

# **UNIT 1: EDUCATION IN CONTEMPORARY INDIA AND CONSTITUTIONAL CONTEXT**

## **Lesson 3**

# **INDIAN CONSTITUTIONAL VALUES AND EDUCATION**

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# **Structure of Constitution of India**

Indian Constitution originally contained a preamble, 8 Schedules, 22 Appendices and 395 Articles. At present there are 448 Articles and 25 Appendices and 12 Schedules. The Seventh Schedule of the constitution lists the educational responsibilities of the Central and State Governments.

## **Preamble of Indian Constitution**

The introductory part of the Constitution is called "The Preamble". The preamble of the Constitution states: "We the people of India, having solemnly resolved to constitute India into a Sovereign, Socialist, Secular, Democratic Republic to secure to all its citizens :

- (i) Justice
  - Social
  - Economic
  - Political
- (ii) Liberty of thought, expression, belief, faith and worship;
- (iii) Equality of status and of opportunity; and to promote among them all;
- (iv) Fraternity - Assuring the dignity of the individual and the unity and the integrity of the nation."

## **(i) Justice**

Justice means, ensuring the protection of not only the individual rights but also keeping in mind the social needs and progress. Justice is of three kinds. They are:-

- a) Social Justice:** The government should provide special privileges in education and employment to socially marginalized people and the oppressed class in order to uplift their social status.
- b) Economic Justice:** The government should work with the aim to create a fair economic system in which the resources of the country are evenly distributed to all.
- c) Political Justice:** Political Justice is concerned with all people getting equal opportunities and being treated equally with respect to holding political posts, getting voting rights, etc.

## **(ii) Freedom**

Freedom relates to thoughts, speech, writing, beliefs and faith, and practices of worship. All citizens have the freedom to speak or write his views on any subject without harming the country or society.

## **(iii) Equality**

Equality implies that all are equal before the eyes of law. Equality' includes positive ideas such as providing equal rights to all, distributing the available resources equally, providing equal opportunities to progress.

## **(iv) Fraternity**

Fraternity refers to ensuring individual's dignity and nation's unity and integrity: Noble qualities like considering every one (except father, mother and wife) as one's own brother / sister and finding "unity in diversity" should be cultivated among students.

# Fundamental Rights and Duties of Indian Citizens

In the Constitution of India, **Articles 14 to 32** deal with **Fundamental Rights** and **Article 51A** states the **Fundamental Duties**.

## Fundamental Rights in Indian Constitution

The *eight fundamental rights* recognized by the Indian constitution are:

- 1. Right to equality:** (Articles 14 to 18): It includes equality before law, prohibition of discrimination and equality of opportunity in matters of employment, abolition of untouchability and abolition of titles.
- 2. Right to freedom:** (Articles 19-22) This includes freedom of speech and expression, and right to practice any profession or occupation, right to life and liberty, etc.
- 3. Right against exploitation:** (Articles 23-24): This prohibits all forms of forced labour, child labour and trafficking of human beings
- 4. Right to freedom of religion:** (Articles 25-28) : This includes freedom of conscience and free profession, practice, and propagation of religion, etc.
- 5. Cultural and Educational rights:** (Articles 29 30): These preserve the right of any section of citizens to conserve their culture, language, etc.
- 6. Right to constitutional remedies:** (Article 32): It gives the right for enforcement of Fundamental Rights.
- 7. Right to Education:** (Article 21A): According to this Act, it is the fundamental right of all children of age 6 to 14 to get education.
- 8. Right to Information:** Article 19(1): It provides for the right of general public to get information from any government department (except country's security and foreign affairs).

# **Fundamental Duties in Indian Constitution**

Following duties are enlisted as fundamental duties of every Indian citizen, as per the 42nd Amendment to the Constitution, Part IVA of Article 51A.

1. To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
2. To cherish and follow the noble ideals which inspired our national struggle for freedom;
3. To uphold and protect the sovereignty, unity and integrity of India;
4. To defend the country and render national service when called upon to do so;
5. To promote harmony and the spirit of common brotherhood amongst all the people of India.
6. To value and preserve the rich heritage of our composite culture.

## **Directive Principles of the State Policy and Education**

### **Directive Principles of the State Policy**

The Directive Principles of State Policy, embodied in Part IV from Articles 36 to 51 of the Constitution, are directions given to the State to guide the establishment of an economic and social democracy, as proposed by the Preamble.

### **Article 36:**

The word “State” used in the Directive Principles includes the Central and State governments.

## **Article 37:**

The provisions contained in this Part shall not be enforced by any court, but the principle shall be applied in making laws by the state.

## **Article 38:**

- i) The State shall strive to promote the welfare of the people by affirming and securing, a social order with social, economic and political.
- ii) The State shall strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities.
- iii) The State shall ensure individual dignity.

## **Article 39:**

Certain Principles of Policy to be followed by the State

- a) Providing adequate means of livelihood for all citizens;
- b) 'Ensuring equal pay for equal work for men and women.
- c) Striving for the reduction of the concentration of wealth and means of production in the hands of a few, and distribution of community resources to “subserve the common good”

## **Article 39A:**

Equal Justice and Free Legal Aid

The State shall secure that the operation of the legal system promotes justice to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

### **Article 40:**

Organization of Village Panchayats: The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

### **Article 41:**

Right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

### **Article 42:**

Provision for just and humane conditions of work and maternity relief.

### **Article 43:**

The State shall endeavor to secure, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work, ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

### **Article 43A:**

The State shall take steps to secure the participation of workers in the management of undertakings, establishments or other organisation engaged in any industry.

### **Article 44:**

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

### **Article 45:**

The State shall endeavour to provide free and compulsory education for all children until they complete the age of fourteen years.

### **Article 46:**

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice.

### **Article 47:**

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health.

### **Article 48:**

The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines.

### **Article 48A:**

The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

### **Article 49:**

It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance

## **Article 50:**

The State shall take steps to separate the judiciary from the executive in the public services of the State.

## **Article 51:**

The State shall endeavour to

- a) Promote international peace and security;
- b) Maintain just and honourable relations between nations;
- c) foster respect for international law and treaty

## **Limitations of Directive Principles**

- They are not time bound
- They cannot be enforced through a court of laws
- Some of them took the form of Articles in our Constitutions
- Some directive principles such as Right to Information (Act 22 of 2005), Right to Education (2009-Article 21A), have been made as laws.

## **Various Constitutional Provisions Relating to Education**

- Article 45: Provision for Free and Compulsory Education
- Article 46 Promotion of Educational and Economic Interests of Weaker Sections of Society
- Article 45 of the Directive Principles has been included as Article 21A of the Constitution as one of the Fundamental Rights – Right to Education – as per the 86<sup>th</sup> Amendment to the Constitution.
- Articles 28, 29 and 30 which relate to educational rights of minorities have been included as one of the Fundamental Rights.

# **Provisions Safeguarding the Educational Rights of Minorities**

- Article 28: Freedom as to Attendance at Religious Instruction or Religious Worship in Educational Institutions.
- Article 29, Clause (2): Right of Admission in Educational Institution
- No citizen shall be denied admission into educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- Article 30: Right of Minorities to Establish and Administer Educational Institutions.

## **Challenges Faced in Fulfilling the Constitutional Obligations**

### **(1) Freedom**

State governments frequently interfere in the freedom of speech and expression. People also do not realize that their right of speech and expression is not an absolute right and that it should not harm others and also not to be anti-national. People behave with selfishness and greed. People should be made aware of the nature and extent of their freedom, through education.

### **(2) Justice**

The poor and ordinary people find it difficult to approach the courts and get their grievances redressed. There is also inordinate delay in getting justice. But the cases filed by influential people get priority. It should be remembered that “justice delayed is justice denied”.

### **(3) Equality**

The discrimination between men and women in employment, salary, promotion etc. still continues. Untouchability is not eradicated from the society in spite of enacting several laws against untouchability.

#### **(4) Fraternity**

Indian society is divided by religion, language, castes and economic disparities. Divisive forces are gaining strength. Even small violent acts here and there are coloured with caste, religion and language, leading to riots.

## **Social Justice and Education**

### **Meaning of 'Social Justice'**

The core concept of 'Social Justice' is about the fair distribution of opportunities and privileges as they apply to individuals within a society. Social justice not only on wealth and property, but also on more areas such as the environment, race, gender and education.

### **Education as a Means of Social Justice**

Education serves as a tool to balance the social imbalances. Through quality education, one's social status, economic status and standing on one's own legs get improved. Those who get higher education are able to get job fetching higher income; their dwelling place will have more facilities and highly hygienic; they are able to mingle with all sections of society with dignity and respect and they are also able to make matrimonial relationship. They are able to get a secured life and also secure their children the best possible education and help them lead a comfortable life.

To put in a nutshell, education alone can accelerate social displacements in the society both “vertical” and “horizontal” and establish social justice fast.

# **Establishing Social Justice in Education**

- Providing free and compulsory quality education to all;
- Providing free education to the marginalised and the backward class students at all levels of education.
- Establishing quality Common Schools throughout the country.
- Providing free uniforms, text books and stationery to the poor students;
- Opening up of more number of schools in rural areas;
- Encouraging women's education.

## **Right to Education Act (RTE) 2009**

### **Background of Enacting RTE Act 2009**

In order to provide legal status to Article 45, the Constitution was amended in 2002 inserting Article 21-A. According to this Article, the government is duty bound to provide free and compulsory education for all children in the age group of six to fourteen as a fundamental right in such a manner as the State may, by Law determine.

The Right to Education Act which represents the consequential legislation under Article 21-A was passed by Indian parliament on 4<sup>th</sup> August 2009. The Rules for implementing this Act throughout the country were framed and came into effect on 1<sup>st</sup> April 2010.

# **Salient Features of RTE**

The Right to Education Act has seven chapters. Salient features of this Act are as follows:

## **1. Compulsory and Free Education for All**

- (i) It is mandatory for the Government to provide free and compulsory education to each and every child up to class 8 in a neighbourhood school located within 1k.m.
- (ii) It is the responsibility of the government (Central, State) and Local Bodies to establish schools in the neighbourhoods of pupil which do not have schools.

## **2. Benchmark Mandate for Primary Education**

The Right to Education Act lays down norms & standards for each primary school relating to teacher-pupil ratio, number of classrooms, separate toilets for girls and boys, drinking water facility, etc.

## **3. Special provisions for the admission of those children who have not joined the school.**

## **4. Quantity and Quality of Teachers**

- (i) The Teacher-Pupil Ratio has been prescribed as follows:
  - (a) Primary Level (I to V): Two teachers up to 60children.
  - (b) Middle School (Upper Primary Vi to VIII) Science 1, Mathematics 1, Social Science 1, Language 1, is the minimum requirement of teachers and the total number of teachers should be equal to the total number of classes.

## **5. Zero Tolerance Against Discrimination and Harassment**

- (i) No screening test to be conducted either for the child or the parent at the time of admission in the school.
- (ii) Demanding Capitation fee or Donation is a criminal offence punishable under law.

# **Education in the Concurrent List and its Implications**

## **Provisions in the Seventh Schedule of the Constitution of India**

1. **Union List (List I)** (Higher Education and Research): Parliament has the exclusive rights to enact legislation in respect of institutions and Union Agencies mentioned in entries 62, 63, 64, 65 and 66 of List I (Union List).
2. **'State List' (List II)**: 'Education' had been kept under List II and the role and responsibilities of State Governments have been recognised. It is the responsibility of the State Governments to plan and undertake all possible measures for the growth and development of education at all levels. [However the subject 'Education' was shifted to the Concurrent List (List III) in 1976].
3. **Concurrent List (List III)**: The implications of this Amendment is that both the Centre and States can legislate on any aspect of education from the primary to the University level. By having education in the concurrent list, the Centre can implement directly any policy decision in the States.

## **Implications of Education in the Concurrent List**

1. To Ensure Uniformity in Education
2. Better Implementation of Educational Policies
3. Better Utilisation of Funds
4. Quality Leadership from the Central Government
5. Improvement in Standards
6. For Better Discipline

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*Thank you*