europe where in 1911 between 8 and 18% of the population were in Primary and Secondary education. Additionally literacy was also improved. In 1901 the literacy rate in India was only about 5% though by Independence it was nearly 20%. India has positioned itself comfort ability as a country that provides quality of higher education to its people in specific and to the world in general.<sup>14</sup>

### **Right to Education in Independent India**

Education is a fundamental right in the Indian Constitution. As India's Education Minister, Maulana Asad oversaw the establishment of a national system with free primary education and modern institution of higher education. In 1950 education was subject matter of State, so education was the exclusive responsibility of the states as being on the State List of the constitution. But the Constitution Amendment of 1976, it included education in the Concurrent List, were a far-reaching stepped.<sup>15</sup>

The period spanning "between" 1950-1952 witnessed various commissions report and the first was Radhakrishnan Commission, they have suggested for the improvements of the universities. Commission further proposed by the higher education should have three main objectives: General education, Liberal education and

the Occupational education. More emphasis should be given on the subjects like Agriculture, Commerce, education, Engineering, technology, Medicine and Law.<sup>16</sup>

Subsequently, on Mudaliar Commission has been appointed, the Commission has said in their report: "as political, social and economic conditions change and new problems arise, it becomes necessary to re-examine carefully and study clearly the objectives which education at each stage should keep in view."<sup>17</sup>

The Indian Education Commission (Kothari Commission) 1964-1968, reviewed the status of education in India and made several recommendations. Most important amongst these is its recommendation of a common school system with a view to eliminating inequality in educational opportunities. Immediately thereafter, the National Policy on Education (NPE), 1968 was formed. This Policy was the first official document evidencing the Indian Government's commitment towards school education. It dealt with issues of equalization of educational opportunity and sought to adopt a common school system in order to promote social cohesion. Interestingly, it even required special schools to provide a proportion of free studentships to prevent social segregation in schools. Nevertheless, it retained the status of Free and Compulsory Education (FCE) as a 'directive principle'.<sup>18</sup>

Subsequently, the National Policy on Education, 1986, Re-affirmed the goal of universalization of school education and promised to take measures to achieve a common school system. This policy document once again did not discuss or aim to alter the legal status of Free and Compulsory Education (FCE) in India, i.e., Free and Compulsory Education (FCE) continued to remain a non-justifiable Directive Principle of State Policy. On the contrary, the 1986 Policy has been criticized for having introduced non-formal education into India, and therefore having reduced the constitutional obligation of full-time schooling.<sup>19</sup>

The first official recommendation for the inclusion of a fundamental right to education was made in 1990 by the Acharya Ramamurti Committee. Thereafter, several political as well as policy level changes influenced the course of FCE. The World Bank funded District Primary Education Programme (DPEP) was introduced in 1994 under the auspices of the IMF-World Bank Structural Adjustment Programme. District Primary Education Programme (DPEP) introduced a five-year 'primary education' programme and a system of appointment of para-teachers. From the point of view of a right to education, this five-year programme and the appointment of para-teachers have been criticized as having diluted the constitutional norm of quality compulsory schooling for children till the age of fourteen.

The use of the phrase 'primary education' and its corresponding five-year programme under DPEP may be contrasted with Dr B R Ambedkar's observations at the time of drafting the Constitution. He opposed the introduction of the phrase 'primary education' in draft Article 36 (corresponding to former Article 45) on the ground that the State was obliged to keep children below the age of fourteen years in an educational institution to prevent them from being employed as child labour.<sup>20</sup>

The Supreme Court observed in Mohini Jain<sup>21</sup> case in 1992 that the directive principles which are fundamental in the governance of the country cannot be isolated from the fundamental rights guaranteed under Part III of the Constitution. These principles have to be read into the fundamental rights. The two are supplementary to each other. The state is under constitutional mandate to create conditions in which all could enjoy the fundamental rights guaranteed to individuals under Part III. Without making right to education under Article 41 of the Constitution a reality, the fundamental rights under Chapter III shall remain beyond the reach of the large majority which is illiterate.<sup>22</sup>

The court further held that 'right to life' is the compendious expression for all rights which the courts must enforce "because they are basic to the dignified enjoyment of life. The right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual are not being assured unless it is accompanied by the right to education. The state is under an obligation to make Endeavour to provide educational facilities at all levels to its citizens."<sup>23</sup>

The Supreme Court once again decided in 1993 that the right to education flows directly from right to life guaranteed by Article 21 of the Constitution. The court held that "the effect of holding that right to education is implicit in the right to life is that the state cannot deprive the citizens of his right to education except in accordance with the procedure prescribed by law".<sup>24</sup>

Thus, 'right to education' understood in the context of Article 45 and 41 means: (a) every child or citizen of this country has a right to free education until he completes the age of fourteen years and (b) after a child/citizen completes fourteen years, his right to education is circumscribed by the limits of the economic capacity of the State and its development."<sup>25</sup>

This is the background of the proposal to make elementary education a fundamental right. Though Article 45 of the Constitution contemplated that the state shall provide, within a period of 10 years of the commencement of the Constitution, for free and compulsory education for all children until they complete the age of 14 years, it has taken 50 years to come to a stage of even serious discussion on the subject. It is necessary to underline that mere amendment of the Constitution on this subject is not going to take us far as has been seen in respect of many other equally crucial amendments of the Constitution. One outstanding Example is that of the lack of follow up action after the 73<sup>rd</sup> and 74<sup>th</sup> amendments of the Constitution pertaining to democratic

decentralization and giving larger powers to panchayat raj and urban local bodies. Though nearly 10 years have elapsed since the amendment of the Constitution, There is hardly any effective and visible impact thereof in most of the states.<sup>26</sup>

Unnikrishnan Judgment empowered people with a legal claim to FCE. This is evidenced by a spate of litigations that relied upon the principle of law laid down in this Judgment. A combination of forces from different quarters, viz, support from the judiciary, greater international attention and increased civil society and grass-roots level campaigns exerted tremendous pressure on the Government to introduce a fundamental right to education. A Constitutional Amendment bill for the inclusion of a fundamental right to education was moved in the Parliament amidst much criticism and debate regarding the contents of the Bill. The said amendment proposed that Article 21-A (fundamental right to free and compulsory education for children in the age group of six to fourteen years) be introduced, former article 45 (the then existing directive principle on FCE) be deleted and Article 51-A (k) (fundamental duty on parents) be introduced. In November 2001 the Bill was re-numbered as the 93<sup>rd</sup> Bill and the 83<sup>rd</sup> Bill was withdrawn. The 93<sup>rd</sup> Bill proposed that former Article 45 be amended to provide for early childhood care and education instead of being deleted altogether. Despite continued criticism against the altered version, the Bill was passed in 2002 as the 86<sup>th</sup> Constitutional Amendment Act.<sup>27</sup>

Currently, under Article 21-A of the Constitution, every child between the ages of six and fourteen has a fundamental right to 'free and compulsory' education, which the State shall provide 'in such manner as the State may, by law, determine.' Early childhood care and education (for children up to six years of age) is provided for as a Directive Principle of State Policy under Article 45 of the Constitution. Furthermore, Article 51-A (k) imposes a 'fundamental duty' on parents on provide educational opportunities to their children in the age group of six to fourteen years.<sup>28</sup>

Elementary education has set 2007 as the deadline for providing primary education in India and 2010 as the deadline for providing useful and relevant elementary education to all children in the 6 to 14 age group. In order to improve the quality of elementary education in India, the SSA has emphasized on improving the student teacher ratio, teachers training, academic support, facilitating development of teaching learning material and providing textbooks to children from special focus groups etc.<sup>29</sup>

Finally in last two months RTE got the momentum after Kabil Sibbal coming aboard as the Human Resource Cabinet minister in the new Manmohan Singh Government and it was quickly tabled and passed first in Rajya Sabha and then in Lok Sabha in August, 2009. So as of today Indians have one more fundamental right i.e. Right to Education.<sup>30</sup>

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