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## Right To Education: An Overview

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**Abstract:** *The right to education was initially not included as a fundamental right in the Constitution and was included as a directive principle under Act 45 which required the state to endeavour to provide within a period of 10 years from the commencement of the constitution, for free & compulsory education for all children until they complete the age of 14 years. The directive in Act 45 was not confined merely to primary education, it extended to providing free education up to the age of 14 years, whatever the stage of education it came to.*

**Keywords:** Education, Fundamental Right, Constitution, Directive Principles.

### **Free & Compulsory Education as a Directive Principle –**

In Kerala, schools are run primarily by religious minority groups. The state banned charging of fees from students in the primary classes, but made no provision for payment of grants to compensate the schools for the loss of revenue thus caused to them. This was held to contravene the Act 30(1)

i.e. all minorities, whether based on religion or language, shall have the right to establish & administer educational institutions of their choice. The court emphasized that the solemn obligation placed on the state by Act 45 “to provide for free and compulsory education for children” can be discharged by it through govt. & aided schools and that Act 45 does not require that obligation to be discharged at the expense of the minority communities.

In Unnikrishnan, the Supreme Court implied the right to education from the right to life and personal liberty guaranteed by Act 21. As the FR & Directive Principles are complementary to each other, the content and parameters of this right were deduced in the light of Act 41, 45 & 46. Therefore, the right to education in the context of these Directive principles means – (1) every child has a right to free education upto the age of 14 years. (2) thereafter, his right to education is circumscribed by the limits of the economic capacity of the state and its development.

The court further ruled that a citizen has a right to call upon the state to provide educational facilities within the limits of its economic capacity and development. This does not mean that the Supreme Court was seeking to transform Directive Principle into a Fundamental Right. What the Court was doing was merely relying upon Act 41 to illustrate the content of the right to education flowing from Act 21.

Act 45 was also continued as supplementary to Act 24 which bars employment of a child below the age of 14 years, for if the child below the age of 14 years, for if the child is not to be employed below the age of 14, he must be kept occupied in some educational institution.

### **Right to Education Under Act 21 :**

The Supreme Court has implied the “Right to Education” as a fundamental right from Act 21. The word “Life” has been held to include “education” because education promotes good and dignified life.

The court ruled that the constitution does not expressly guarantee the right to education, as such, as a FR. But reading cumulatively Act 21 along with the Directive Principles contained in Act 38, 39

(a), 41 & 45 the court opined that “it becomes clear that the farmers of the constitution made it obligatory for the state to provide education for its citizens.”

The court argued that without making the right to education under Act 41 a reality, the fundamental right would remain beyond the reach of a large majority which is illiterate, the fundamental rights including the freedom of speech & Expression and other rights guaranteed under Act 19 cannot be fully appreciated and fully enjoyed unless a citizen is educated and is conscious of his individualistic dignity. Further, life in Act 21 means right to live with human dignity. Thus, court ruled “the right to education flows directly from the right to life and that the right to education” being concomitant to the fundamental rights, “State is under a constitutional mandate to provide educational institutions at all levels for the benefit of the citizens.

### **Right to Education as a Fundamental Right :**

Act 21-A declares that the state shall provide free and compulsory education to all children of the age of 6 to 14 years in such a manner as the state may determine. Thus,

this provision makes only elementary education a Fundamental Right and not higher or professional education.

This provision was added by the 86<sup>th</sup> constitutional Amendment Act of 2002. This amendment is a major milestone in the country's aim to achieve "Education for All." The Govt. describes this step as the 'down of the second revolution in the chapter of citizens rights.'

This amendment changed the subject matter of Act 45 in directive principles. It now reads – "The state shall endeavour to provide early childhood care and education for all children until they complete the age of 6 years.' It also added a new fundamental duty under Act 51 that reads – "It shall be the duty of the every citizen of India to provide opportunities for education to his child or ward between the age of 6 and 14 years.

In pursuance of Act 21 A, the parliament enacted the right of children to fee and compulsory Education Act 2009. This act seeks to provide that every child has a right to provided full time elementary education of satisfactory and equitable quality in a formal school which satisfies

certain essential norms and standards. This legislation is anchored in the belief that the values of equality, social justice and democracy and the creation of a just and humane society can be achieved only through provision of inclusive elementary education to all.

Act 21 A read with Act 19(1)(a) has been construed as giving all children the right to have primary education in a medium of their choice. Act 21 A has also been construed as the fundamental right of each and every child to receive education free from fear of security and safety so that children have a right to receive education in a sound and safe building.

#### **Main Provisions of the Act:**

1. Every child between the ages of 6 to 14 years shall have the right to free and compulsory education in a neighbourhood school, till completion of
2. No child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.

3. Where a child above 6 years of age has not been admitted to any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age.
4. The appropriate govt. and local authority shall establish a school, if it is not established, within the given area in a period of 3 years from the commencement of this act.
5. The central and state govt. shall have concurrent responsibility for providing funds for carrying out the provisions of this Act.

As per the provision of the Act, the central Govt. has authorized the National Council of Educational Research and Training (NCERT) as the academic authority to lay down the curriculum and evaluation procedure for elementary education and develop a framework of national curriculum.

This Act is an essential step towards improving each child's accessibility to education. The Act also contains specific provisions for disadvantaged groups, such as child labourers,

migrant children, children with special needs, or those who have a disadvantage owing to social, cultural, economical, geographical, linguistic, gender or any such factor.

### **Conclusion:**

The main drawback of the Act is that it has not specifically laid clear that when this objective will be achieved. The Right to education for the age group of 6 to 14 years had made a age demarcation for the students. The children below the age of 6 years were neglected and likewise higher education for the bright students. It has not laid the ways by which village and backward students can be taken to the task of education. It becomes easy for politicians and service class people to make laws, but the real task left for behind. There were already six fundamental rights which were not properly implemented so what to say about Right to education. Now few years have been passed when the right to education has concluded in FR but we still see children not attending schools and doing domestic or other manual work. In spite of making it a fundamental right it should be implemented in such a way that from top of bottom Govt. have directed its officials to



make it mandatory for that every child attends schools. Govt. should increase expenditure on education.

“It will be a big step to make India a Civilized Nation.”

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