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**Human Right and Child Education in Indian Constitution****Dr. Prashant Krushnarao Pathak***Dept. of Political Science, N.S. science & Arts College Bhadrawati, (M.S.) India***Abstract**

Human beings are unique creation of nature. Nature has provided some special characteristic of human rights through which they can think of ideals and principals. Right to education is required for the full development of human personality and sense of dignity. 'Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. (Article 26 of the 1948 Universal Declaration of Human Rights). This UN recommendation has been reinforced in the provisions of the Right of Children to Free and Compulsory Education (RTE) Act (2009), which came into effect in India on 1 April 2010, enshrining in law for the first time the rights of all Indian children aged between six and 14 years to free and compulsory elementary education regardless of caste, class, gender, etc. The following paper traces this evolution from the Indian constitution perspective, presents Indian's position in relation to the structure and environment of international Human Rights discourse, and outline trends and characteristics that merit reflection.

**Key Words:** Human Right, Child Education, Indian Constitution**Introduction:**

“The World Conference on Human Rights reaffirms that States are duty-bound, as stipulated in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights and in other international human rights instruments, to ensure that education is aimed at strengthening the respect of human rights and fundamental freedoms.” Without human right beings cannot live and develop their live hood. These are the basic right that a person cannot be denied to any human being irrespective of race, gender or any other background. Human right are right inherent to all human beings, whatever our nationality, place of residence, sex, national

or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, guaranteed by law in the forms of international law general guidelines issued by international institutions. International human right law lays down obligations of Governments to act in certain ways or to refrain from certain acts in order to promote and protect human right and fundamental freedoms of individuals or groups. Human rights entail both right and obligation. This article enhances the importance of human right in day to day life and the role of education in protecting and promoting them. Promoting education to inculcate and imbibe the values of human

right and values in a person so that he can use them in his life. All human being are celebrating Human Right day on 10<sup>th</sup> of December of every year. Education plays an important role to for promotion and protection of human right. Education makes us aware about our civil and political right. Education is a tool to spread awareness and information among whole society. Education can play a crucial role at each of levels for promotion and protection of human right. But unfortunately our education system has yet not revised accordingly to accommodate Human right. The paper raises some issues of Indian Citizen and provides some suggestions that should be taken as a part of education. A report of Annual HRD “Right to education 2003 and 2006”, is circulated for enactment by states. This report gives scope for education as a right to all the children up to 14 years to age.

#### **Research Methodology:**

This study, which is designed to investigate the status of the implementation of the RTE Act and its awareness among teachers, parents and children, is a descriptive study. The data in this study was collected through participant observation method, which is a data gathering technique based on observation and recording of things, a qualitative measurement. Formal structured and informal interactions with headmaster, two to three teachers, parents and children were carried out. Since investigator was present in the field during study, observation method was used to collect the data coupled with unstructured questionnaire and interview schedule. The investigator observed implementation of various RTE

norms in these schools and maintained a daily diary for recording notes. These notes were later analyzed and observations were finalized. Besides observing and recording, questionnaires i.e. one each for head masters, teachers and parents were prepared on the basis of some important provisions as provided in the Act. Questionnaires contained both close ended and open-ended questions. The participants of the study were mainly parents, teachers and students of rural government schools with whom the investigator had chance to interact and observe..

#### **Historical Background:**

Therefore special rights were declared from time to time for women, children, etc., controlled by the family heads at various occasions. The concept of human right is rooted in freedom of thought and the dignity of human being. For protection of freedom of thought, Socrates become immortal drinking a cup of hemlock ordered by democratic court. His disciple Plato furthered the cause of freedom of thought and Aristotle, even did not hesitate to differ from his colleagues to tread a new line of thinking and become the most famous original thinker. The first step in this direction may be said as Bill of Magna Carta of England (1215) and the other major step may be designated by declaration of Universal Human Rights by UNO (1948). Why the Anthropologists of primitive most and ancient civilization like India, Egypt, Arabia and China etc. remained silent on it is a matter of research. The UNO declaration of Human Rights on December 10<sup>th</sup> (1948) marks the first corner stone of an International Movement for Human Right. A

little later a specific aspect for children's rights to education, health protection, living and development was proclaimed in November 20 (1959) as "The declaration of the rights of the child". The main purpose of the human rights was defined as "Every individual has the right to use his intellect, skill and inspiration in order to fulfill his physical, mental, social, economic and spiritual needs – to enable himself to lead a life of human dignity." Tragically however, this aim is not fulfilled and though five decades has elapsed, Human Right violation continues.

#### **Vienna Declaration and Programmed of Action**

Vienna Declaration and Programmed of Action urges at Section II Para 47, all nations to undertake measures to the maximum extent of their available resources, with the support of international cooperation, to achieve the goals in the World Summit Plan of Action and calls on States to integrate the Convention on the Rights of the Child into their national action plans. By means of these national action plans and through international efforts, particular priority should be placed on reducing infant and maternal mortality rates, reducing malnutrition and illiteracy rates and providing access to safe drinking water and basic education. Whenever so called for, national plans of action should be devised to combat devastating emergencies resulting from natural disasters and armed conflicts and the equally grave problem of children in extreme poverty. Further Para 48 urges all states, with the support of

international cooperation, to address the acute problem of children under especially difficult circumstances. Exploitation and abuse of children should be actively combated, including by addressing their root causes. Effective measures are required against female infanticide, harmful child labor, sale of children and organs, child prostitution, child pornography, as well as other forms of sexual abuse. This gave an influence to adoptions of Optional Protocol on the Involvement of Children in Armed Conflict and Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

#### **Human Rights in the Indian Context**

When our constitution was being drafted the universal declaration of Human Rights (1984) was

Proclaimed and the constituted assembly incorporated many Human Rights in the form of Fundamental rights of the citizens of our constitution. Those were the right to equality before Law, freedom from discrimination, freedom of speech and expression and prohibition of Employment of children in hazardous occupation, cultural and educational rights. The national Human Rights Commission was constituted in October,(1993) under the human rights ordinance on 28September, (1993) which was soon ended as the "Protection of human Rights Act 1993".

#### **A child's right:**

A child right is the human rights of children with particular attention to

the rights of special protection and care afforded to minors.<sup>[1]</sup> This includes their right to association with both parents, human identity as well as the basic needs for food, universal state-paid education, health care and criminal laws appropriate for the age and development of the child, equal protection of the child's civil right and freedom from discrimination on the basis of the child's race, gender, sexual orientation, gender identity, national origin, religion, disability, color, ethnicity, or other characteristics. Interpretations of children's rights range from allowing children the capacity for autonomous action to the enforcement of children being physically, mentally and emotionally free from abuse, though what constitutes "abuse" is a matter of debate. Other definitions include the rights to care and nurturing.<sup>[2]</sup>

### **Education in Human Rights:**

All Human Rights documents give a prominent place to Education. They also stress the importance of Education in promoting Human Rights. UNESCO played a leading role in promoting education in human rights and issued comprehensive recommendations dealing with various aspects of "Education in Human Rights in November 1974". A world plan of Action on Education for Human Rights and Democracy was adopted in March (1993) by the International Congress on Education for Rights and Democracy at Montreal (Canada). It emphasized that Human rights education must be viewed, as an exercise in democracy and teaching of Human Rights and democracy should be included in the curricula at all levels of the school system.

### **Constitutional provisions of education in India:**

Before taking up the constitutional provision regarding education, it is relevant to see the Preamble of the constitution, which states as under. As amended in (1976) the preamble states as: "We, the people of India, having solemnly resolved to constitute India into a sovereign socialist, secular, democratic republic to all its citizens: Justice, social economic, political, liberty of thought, expression, belief, faith and worship". Equality of status and opportunity and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the nation. On Education, the Constitution of India lays down as under:

#### **Article 14: Equality before law**

Article 15: Prohibition of discrimination on grounds of religion race caste sex or place of birth

Article 16: Equality of opportunity for all citizens

**Article 45:** Provision for free and compulsory education for children: Deals with the directive principles of the state policy of India. It lays down that the state shall endeavor to provide within a period of ten years from the commencement of this constitution, free and compulsory education for all children until they complete the age of fourteen years.

**Article 46:** Promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections: Deals with the education of weaker sections

of the people. The state shall promote, the education and economic interests of weaker sections particularly schedule caste and schedule tribes and shall protect them from social injustice.

**Article 350:** Deals with the instruction in mother tongue; up to the primary level of education should be provided through mother tongue.

**Article 351:** Deals with developments of Hindi as the national language. In the duty of government to promote and spread Hindi so that it can serve as medium of general expression throughout India. There are several other articles like Article 15, 3, 37, 62, 63, 64, 65, 66 etc. which also deal with the different aspects of the education. After 42<sup>nd</sup> amendment in the constitution of India, the center can issue any direction on policy matters of states pertaining to education.

**Education and Human Right (UDHR):** This declaration of human rights by UNO on 10th December, (1948) has been described as an international Magna Carta or International Charter of Human Rights. The provision of equal educational opportunities for men and women at all levels has been urged by the Economic and social Council. The Council has recognized the introduction of free and compulsory education as particularly important to the increased school attendance by girls in the areas where comparatively few girls attend primary schools. In (1957) the Council also paid special attention to the importance of campaigns against illiteracy and of the equal participation of women in the fundamental education programmed. UNESCO has

presented reports to the commission on human rights on the status of women regarding education opportunities.

### **Education as Fundamental Human Right Need of the Present Era:**

Democracy is the result of the education for all. Democratic forces all over the world have been strengthened by the progressive trends in education. According to University Education Commission, "education is a great instrument of social emancipation by which a democracy establishes, maintains and protects the spirit of equality among its members". To develop the fundamentals of democracy, education should be made fundamental human right of the citizens. It is the duty of all sections of society to protect and promote Educations the fundamental human right.

**Scope for further research:** The findings do not reflect the status of implementation of Right to Education Act all throughout the state of Haryana. However, the findings do focus on some important issues relating to the functional part of the Act. In future, further researches can be undertaken by enlarging sample size. Few districts from northern, southern, eastern, western and central parts of Haryana can be selected as sample districts to examine status of the implementation of the Act in the whole of the state. Present study can help the future researchers in getting first hand information for further explorations as well as help state officials to seriously look into the implementation of the RTE Act towards providing quality elementary education to all children .

**Conclusion:** According to Gandhian thought education should not only be to impart knowledge but it should be focused on social development of child. Education has a major role to play for the protection and promotion of human rights among civil society. Human Right education is considered as important tools to the protection and promotion of human right as well as to stop the violations against human rights. Education should be imparted to each

and everyone so that they can understand the importance of human right. Equality shall be the primary consideration in actions concerning children, respect for the views of the child are the general principals of the convention on the Right of the women and child. Education in mother tongue about human right will make the learners more prompt about their values and ways to use them in their day to day life.

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