

Education For All - Critical Analysis In The Light of Article 21- A of The Constitution of India

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Abstract

“Education for All” is a very important fundamental Right under Article 21-A of Indian Constitution that mandates free and compulsory education for children aged 6 to 14 years. This has been introduced by the 86th Constitutional Amendment Act, 2002, and imposed responsibility on state in ensuring every child’s access to quality education. The right to education is not merely a legal provision but a Fundamental Human Rights essential for the development and progress of individual and societies. This right recognized universally as an essential element for personal development of civilization. The Right to education is recognized not only at national level but international level by way of enshrining in various international treaties, conventions and declarations including Universal Declaration of Human Rights (UDHR) and The International Convent on Economic, Social and Cultural Rights (ICESCR). The Right to Education incorporate the principle that every individual regardless status or disability, eligible for primary education up to the age of fourteen years. Article – 21A, inserted by 86th Amendment Act 2002 in the Constitution of Indian which ensure that the State shall provide free and compulsory education to all children of the age of six to fourteen year. This Article provide base of the social justice to all section of the society. However despite widespread acknowledge of this right, millions of children, adolescents and adults still face formidable barriers to education. This article reflect various provision available in International conventions and the same has been strongly recommended and recognized by our law of land, in Article – 21 A of Indian constitution.

Keywords:- Access, Advocacy, Challenges, Equality, Human Rights, Implementation, Right to Education.

Introduction:

“Education is the most powerful weapon which you can use to change the World.” Nelson Mandela

There is absolutely no doubt about it that education is a powerful tool for social transformation and change in the society. Education is the base building block of every society. It is the single best investment Countries can make to build prosperous, healthy and equitable society. Article-26 of the Universal Declaration of Human Rights states that “Everyone has the right to education”. Those who leave school at an early age are vulnerable, unemployed, poor and subject to early marriage and pregnancy. Access to quality education is essential for the development and well being of individual and societies as a whole. It plays a crucial role in reducing poverty, promoting gender equality, speedy economic growth and building peaceful and inclusive societies.

Government is primarily responsible to ensure that right to education is upheld for all individuals within their jurisdiction. This includes providing free and compulsory primary

education, making secondary and higher education progressively available and accessible and ensuring that education is of good quality meets the needs of students.

Constitutional and Statutory Provisions:-

Article 21A was inserted in the constitution by way of 86th amendment, which provides free and compulsory education for all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the state may, by law determine.

The constitution has provide guidelines to the state Directive Principles of State Policy under Chapter – IV also provide provision for free education under Article-45 which states that the state shall endeavor to provide free and compulsory education for all children from the age of fourteen years. In the Landmark judgment in Unnikrishnan v. State of Andhra Pradesh (1993 SC 645), the Supreme Court has held that the “Right to Education” up to the age of fourteen years is a fundamental right within the meaning of Article-21 of the constitution. The right to education flows directly from right to life. Right to Education is a part of Part-III under Article -21 (Later as Article -21 A) and Part – IV under Article 45 cover both fundamental right and directive principle of state policy, emphasis on education heavily for all citizens.

The present research is mainly focusing on education for all and proper implementation of Article–21A of the Constitution of India. To conduct the present research, researcher has adopted Doctrinal legal research method and collected the Data from books, law reports, All India reporter, Journals, News Paper etc.

Literature Review :-

Title:- Law Commission 165th Report on Free and Compulsory Education for Children

Reference :(165 Law Commission Report)

Review:-Commission provides a detailed note on free and compulsory education with a draft bill for central legislation and emphasis the need for immediate central legislation to give effect to the right to education without waiting for the constitutional amendment to go through in the parliament.

The commission has put together a detailed note on the importance of free and compulsory education, along with a draft bill for central legislation. They stress the need for immediate action to implement the right to education, rather than waiting for a constitutional amendment to pass in parliament.

The committee disagrees with the commission’s view that central legislation is unnecessary. They argue that having a central law does not stop states from making their own amendments based on local needs.

The Universal Declaration of Human Rights-Right to Education

Article 26

The universal Declaration of Human Rights(UDHR) states that everyone has the right to education, which should be free, especially in the early and basic stages. Elementary education must be mandatory, and technical and profession education should be widely available. Higher education should be accessible to everyone based on their abilities. Education should aim to fully develop a person’s character and promote respect for human rights and freedoms.

It should encourage understanding, tolerance, and friendship among all nations and different racial or religious groups, while also supporting the United Nations' efforts to maintain peace. Additionally, parents have the primary right to decide what kind of education their children will receive. Although the UDHR is not legally binding, it outlines important human rights and freedoms and has influenced many international treaties and national laws that are legally enforceable.

Convention on Rights of the Child 1989

The Convention on the Rights of the Child was established by the U.N. Commission on Human Rights and adopted by the United Nations General Assembly on November 20, 1989. This important document sets international standards aimed at protecting and promoting the well-being of children. It recognizes that every child has the right to education, and to ensure this right is fulfilled fairly and progressively, countries are encouraged to take specific actions. They should make primary education mandatory and free for all children, ensuring that every child has access to this essential foundation. Additionally, countries should support the development of various types of secondary education, including both general and vocational training, making these options available and accessible to every child. This includes providing free education and financial assistance when necessary. Furthermore, higher education should be made accessible to all based on individual abilities, using appropriate methods to facilitate this access. It is also important for countries to offer education and vocational guidance to help children make informed choices about their futures. Lastly, measures should be implemented to encourage regular school attendance and reduce dropout rates. Overall, the Convention aims to create a supportive environment that fosters children's education and overall development.

UNESCO Report on Education for all :-

UNESCO believes that education is a fundamental right for everyone, throughout their lives. It sees education as a powerful tool that can improve lives, communities and the planet over time. Since its establishment in 1945, UNESCO's education programs have adapted to address new global challenges like climate change, conflicts, crises and the rapid digital revolution. UNESCO's mission is to unite the world around the future of education. It aims to drive transformation in education by bringing together various stakeholders to support the ambitious Education 2030 sustainable development agenda. The organization works on implementing coordinating, financing and reviewing this agenda at global, regional and national levels to ensure that everyone has equal access to educational opportunities. Also the said reports also contains the challenges in education system.

Right to education – Ministry of Education

The Right to education Act, which came into effect on April 1, 2010, ensure that every child in India aged six to fourteen has the right to free and compulsory education. This means that children do not have to pay any fees or charges that might prevent them from completing their elementary education. The government and local authorities are responsible for making sure that all children in this age group are enrolled in school, attend regularly, and complete their education. This law is based on Article 21-A of the Indian constitution, which was added in 2002 to make education a fundamental right for children. The Act aims to provide quality education in formal schools that meet certain standards and norms, ensuring that every child receives a fair and satisfactory education.

ILO India Employment report 2024 dated 24/03/2024

The ILO India employment report 2024 highlights the connection between education and employment among youths. It shows that young people with higher education levels, such as secondary or higher-secondary education and graduate degrees, are more likely to have regular salaried jobs. In contrast, those with less education, especially below primary level, are more often found in casual work. Specifically, in 2022, 57.8% of youths with a graduate degree or higher were in regular employment, while only 12.5% of those with less than a primary education had regular jobs. Conversely, 43.6% of youths with less than a primary education were in casual work, compared to just 3.4% of those with a graduate degree or

higher. The report also notes that self-employment trends vary with education level, increasing from primary to secondary education but decreasing among those with graduate degrees.

This data clearly indicates that youths without even a primary education have fewer job opportunities. Therefore, it underscores the importance of effectively implementing Article 21A, which mandates free and compulsory education for children, to improve employment prospects for the youth.

Challenges in implementing Education for All

World faces lot of challenges such as poverty, inadequate resources of infrastructure, lack of manpower, etc to implement Education for all. Even implementation of Universal Declaration of Human Rights in 1948, several countries were not able to achieve basic Fundamental Human Right. Several efforts needed globally to achieve this noble Fundamental Human Right. Some of the key challenges include:

1. **Lack of Access to Education:** Millions of children around the world still lack access to basic education due to factors such as remote geographical location. The lack of access is a significant challenge to achieving education for all. It hinders individuals from receiving quality education and limits their opportunities for personal and professional growth. Addressing this issue is crucial in ensuring that everyone has the chance to learn and succeed.
2. **Quality of Education:** Even when children have access to schools, the quality of education provided may be inadequate. This can be due to factors such as poorly trained teachers, outdated curriculum, insufficient learning materials, or overcrowded classrooms. The quality of education poses a major challenge to achieving education for all. When the education provided is not of high quality, individuals may not acquire the necessary knowledge and skills to thrive in their personal and professional lives. Improving the quality of education is essential in ensuring that everyone has access to effective learning opportunities.
3. **Poverty:** Poverty remains one of the most significant barriers to education. Families living in poverty often cannot afford school fees, uniforms, or transportation costs. Additionally, children from impoverished backgrounds may be required to work to support their families, preventing them from attending school regularly. Poverty is a significant challenge to achieving education for all. It can create barriers such as lack of resources, inadequate infrastructure, and limited access to educational opportunities. Addressing poverty is crucial in ensuring that all individuals have equal access to education and the chance to break the cycle of poverty through learning and empowerment.
4. **Gender Inequality:** Gender disparities persist in many parts of the world, with girls often facing greater barriers to education than boys. Factors such as early marriage, cultural norms, and lack of sanitation facilities in schools disproportionately affect girls' access to education. Gender inequality is a notable challenge to achieving education for all. Overcoming gender inequality in education is essential to ensure that all individuals, regardless of gender, have equal opportunities to learn and succeed in their educational pursuits.
5. **Conflict and Instability:** Conflict and instability pose significant challenges to achieving education for all. In areas affected by conflict, schools may be destroyed, teachers displaced, and students forced to abandon their education. This disruption can have long-lasting effects on individuals and communities, hindering the progress towards universal education.

Promoting peace and stability is crucial in creating a conducive environment for learning and ensuring that education is accessible to all, even in conflict-affected regions.

6. **Teacher Shortages and Quality:** Many countries face a shortage of qualified teachers, particularly in rural and remote areas. Additionally, inadequate teacher training and support can impact the quality of education provided. Teacher shortage and quality are critical challenges to achieving education for all. A lack of qualified teachers can lead to overcrowded classrooms, limited individual attention for students, and lower educational standards. Addressing teacher shortages and improving the quality of education through effective teacher training and support are essential steps in ensuring that all learners have access to competent educators who can provide them with a high-quality education.
7. **Language Barriers:** In multilingual societies, the language of instruction may not be the same as the language spoken at home by students. This can create communication barriers and hinder learning outcomes. Language barriers present a significant challenge to achieving education for all. When students do not have proficiency in the language of instruction, they may struggle to understand the material, participate in class, and communicate effectively with teachers and peers. Addressing language barriers through multilingual education programs and support services is crucial in ensuring that all individuals, regardless of their linguistic background, have equal access to quality education and the opportunity to succeed academically.
8. **Lack of Infrastructure:** The lack of infrastructure is a significant challenge to achieving education for all. Inadequate school buildings, classrooms, libraries, and basic amenities like electricity and clean water can hinder the learning environment and impact the quality of education provided. Addressing the lack of infrastructure in education is crucial in ensuring that all individuals have access to safe and conducive learning environments that support their academic growth and overall well-being.
9. **Inequitable Distribution of Resources:** The inequitable distribution of resources is a critical challenge to achieving education for all. Disparities in funding, facilities, teaching staff, and educational materials can create inequalities in access to quality education. Addressing the inequitable distribution of resources is essential to ensure that all individuals have equal opportunities to learn and succeed, regardless of their background or circumstances. By promoting fairness and equity in resource allocation, we can work towards providing a more inclusive and accessible education system for everyone.
10. **Cultural and Social Norms:** Cultural and social norms play a significant role in shaping education for all. They can either support or hinder access to education, particularly for marginalized groups. Addressing cultural and social norms that may perpetuate discrimination, gender biases, or other barriers to education is essential for creating an inclusive and equitable learning environment where all individuals have the opportunity to thrive and reach their full potential. Promoting cultural sensitivity and understanding can help foster a more inclusive educational system that values diversity and respects the rights of every learner.

Measures taken by Government of India to implement Education for All

The Government of India has implemented various steps and initiatives to ensure education for all. Some of the key measures include:

- 1. Right to Education (RTE) Act:** Enacted in 2009, the RTE Act mandates free and compulsory education for all children aged 6 to 14 years. The Right to Education guarantees every child the right to free and compulsory education, aiming to provide equal opportunities for learning and development. By implementing RTE policies, governments can work towards achieving universal access to quality education, addressing barriers such as poverty, discrimination, and lack of resources. RTE plays a crucial role in promoting inclusive education systems that prioritize the well-being and academic success of all learners.
- 2. Sarva Shiksha Abhiyan (SSA):** Sarva Shiksha Abhiyan (SSA) focuses on improving access to quality education, enhancing enrollment rates, reducing drop-out rates, and bridging gender and social gaps in education. SSA emphasizes the importance of inclusive education by addressing issues such as infrastructure development, teacher recruitment and training, curriculum enhancement, and community participation. By implementing Sarva Shiksha Abhiyan, India has made significant strides towards achieving education for all and ensuring that every child has the opportunity to receive a quality education.
- 3. Mid-Day Meal Scheme (MDM):** Implemented in 1995, The Mid-Day Meal Scheme is a significant measure to promote education for all, particularly in India. This program aims to improve the nutritional status of school children and encourage regular school attendance by providing free, nutritious meals to students. By addressing issues of hunger and malnutrition, the Mid-Day Meal Scheme helps enhance the overall well-being of students, thereby supporting their learning and academic performance. This initiative plays a crucial role in ensuring that all children have access to education and the necessary support to thrive in school.
- 4. Rashtriya Madhyamik Shiksha Abhiyan (RMSA):** Launched in 2009, The Rashtriya Madhyamik Shiksha Abhiyan (RMSA) is a government initiative in India aimed at improving access to quality secondary education for all students. This program focuses on enhancing infrastructure, providing teacher training, updating curriculum, and promoting inclusive education practices in secondary schools. By implementing the Rashtriya Madhyamik Shiksha Abhiyan, the government seeks to strengthen the secondary education system and ensure that all students have the opportunity to receive a quality education beyond the elementary level. RMSA plays a crucial role in expanding educational opportunities and promoting holistic development among adolescents, contributing to the goal of education for all.
- 5. Digital Initiatives:** Digital initiatives play a significant role in promoting education for all by leveraging technology to enhance learning opportunities. These initiatives include online learning platforms, digital resources, educational apps, and virtual classrooms that can reach a wide range of learners, including those in remote or underserved areas. By incorporating digital tools into education, students can access quality resources, interactive learning materials, and personalized instruction, regardless of their location or socioeconomic background. Digital initiatives help bridge the gap in educational access, promote lifelong learning, and prepare individuals for the demands of the 21st-century workforce.
- 6. Scholarship Schemes:** The most important hurdle in the education is lack of financial assistance. Scholarship schemes are very much important to by way of providing financial assistance to students who may face barriers to accessing education due to financial insufficiencies. These schemes offer support in the form of tuition fee waivers, stipends, or grants to help students pursue their academic goals without being burdened by financial

difficulties. By offering scholarships, governments, organizations, and institutions aim to ensure that all individuals have the opportunity to receive a quality education, regardless of their financial background. Scholarship schemes play a crucial role in making education more accessible and inclusive, enabling talented and deserving students to fulfill their potential and contribute to society.

7. **Adult Education Programs:** Adult education programs are vital measures to promote education for all by providing learning opportunities for individuals who missed out on formal education or wish to further their knowledge and skills later in life. These programs offer a chance for adults to improve their literacy, numeracy, vocational skills, and overall education level, empowering them to participate more fully in society and the workforce. Adult education initiatives help bridge the knowledge gap, enhance employability, and promote lifelong learning among individuals of all ages. By offering adult education programs, countries can work towards ensuring that education is accessible to everyone, regardless of their age or background.
8. **Skill Development Programs:** Skill development programs are essential measures to promote education for all by focusing on equipping individuals with practical skills and competencies that are relevant to the current job market. These programs aim to enhance employability, foster entrepreneurship, and support economic growth by providing training in various trades, professions, and technologies. Skill development initiatives cater to individuals of all ages and backgrounds, offering opportunities for continuous learning and career advancement. By emphasizing skill development, countries can address the evolving needs of the workforce, reduce unemployment, and empower individuals to succeed in a rapidly changing world.

Conclusion:-

Universal Declaration of Human Right under Article -26 provide Right to Free and Compulsory Education to all children from the age of 14. This Convention is unmodified i.e not enforceable for all its signatories. The Framers of Indian Constitution provides free and compulsory education under Article - 45 of Directive Principle of State Policy which is too not enforceable. The contention of The Framers was that, as India was a recently independent country at that time, the emphasis of the framers mainly on industrial development and defense. In the landmark cases like Mohini Jain and Unnikrishnan it has been held by Honorable supreme court that Right to free and compulsory education to children up to the age of fourteen years is a Fundamental Right under Article 21 of the Part – III of the Constitution.. This made legislators duty bound to enact Right to Education Act 2009 and insertion of Article - 21A to the Part- III of the Constitution. India as a developing Country has many social issues such as poverty, inadequate resources, lack of skilled manpower and lack of government will to implement RTE Act 2009 effectively. Government of India setup a target for 2047 to be developed the nation. Such type of determination is required implementation of the RTE Act 2009. Without achieving education target to be developed nation cannot be fulfilled. Hence in my opinion Government should open its entire cylinder to develop infrastructure in such a way that free and compulsory education will be available to all children. It will construct base for growth whether economic, political or social.

References:

1. (J.N.Pnadey, 2019)
2. (165 Law Commission Report)
3. (Universal DEclaration of HUman Rights)
4. (Convention of Right of Childd 1989)
5. (UNESCO REPORT OF EDUCATION)
6. (Right to education - Ministry of Education)
7. (ILO INDIA EMPLOMENT REPORT 2024)
8. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
9. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>
10. www.unesco.org/en/education/action
11. <http://dsel.education.gov/in>
12. <https://www.ilo.org>