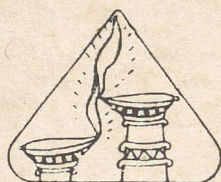


GOLDEN JUBILEE CELEBRATIONS

Central Institute of Education



दीप से ही दीप जले

CONVENTION ON 'EDUCATION AS A FUNDAMENTAL RIGHT'

in the context of the
proposed 83rd Amendment to the Constitution
and its
implications for the Ninth Plan

Background Material

Thursday, December 18, 1997



Department of Education
University of Delhi
Delhi - 110 007

- December 1997

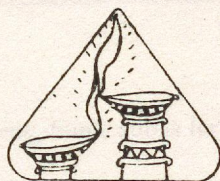
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CONTENTS

	Page
INTRODUCTION	ii-iii
 <u>PART I : CONSTITUTION , THE BILL AND THE DEBATE</u>	
1. The Gandhian Challenge	1
2. Constitutional Provisions Having Implications for Realising Education as a Fundamental Right	2
3. Report of the Committee of Education Ministers (1997)	6
4. The Constitution (Eighty-third Amendment) Bill, 1997	14
5. A Memorandum of Concern to the Parliamentary Standing Committee on the Bill	18
6. An Alternative Bill on Eighty-third Amendment to the Constitution	22
7. The Supreme Court Judgement (1993)	27
 <u>PART II : THE POST-JOMTIEN CONTEXT</u>	
8. Twisting the Constitution : Collapsing Elementary into Primary Education	35
9. Fundamental Right to Early Childhood Care and Education	40
10. Education and Mother Tongue	43
11. Towards Gender Equity in Education	47
12. The Common School System	52
 <u>PART III : POLITICAL PARTIES ON EDUCATION</u>	
13. Education and the Party Manifestos (1996)	57

INTRODUCTION

While stressing the need for 'a radical re-construction of the education system', the National Policy on Education-1986 (NPE-1986), and before it the Kothari Commission report, attempted to view policy formulation in the wider socio-political context. Both these documents repeatedly referred to democracy, secularism and development in relation to education.

In further elaboration of this theme, the Committee for Review of NPE-1986 (the Ramamurti Committee, 1990) emphasised the need to view education in 'the overall context of social, economic, regional and gender-based disparities'. It called for laying down an appropriate 'Income and Wage Policy' and concurrently reviewing 'national policies concerning removal of economic disparities such as for land reforms, employment, health and nutrition etc.' The Ramamurti Committee was persuaded to add that 'an educational order based on considerations of equity and social justice cannot autonomously come about without inter-linkages with these policies' and 'before we have a new pattern of education, we must have a new model of development.' While contending that education is not an independent variable, the Yash Pal Committee (1993) pointed out that education could not be 'altered without altering (a) lot of things in our social set-up!'

This essentiality of viewing education as a sub-set of society has critical relevance in the emerging debate on making education a Fundamental Right. It is important to appreciate that the Directive Principles of State Policy (Part IV) provide the social context critical for addressing the question of not just education but also of all other socio-political freedoms and rights specified in Part III. That this view informs the Constitution of India as well became clear in the famous Supreme Court judgement in the Unnikrishnan case (1993). The Supreme Court unambiguously declared that the Directive Principles of State Policy (Part IV) 'form the **fundamental feature and the social conscience of the Constitution**' and 'the provisions of Part III and IV are supplementary and complementary to each other.' The judgement further added that the Fundamental Rights enshrined in Part III are 'a means to achieve the goal indicated in Part IV (and) must be construed in the light of the directive principles.' Citing extensively from previous judgements, the Supreme Court emphasised that the issue of right to education can be meaningfully considered only in the context of the spectrum of socio-economic objectives referred to in the Directive Principles and not be limited merely to Articles 41, 45 and 46 which make direct reference to education. Extending this logic, the Supreme Court concluded that 'though right to education is not stated expressly as a fundamental right, it is implicit in and flows from the right to life guaranteed under Article 21.' Since this historic Supreme Court

judgement, education of children 'until they complete the age of fourteen years' has acquired the status of Fundamental Right. Since 1993, this has clearly been the law of the land !

As pointed out by several eminent jurists, it is therefore enigmatic that, *five years after elementary education acquired the status of Fundamental Right*, the Government thought it fit to introduce the Bill on 83rd Amendment to the Constitution in the Rajya Sabha which apparently seeks to give the status of Fundamental Right to elementary education *all over again* !

It is important, therefore, that the Government is persuaded to share its rationale for introducing the Bill in the Rajya Sabha. In view of the emerging critique of the inherent lacunae or distortions in the Bill, we must try and understand what is intended to be gained through this amendment to the Constitution. This inquiry assumes particular significance in the context of reports that, in the preliminary exercise, the Planning Commission could allocate merely Rs. 17,000 crores in the Ninth Plan for the education sector, about half of which is apparently meant for the elementary education sector. Compare this allocation with the projected sum of Rs. 40,000 crores indicated in the Financial Memorandum of the Bill as being necessary for providing elementary education to all of the out-of-school children. The stated purpose is to ensure universal enrolment, universal retention and universal quality in the vast network of the Government schools in order to move towards the goal of Common School System as recommended by the Kothari Commission and committed to by all national policies viz. NPE-1968, NPE-1986 and NPE-1986 (with modifications undertaken in 1992). Indeed, as suggested by several independent studies and lines of investigations, the sum of Rs. 40,000 crores estimated by the Saikia Committee is by far an under-estimate. We have to, therefore, inquire how serious is the Government about making education a Fundamental Right. Unless we have credible answers to these and many other similar questions being raised as part of this debate, the doubts about the official *raison d'etre* for introducing the Bill will keep nagging the public mind.



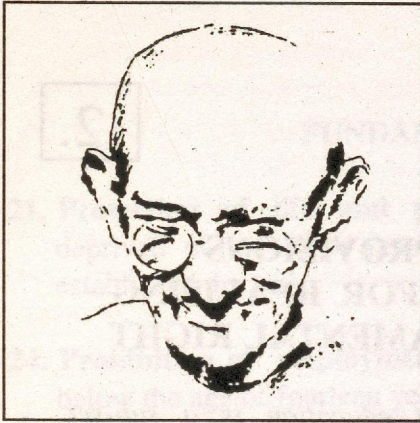
"This does not finish the picture. We have the education of this future class. I say without fear of my figures being challenged successfully, that today India is more illiterate than it was fifty or a hundred years ago, and so is Burma, because the British administrators, when they came to India, instead of taking hold of things as they were, began to root

them out. They scratched the soil and began to look at the root and cut the root like that, and the beautiful old village schools were not good enough for the British administrator, so he came out with his programme. Every school must be built on the European pattern. Well, there is no money. I have carried out a survey, ancient schools have gone by the board, because there was no recognition for these schools, and the schools established after the European pattern were too expensive for the people, and therefore they could not possibly overtake the thing. I defy anybody to fulfil a programme of compulsory primary education of these masses inside of a century. This very poor country of mine is ill able to sustain such an extensive method of education. Our State would revive the old village schoolmaster and dot every village with a school both for boys and girls.

PART I

CONSTITUTION, THE BILL AND THE DEBATE

Mahatma Gandhi
at Chatham House, London, October 26, 1931



"That does not finish the picture. We have the education of this future state. I say without fear of my figures being challenged successfully, that today India is more illiterate than it was fifty or a hundred years ago, and so is Burma, because the British administrators, when they came to India, instead of taking hold of things as they were, began to root them out. They scratched the soil and began to look at the root, and left the root like that, and the beautiful tree perished. The village schools were not good enough for the British administrator, so he came out with his programme. Every school must have so much paraphernalia, building, and so forth. Well, there were no such schools at all. There are statistics left by a British administrator which show that, in places where they have carried out a survey, ancient schools have gone by the board, because there was no recognition for these schools, and the schools established after the European pattern were too expensive for the people, and therefore they could not possibly overtake the thing. I defy anybody to fulfil a programme of compulsory primary education of these masses inside of a century. This very poor country of mine is ill able to sustain such an expensive method of education. Our State would revive the old village schoolmaster and dot every village with a school both for boys and girls."

*-Mahatma Gandhi
at Chatham House, London, October 20, 1931*

CONSTITUTIONAL PROVISIONS HAVING IMPLICATIONS FOR REALISING EDUCATION AS A FUNDAMENTAL RIGHT

It is universally acknowledged that education is a sub-set of society and not an independent variable. In confirmation of this understanding, the Supreme Court judgement in the Unnikrishnan case (1993) interpreted the significance of Parts III and IV of the Constitution as follows :

“The directive principles form the fundamental feature and the social conscience of the Constitution and the Constitution enjoins upon the State to implement these directive principles. The directives, thus provide the policy, the guidelines and the end of socio-economic freedom there is no apparent inconsistency between the directive principles contained in Part IV and the fundamental rights mentioned in Part III, which in fact supplement each other, there is no difficulty in putting a harmonious construction which advances the object of the Constitution.”

“It is thus well established by the decisions of this Court that the provisions of Parts III and IV are supplementary and complementary to each other and that fundamental rights are but a means to achieve the goal indicated in Part IV. It is also held that the fundamental rights must be construed in the light of the directive principles.”

We are, therefore, presenting below such Articles from the Constitution which have implications for realising education as a Fundamental Right.

PART III FUNDAMENTAL RIGHTS

- 21. Protection of life and personal liberty** - (1) No person shall be deprived of his life or personal liberty except according to procedure established by law.
- 24. Prohibition of employment of children in factories, etc.** - No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

PART IV DIRECTIVE PRINCIPLES OF STATE POLICY

- 38. State to secure a social order for the promotion of welfare of the people** - (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.
- (2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.
- 39. Certain principles of policy to be followed by the State-** The state shall, in particular, direct its policy towards securing-
- (a) that the citizen, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

40. Organisation 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.

41. Right to work, to education and to public assistance in certain cases- The State shall, within the limits of its economic capacity and development, make effective for securing the 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.

43. Living wage, etc., for workers - The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, 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 and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

45. Provision for free and compulsory education for children - The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections - The State shall

promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health - 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 as among its primary duties and,

PART XVII OFFICIAL LANGUAGE

Chapter IV - Special Directives

350A. Facilities for instruction in mother-tongue at primary stage - It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

REPORT OF THE COMMITTEE OF EDUCATION MINISTERS (1997)

(The Saikia Committee Report, 1997)

It is this Saikia Committee which is referred to in the 'Statement of Objects and Reasons' in the Bill as the Committee of Education Ministers. The fact is that the Bill is essentially based upon the Saikia Committee Report.

EXECUTIVE SUMMARY

1. The Common Minimum Programme of the United Front Government resolves to make the right to free and compulsory elementary education a Fundamental Right and to enforce it through suitable statutory measures.
2. In view of the wide ranging implications of the proposal, the Department of Education initiated necessary consultations at the political level and with educational experts.
3. The proposal was discussed in a Conference of Chief Ministers on 4-5 July, 1996 and again in a Conference of State Education Ministers on 10 August, 1996. Educational experts discussed the proposal in a meeting with Union Minister of HRD on 16 August, 1996. A unanimous view emerged that a Committee of State Education Ministers should be constituted to consider the financial, administrative, legal and academic implications of the proposal.

4. Accordingly, the Department of Education, Ministry of Human Resource Development constituted a Committee of State Education Ministers under the Chairmanship of Shri Muhi Ram Saikia, Union Minister of State for HRD (Education) vide its order No. F. 1-53/92-EE dated 29 August 1996.
5. The Committee was asked to examine and consider the legal, academic, administrative and financial implications of the proposal to amend the Constitution to make the right to free and compulsory elementary education a Fundamental Right, to suggest suitable statutory measures to enforce it and to suggest guidelines indicating facilities which if not provided would become justiciable.
6. The Committee held three meetings on 16 September, 24 October and 30 November, 1996 in New Delhi and concluded its work in its 4th meeting held in Cochin on 10 January, 1997.
7. During the course of the meetings, the Committee reviewed the present status of free and compulsory education in the country; considered issues involved in its implementation; and examines various implications of the proposal. The Committee considered an 'Issue Paper' prepared by the Department of Education, Ministry of Human Resource Development; opinion of the Department of Legal Affairs in the Ministry of Law; and recommendations of State Education Secretaries made in their meeting with Union Education Secretary on 18 November, 1996.
8. The recommendations of the Committee are summarised as follows :-
 - (i) The Constitution of India should be amended to make the right to free elementary education upto 14 years of age a Fundamental Right Simultaneously, an explicit provision should be made in the Constitution to make it a Fundamental Duty of every citizen who is a parent to provide opportunities for elementary education to all children upto 14 years of age. Consequential amendments to the Directive Principles of State Policy as enunciated in Article 45 of the Constitution should also be made.
 - (ii) In a diverse federal polity such as ours with wide disparities in provision of school education between and within States being

the main providers of elementary education compulsory. States should either amend their existing legislation or enact fresh legislation to give effect to the proposed Constitutional amendments on the lines of the action taken in regard to implementation of 73rd and 74th Constitutional amendments. The Central Government should issue guidelines providing a broad framework for enactment of fresh legislation on compulsory elementary education. The guidelines should be finalised in consultation with State/UT Government.

(iii) State legislation should provide for the following :-

- (a) provisions of premissive compulsion to enable State Government and local bodies to enforce the law selectively in phased manner;
- (b) grounds for exemption from compulsory school attendance;
- (c) imposition of punishment on defaulting parents - quantum of minimum and maximum punishment should be specified.
- (d) establishment of primary schools within a distance 1-1.5 Km. from rural habitations provided that there is a population of 250 in the catchment areas;
- (e) establishment of upper primary schools within a distance of 3 Km. from rural habitations provided that there is a population of 500 in the catchment areas;

State Governments should be entitled to relax the norms in (d) and (e) above in the case of hill, desert, tribal and inaccessible areas so as to ensure that the proposed schools are viable.

- (f) responsibilities which may be delegated to Gram Panchayats and VECs for achieving UEE in their jurisdiction.
- (g) provision for engaging honorary attendance officers ; and
- (h) vesting of powers to impose penalties and grant exemptions in the PRI/VECs; and

(iv) A State-wise approach in regard to free education should be adopted in keeping with the local situation. However, in order to ensure uniformity, free elementary education may include

exemption from tuition fee; provision of free text books for all primary school children and girls upto upper primary level; and provision of essential stationery to all children in primary classes. In addition, the Mid-day Meals Programme may be continued. State Governments may provide other incentives such as free school uniforms, cash incentives, scholarships, etc. in accordance with their economic capacity and priorities.

- (v) The administrative machinery for supervision, inspection, monitoring and evaluation of elementary education should be augmented and strengthened at the Secretariat, Directorate, District and Blocks levels.
- (vi) The academic implications of the proposal which include provision of recurrent teacher training and quality textbooks besides introduction of Minimum Levels of Learning (MLL) should be given due attention.
- (vii) Minimum infrastructure and teachers as envisaged under Operation Blackboard should be provided in all primary and upper primary schools preferably during the 9th Five Year Plan. However, such provision of facilities may be not made a statutory obligation for the present. The norms prescribed under OB would not be applicable to alternative schooling and non-formal education programme.
- (viii) As in the past, the primary responsibility to promote elementary education should remain with the State Governments, who should consider measures which will enable local bodies in urban and rural area to raise revenues for improvement of facilities in schools. They should consider the proposal to levy an 'educational cess' in this regard. The Central Government should meet additional requirements keeping in view the past trend of resource transfers and the need to augment resources to implement the proposal. It should provide special financial assistance to State/UTs for schemes specifically designed for promotion of education of girls, SCs and STs. The Central and State Governments should allocate 50% of budgetary allocations for education to Elementary Education and ensure that the funds so allocated are not re-appropriated or diverted to any other sector.

They should also streamline the existing system of flow of funds to Elementary Education Programmes.

- (ix) The Planning Commission and Ministry of Finance should evolve an appropriate formula in consultation with the State Governments concerned to share additional finances required to implement the proposal. The formula so evolved should provide for transfer of more resources to educationally backward States/Districts/Blocks. Estimates of additional funds require to implement the proposal should be carefully examined in consultation with experts who may also identify the possible sources of financing the additional requirements. The additional expenditure to implement the proposal should be phased out, preferably over a period of 5 years coinciding with the Ninth Five Year Plan.
- (x) States should provide adequate space and opportunity to deserving private schools to spread elementary education in remote and inaccessible rural areas. They should also consider suitable regulatory provisions to ensure that the tendency of commercialisation of education is effectively curbed.
- (xi) In regard to medium of instruction at primary level, States should continue the existing policy of providing primary education in the regional language and where regional language is other than the mother tongue, in the mother tongue.
- (xii) In order to give meaning and effect to the proposal, special efforts should be made to build up public opinion of favour of UEE by social mobilisation and involvement of communities on much larger scale. To achieve this, a **National Elementary Education Mission (NEEM)** should be effectively operationalised in IXth Plan; NGOs should be provided larger assistance and support in their efforts to promote UEE; and PRIs should be given greater responsibility in planning, management and implementation of programmes of elementary education.

EXTRACTS

Financial Implications :

39. According to the available information, nearly 3 crore children in the age group of 6-10 years and 3.3 crore in the age group of 11-14 years, are out of school. The average expenditure per student in class I-VIII in 1995-96 is estimated to be Rs. 948/- p.a. In case the proposal to make right to elementary education a fundamental right is operationalised immediately, it would have to be ensured that all these children are provided facilities for formal and non-formal education. In financial terms, it would imply provision of Rs. 6000.00 crore p.a. as an additional annual investment in elementary education. In case the estimated number of out of school children is higher as stated by some of the States, the requisite financial investment will go up accordingly. Also, the provision on the basis of the present level of per student expenditure will mean provision of facilities on the scale and quality as obtaining in the country. There are not only wide variations in the facilities, particularly in rural areas. If a factor of 20% is assumed for improvement in school environment and quality of education, the total additional financial requirement will increase to Rs. 7200.00 crore p.a. States which have lower student expenditure would need to make massive additional investments to bring these at par with the national average.

40. The financial outlay (both State and Central) on elementary education during the 8th Five Year Plan has been Rs. 8936 crore. In order to meet the additional requirement as a result of the proposal, this outlay will have to be increased by Rs. 36,000 (Rs. 7200 X 5) crore. This is based on the assumption that all additional children enrolled in classes I - VIII will complete their schooling. Given the constraint of resources, the Committee felt that it may not be possible for Central and State Governments to meet this requirement immediately. They may have to phase out the expenditure preferably over a period of 5 years coinciding with the 9th Plan to achieve the national goal of UEE. The annual financial implications of the proposal will be Rs. 7200.00 crore (1995-96 prices). The annual increase in the general price index will have to be provided for in addition to this amount. As such the requirement of additional funds in five years would be approximately Rs. 40,000 crore. These would have to be provided for in the Central and State Plans.

VI. GUIDELINES IN REGARD TO EDUCATIONAL FACILITIES, WHICH IF NOT PROVIDED MAY BECOME JUSTICIABLE AS A CONSEQUENCE OF THE PROPOSED CONSTITUTIONAL AMENDMENT

- (i) The Committee unanimously agreed that minimum infrastructure and teachers as envisaged in Operation Blackboard should be provided in all primary and upper primary schools. For primary schools, these should include :
- (a) at least two reasonably large rooms that are useable in all weather with a verandah along with separate toilet facilities for boys and girls. In case of school where enrolment exceeds 100, provision of three rooms should be made;
 - (b) atleast two teachers as far as possible one of them a woman, and the number of teachers should be atleast three in case enrolment exceeds 100; and
 - (c) essential teaching learning material including blackboard, charts, a small library, toys and games and some equipment of working experience costing not more than Rs. 10,000/- per school.

In the case of upper primary schools, provision as per the following should be made :

- (a) at least one room for each class and where there is more than one section to a class, for each section;
- (b) a Headmaster-cum-office Room;
- (c) necessary toilet facilities;
- (d) contingency grants of Rs. 1000/- per annum;
- (e) Library facilities and essential teaching learning equipment costing not more than Rs. 40,000/- per school (Rs. 50, 000/- in case of schools located in tribal areas located in tribal areas).
- (f) at least one teacher for each class/section.

The sharing of financial liability to agreed to provision of facilities as above between the Central and State Governments should be continued on existing pattern. While provision of facilities should

not be made a statutory obligation for the present, State legislation should make enabling provisions in this regard so that these facilities are provided in an agreed time-frame.

- (ii) The norms prescribed under Operation Blackboard would not, however be applicable to alternative schooling facilities and non-formal education programmes as may be evolved and implemented by the Central and State/UT Governments.

4.

AS INTRODUCED IN THE RAJYA SABHA
ON THE 28 TH JULY, 1997

Bill No. XXXIX of 1997

**THE CONSTITUTION
(EIGHTY-THIRD AMENDMENT) BILL, 1997**

**A
BILL**

further to amend the Constitution of India

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows :—

- | | | |
|-----|--|-------------------------------|
| 1. | (1) This Act may be called the Constitution (Eighty-third Amendment) Act, 1997 | Short title and commencement |
| 5. | (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint | |
| | 2. After article 21 of the Constitution, the following article shall be inserted, namely :— | Insertion of new article 21 A |
| 10. | “21 A. (1) The State shall provide free and compulsory education to all citizens of the age of six to fourteen years.
(2) The right to free and compulsory education referred to in clause(1) shall be enforced in such manner as the State may, by law, determine. | Right to education |

(3) The State shall not make any law, for free and compulsory education under clause (2), in relation to the educational institutions not maintained by the State or not receiving aid out of State funds”.

Amendment of article 35

3. Article 35 of the Constitution shall be renumbered as clause (1) of that article and after clause (1) as so renumbered and before the *Explanation*, the following clause shall be Inserted, namely :—

5

“(2) The competent legislature shall make the law for the enforcement of right to free and compulsory education referred to in clause (1) of article 21 A within one year from the commencement of the Constitution (Eighty-third Amendment) Act, 1997 :

10

Provided that a provision of any law relating to free and compulsory education in force in a State immediately before the commencement of the Constitution (Eighty-third Amendment) Act, 1997 which is inconsistent with the provisions of article 21 A, shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier”.

15

Omission of article 45.

4. Article 45 of the Constitution shall be omitted.

Amendment of article 51A

5. In Article 51 A of the Constitution, after clause (j), the following clause shall be added, namely:—

“(k) to provide opportunities for education to a child between the age of six and fourteen years of whom such citizen is a parent or guardian”.

20

STATEMENT OF OBJECTS AND REASONS

The founding fathers of our Constitution made a provision imposing an obligation, under article 45 in Part IV relating to the Directive Principles of State Policy, upon the State to endeavour to provide within a period of ten years from the commencement of the Constitution, for free and compulsory education for children up to fourteen years of age. However, this goal has proved elusive so far. Our inability to achieve this goal 37 years after the target period has been a cause for serious concern. Reiterating the constitutional directive, the National Policy on Education (NPE), 1986, as modified in 1992, states that free and compulsory elementary education of satisfactory quality shall be provided to all children up to the age of fourteen years before we enter the 21st century. The Supreme Court in its judgement in Unni Krishnan J.P. vs. State of Andhra Pradesh, A.I.R. 1993 S.C. 2178, has held that children of this country have a fundamental right to free education until they complete the age of fourteen years. The Common Minimum Programme of the United Front Government, resolves to make right to free and compulsory elementary education a fundamental right and to enforce it through suitable statutory measures.

2. The Committee of Education Ministers which was set up to examine the implications of the aforesaid resolution have recommended that the Constitution be amended to make the Right to Free and Compulsory Education from six to fourteen years of age a fundamental right and to make a fundamental duty of parents to provide opportunities for education to their children of this age group. Consequent thereupon, provision in the nature of compulsory and free education as a Directive Principles of State Policy under article 45 is no more required. States and Union territories would be required to enact laws for the enforcement of free and compulsory education within one year from the commencement of the Constitution (Eighty-third Amendment) Act, 1997.
3. The amendment of the Constitution to provide for compulsory education of children as a fundamental right would demonstrate the necessary political will and administrative resolve of the country to achieve Universalisation of elementary education and to eradicate illiteracy. This historical amendment of the Constitution in the 50th

year of our independence should inspire the Nation to meet the daunting challenge of achieving the goal of education for all by 2000 AD.

4. The Bill seeks to achieve the above objects.

NEW DELHI;
The 9th July, 1997.

S. R. BOMMAI

FINANCIAL MEMORANDUM

1. Clause 2 of the Bill seeks to insert a new article 21A in the Constitution of India to provide that the State shall provide free and compulsory education to all citizens of the age of six to fourteen years.
2. The estimated financial expenditure to implement the aforesaid obligation is forty thousand crore rupees during the next five years. The estimated annual expenditure will be eight thousand crore rupees. The said expenditure shall be shared by the Union and States on the basis of sharing arrangements to be determined by a group of experts constituted for the purpose by the Ministry of Human Resource Development.
3. No other recurring or non-recurring expenditure is likely to be involved

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

- * * * * *
45. The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.
- * * * * *
- Provision for free and compulsory education for children

PART IV A FUNDAMENTAL DUTIES

- 51A. It shall be the duty to every citizens of India
- * * * * *
- Fundamental duties

**A MEMORANDUM OF CONCERN TO THE
PARLIAMENTARY STANDING COMMITTEE
ON THE BILL**

*(presented by a group of faculty members from the
Department of Education, University of Delhi, on October 4, 1997)*

1. The initiative of the Union Government in proposing the 83rd Amendment to the Constitution to make education a fundamental right is most welcome, although it has come *fifty years too late*. We would prefer to see in it a reflection of **a fresh national resolve founded hopefully on the bedrock of multi-party political will**, and not just United Front's Common Minimum Programme. Let this amendment be equivalent to making historic amends for the failure in hitherto to fulfilling Constitutional obligations, thereby making it the most befitting gift to India's children in the fiftieth year of our hard-won freedom.
2. However, the Bill in its present form, as introduced in the Rajaya Sabha on July 28, 1997, is far from being adequate from the standpoint of ensuring **Universalisation of Elementary Education (UEE), Early Childhood Care and Education (ECCE) and other education-related child rights**, as specified in Article 45 and related Articles viz. Article 24 of Part III and Articles 39, 41, 42, 43 and 46, of Part IV of the Constitution.
3. The Bill fails to view **education as a sub-set of society** as clearly articulated in the National Policy on Education - 1986 (as modified in 1992) and a number of reports of education commissions and committees released since independence.

4. The Bill will lead to **dilution, instead of strengthening, of the right to childhood-support services and appropriate education (ECCE)**, as enshrined in Article 45 and related Articles of Part IV of the Constitution, considered essential for the holistic development of children in the 0-6 age group, particularly of the children below the poverty line. The adverse impact of this dilution of the existing Constitutional commitment on even the goal of UEE need not be over-emphasised.
5. The concept of 'compulsion' in the context of elementary education needs to be critically reviewed. It may have had relevance fifty years ago, but in view of the collapse of Government policies in this regard, the compulsion has to be for the State to provide in this regard, **the compulsion has to be for the State** to provide for essential facilities for UEE, rather than for the parents, majority of whom are struggling for their survival. Interestingly, the Committee of Education Ministers, referred to in the Bill, also holds a similar view (see paragraph 7 of the report).
6. The Bill does not follow the recommendation of the Committee of Education Ministers which recommended that the Constitution be amended 'to made the right to free elementary education upto 14 years of age, a fundamental right'.
7. The Bill is silent on the **quality of education** to be made justiciable. During the last one decade, there have been alarming trends towards dilution of national commitment to ensuring of universal quality education at the elementary stage (i.e. Class I to VIII). These trends are reflected in considering the **non-formal stream as being equivalent to school education** and presenting this parallel stream as being adequate for the vast majority of the currently out-of-school children. Instead, what was required was a priority programme for transforming the quality of the learning process in formal education, reviewing the relevance of the knowledge base in the school curriculum, introducing flexibility in schools through community participation and giving greater autonomy to the teachers and the schools. Also, the official discourse on education increasingly began **to equate education with mere literacy**. In 1993, the National Literacy Mission declared that the children in the 9-14 age group would then onwards be covered in the adult literacy classes meant for the 15-35 age group. In 1994, the World Bank prescription of focusing on primary education only (i.e. on Classes I - V only) and **almost ignoring the upper primary stage** (i.e. on Classes VI-VIII)

was accepted as the operational norm in planning, almost in violation of the 'resolve' of the National Policy on Education - 1986 (as modified in 1992). For major initiatives in school education, the country has become **increasingly dependent on and tied to the conditionalities of external funding**. Given this background, it is imperative that some appropriate reference to the quality of education (e.g. 'satisfactory or 'equitable') is added in the proposed Article 21A (1).

8. The Bill does not define 'free education', as was recommended by the Committee of Education Ministers. We must take serious note of the NSSO data (as analysed by a NIEPA expert), which has revealed that the so-called 'free education' has never been free even in Govt. schools and entails significant house-hold expenditure, apart from tuition and examination fees. It is, therefore, essential that the **concept of 'free education' be defined** in the context of the proposed amendment.
9. A clearly formulated set of guidelines must be approved by the Parliament for the enactment of the State Acts, as was the case with the 73rd and 74th amendments. If this is not done, the States are likely to enact acts focusing on irrelevant issues, such as penalty to parents, which may never be acceptable to vast sections of the public.
10. The idea of penalizing the parents, in any case, is atrocious, especially when it is the State that has failed to ensure even the bare minimum of facilities for UEE. If any thing, **it is the State that has to be penalised**.
11. The proposed Clause 21 A (3) regarding the so-called private schools needs a detailed review. The so-called private schools are hardly private in view of the several hidden subsidies they enjoy from the State. Also, the NPE-1986 has made a commitment to the development of the **Common School System**, as recommended by the Kothari Commission Report. This implies the implementation of the concept of the '**Nieghbourhood Schools**' for which the Bill must provide for. In case, the Government is unable to fend off the powerful private school lobby to make the suggested change in the

proposed Clause 21 A (3), it would be best to drop the Clause altogether.

12. The reference to the estimate of Rs. 40,000 crores as being the requirement for making fundamental right to education justiciable is based upon unacceptable premises. Indeed, it will ensure that the prevailing poor quality of education is imposed on the currently out-of-school children from the weaker sections of society for the next five years too! This estimate must undergo an upward revision by a factor of at least 3, as is indicated by several preliminary studies, including those being undertaken by a committee recently appointed by the Ministry of HRD. Without such a review of the estimate, the entire initiative for making education a fundamental right will not make any sense. The oft-repeated cynical question about 'resource crunch' must not be allowed to come in the way of arriving at a reliable estimate of the requirements. In any case, the so-called 'resource crunch' is more of a matter of the Government's **perception of national priorities** and appreciation of what are effective educational policies and programmes, rather than any real lack of resources.



AN ALTERNATIVE BILL ON 83rd AMENDMENT TO THE CONSTITUTION

On September 14-15, 1997, several voluntary groups working in Rajasthan met at Jaipur and deliberated upon the proposed Bill in light of the Committee of Education Ministers (Saikia Committee) Report, 1997. The participants drew upon the Kothari Commission Report (1966), National Policy on Education (1986, 1992) and the Ramamurti Committee Report (1990) for evolving a perspective. The resulting critique led to the drafting of an Alternative Bill which was presented to the Parliamentary Standing Committee for consideration. The Alternative Bill is reproduced below.

PREAMBLE TO THE ACT

Universalisation of Elementary Education

1. We welcome the step of the Union Government in proposing the 83rd Amendment to the Constitution that will ultimately make elementary education a fundamental right for every citizen upto the age of 14 years.
2. So far, the commitment toward elementary education for children was incorporated in Article 45 of Directive Principles of State Policy. But, in reality, 37 years after the stipulated period, this goal has proved elusive.

3. However, the Bill in its present form proposed by the MHRD on July 9, 1997, is not adequate to ensure universal elementary education to all citizens upto the age of 14 years.
4.
 - (a) The proposed Bill fails to see education as an integrated process of life's development of individual and society.
 - (b) The proposed Bill fails to respond to the educational needs of the specific age group of children below the age of 6 years which is the most crucial developmental stage of life. Earlier, this age group was included in Article 45.
 - (c) The proposed bill is woefully silent on the character and essence of the nature of education.
 - (d) The provision of 'compulsion' in the proposed bill would adversely affect the poor.
5. We believe that education is related to the totality of life processes. Hence, all the relevant Articles in the Indian Constitution such as Articles 24, 39, 41, 42 and 46 directly affect the education of the children of the poor and the oppressed.
6. Education should be an instrument of achieving equality, freedom and social justice. Hence, we strongly support an equitable common system of elementary education for all.
7. Without an adequately democratized and decentralized educational mechanism involving the neighborhood community, it is not possible to provide equitable and qualitative universal elementary education.
8. We, thereby, strongly propose that the Bill for universalisation of elementary education should ensure :
 - (a) free, equitable and qualitative elementary education through the neighborhood common school system which has been proposed in detail in the Kothari Commission Report.
 - (b) that poverty, geographical conditions and local circumstances should not be deterrents for equitable, qualitative and compulsory education.

- (c) adequate democratic and decentralized mechanism of community participation and control over in the elementary education system.

We demand that the State demonstrates the necessary political will and administrative resolve; provide adequate financial and other resources for the country to achieve in reality, Universalisation of Elementary Education by the year 2005 A.D.

**for PARAMBHIK SHIKSHA LOK-VIAPIKARAN SANJHA MANCH,
RAJASTHAN**

(Joint Platform For Universalisation Of Elementary Education, Rajasthan.)

THE CONSTITUTION (EIGHTY-THIRD AMENDMENT) BILL,

1997

A

BILL

further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows :

1. (1) This Act may be called the UNIVERSALISATION OF ELEMENTARY EDUCATION ACT 1997.

By elementary education, we hereby understand formal education upto the level of standard 8th.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. After Article 21 of the Constitution, the following Article shall be inserted, namely :-

21 A (1) The State shall provide free, compulsory, equitable and qualitative education to all citizens upto the age of 14 years, within 8 years from the date the Act comes into force.

21 A (2) The state shall direct its policy towards securing that children are given opportunity and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation and against moral and material abandonment (Delete this section from Article 39F - Directive Principles of State policies).

21 A (3) The right to free, compulsory, equitable and qualitative education referred to as 'common school' in Kothari Commission report, shall be enforced in such manner as the state may, by law, determine. Every state law shall follow all the guidelines given in the related schedule.

21 A (4) Even those educational institutions not maintained by the state or not receiving aid out of state funds will be governed by the same law.

21 B (1) No child below the age of 14 years shall be employed for cash or kind to work either at home or outside.

21 B (2) No child upto the age of 14 years shall ever be engaged in any hazardous work being done either at home or outside.

21 C (1) No child upto the age of 14 years shall be denied admission into any neighborhood educational institution run for elementary education.

3. Article 35 of the Constitution shall be renumbered as clause (1) of that article and after clause (1) so renumbered and before the Explanation, the following clause shall be inserted, namely :-

(2) The competent legislature shall make the law for the enforcement of right to free, compulsory, equitable and qualitative education referred to in clause (1) of article 21A within one year from the commencement of the Universalisation of Elementary Education Act, 1997.

Provided that a provision of any law relating to free compulsory education in force in a State immediately before the commencement of the Universalisation of Elementary Education Act, 1997 which is

inconsistent with the provisions of article 21A shall continue to be in force until amended or repealed by a competent legislature or another competent authority or until the expiration of one year from such commencement whichever is earlier.

4. Article 24, 39F & 45 of the Constitution shall be omitted.
5. A new article 51B shall be added to the Constitution viz. fundamental duties or group of citizens (Neighbourhood Communities) :
 - (a) It shall be the fundamental duty of the neighbourhood community to ensure that all citizens upto the age of 14 years in the neighbourhood attend elementary school.

SCHEDULE (Related to Guidelines for State Laws)

The state Law shall ensure the following :

1. That the elementary education of no child in the state may be adversely affected due to conditions of poverty.
2. That the elementary education system shall be geared to suit the variations of geographical and local conditions and situations of different areas such that quality of education is not compromised.
3. That the concept and practice of 'neighbourhood common school' system, shall be effectively implemented.
4. That based on the principles of democratization and decentralization, the citizen groups (neighbourhood community mechanism) shall be actively involved in planning, implementing and controlling elementary education.
5. That the elementary education system will specifically incorporate the local, region and cultural milieu in form and content.
6. Meaningful relationship between education and creative labour.

THE SUPREME COURT JUDGEMENT (1993)

The historic Supreme Court judgement making education as a fundamental right was delivered in February 1993 by a bench comprising of Chief Justice Shri L.M. Sharma, Justices Sarvashri S. Ratnavel Pandian, S. Mohan, B.P. Jeevan Reddy and S.P. Bharucha in the case of Unnikrishnan, J. P. and others versus State of Andhra Pradesh and others.

The following extracts have been selected on the basis of their bearing upon making education a fundamental right. These are not presented in the same sequence in which they occur in the judgement. Nor do these necessarily refer to the old cases from which the judgement has cited them.

I. On Goals and Significance of Education

1. As a prelude, the importance of education may be set out.

The immortal Poet Valluvar whose *Tirukkural* will surpass all ages and transcend all religions said of education :

“Learning is excellence of wealth that none destroy ; To man nought else affords reality of joy.”

2. The fundamental purpose of education is the same at all times and in all places. It is to transfigure the human personality into a pattern of perfection through a synthetic process of development of the body, the enrichment of the mind, the sublimation of the emotions and the illumination of the spirit. Education is preparation for a living and for life, here and hereafter.

3. An old Sanskrit adage states : “ That is education which leads to liberation” — liberation from ignorance which shrouds the mind; liberation from superstition which paralyses effort, liberation from prejudices which blind the vision of the Truth.
4. In the context of a democratic form of Government which depends for its sustenance upon the enlightenment of the populace, *education is at once a social and political necessity*. . . . Any effort taken in this direction cannot be deemed to be too much.
5. In *D. S. Nakara v. Union of India* a Constitution Bench explained the significance of the addition of the expression “Socialist” in the preamble of our Constitution in the following words : (SCC p. 326, para 33)

“During the formative years, socialism aims at providing all opportunities for pursuing the educational activity There will be equitable distribution of the national cake . . .”

In *Vincent v. Union of India* it was held by a Division Bench of this Court that : (SSC pp. 173-74, para 16)

“ In a welfare State, therefore, it is the **obligation of the State to ensure the creation and the sustaining of conditions congenial to good health** In a series of pronouncements during the recent years this Court has culled out from the provisions of Part IV of the Constitution these several obligations of the State and called upon it to effectuate them in order that the resultant pictured by the Constitution Fathers may become a reality.”

II. Synthesis of Part III and IV

6. This Court has also been consistently adopting the approach that the **fundamental rights and directive principles are supplementary and complementary to each other** and that the provisions in Part III should be interpreted having regard to the Preamble and the Directive Principles of the State Policy. The initial hesitation to

recognise the profound significance of Part IV has been given up long ago. We may explain.

7. While moving for consideration the interim report on fundamental rights, Sardar Vallabhai Patel described both the rights mentioned in Parts III and IV as 'fundamental rights' — one justiciable and other non-justiciable. In his supplement report, he stated :

“There were two parts of the report; one contains fundamental rights which were justiciable and the other part of the report refers to fundamental rights which were not justiciable but were directives.”

In *Kesavananda Bharati V. State of Kerala* Mathew, J. stated therein that the fundamental rights themselves have no fixed content, most of them are empty vessels into which each generation must pour its content in the light of its experience. It is relevant in this context to remember that in building up a just social order it is sometimes **imperative that the fundamental rights should be subordinated to directive principles.**

8. In *Pathumma case* it has been stated :

“The attempt of the court should be **to expand the reach and ambit of the fundamental rights** rather than accentuate their meaning and content by process of judicial construction Personal liberty in Article 21 is of the widest amplitude.”

In *Kesavananda Bharati V. State of Kerala* more than one learned Judge adverted to this aspect. In the words of Hegde and Mukherjea, JJ.: (SSC pp.502-03, paras 712, 713 and 716)

“The fundamental rights and the directive principles constitute the conscience of our Constitution **To ignore Part IV is to ignore the sustenance provided for in the Constitution**, the hopes held out to the Nation and the very ideals on which our Constitution is built”

9. In *State of Kerala v. N. M. Thomas* it was held : (SSC p. 377, para 158)

“ the directive principles and the fundamental rights should be construed in harmony with each other
.. The directive principles contained in Part IV constitute the stairs to climb the high edifice of a socialistic State and the fundamental rights are the means through which one can reach the top of the edifice.”

“ The directive principles form the **fundamental feature and the social conscience of the Constitution** and the Constitution enjoins upon the State to implement these directive principles. The directives, thus provide the policy, the guidelines and the end of socio-economic freedom
. there is no apparent inconsistency between the directive principles contained in Part IV and the fundamental rights mentioned in Part III, which in fact supplement each other, there is **no difficulty in putting a harmonious construction** which advances the object of the Constitution.” (SSC p. 379, para 164)

10. In *Minerva Mills Ltd. v. Union of India* The learned Chief Justice Chandrachud observed further : (SCC p. 654, para 57)

“Those **rights** (fundamental rights) are not end in themselves but **are the means to an end. The end is specified in Part IV**”.

11. It is thus well established by the decisions of this Court that the provisions of Parts III and IV are supplementary and complementary to each other and that fundamental rights are but a means to achieve the goal indicated in Part IV. It is also held that the fundamental rights must be construed in the light of the directive principles.

III. Right to Education

12. the Bench held, on a consideration of Articles 21, 38, 39 (a) and (f), 41 and 45 of the Constitution :

- “(a) The framers of the Constitution made it obligatory for the State to provide education for its citizens;
- (b) the objectives set forth in the preamble to the Constitution can not be achieved unless education is provided to the citizens of this country;
- (c) the preamble also assures dignity of the individual. **Without education, dignity of the individual cannot be assured;**
- (d) Parts III and IV of the Constitution are supplementary to each other. Unless the ‘right to education’ mentioned in Article 41 is made a reality, the fundamental rights in Part III will remain beyond the reach of the illiterate majority;
- (e) Article 21 has been interpreted by this Court to include the right to live with human dignity and all that goes along with it. **‘The “right to education” flows directly from right to life.’** In other words, ‘right to education’ is concomitant to the fundamental rights enshrined in Part III of the Constitution. The State is under a constitutional mandate to provide educational institutions at all levels for the benefit of citizens. The benefit of education cannot be confined to richer classes.”

13. If really Article 21, which is the heart of fundamental rights, has received expanded meaning from time to time there is no justification as to why it cannot be interpreted in the light of Article 45 wherein the State is obligated to provide education up to 14 years of age, within the prescribed time-limit.

So much for personal liberty.

Now coming to life : this Court interpreted in *Bandhua Mukti Morcha v. Union of India* (pp. 183-84, para 10)

“..... It is the fundamental right of everyone in this country, assured under the interpretation given to Article 21 by this Court in *Francis Mullin case* to live with human dignity, free from exploitation. This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity

14. Article 21 acts as a shield against deprivation of life or personal liberty. The personal liberty and life have come to be given expanded meaning. It would, therefore, not be incorrect to hold that life, which means to live with dignity, takes within it education as well. Education is enlightenment. It is one that lends dignity to a man.
15. Though **right to education** is not stated expressly as a fundamental right, it is **implicit in and flows from the right to life guaranteed under Article 21** having regard to the broad and expansive interpretation given by the Court. The right to education has been treated as one of transcendental importance. It has fundamental significance to the life of an individual and the nation. Without education being provided to the citizens of this country, the objectives set forth in the Preamble to the Constitution cannot be achieved. The Constitution would fail.
16. The fact that right to education occurs in as many as three Articles in Part IV viz., Articles 41, 45 and 46 shows the importance attached to it by the founding fathers. Even some of the Articles in Part III viz., Articles 29 and 30 speak of education.

17. A time-limit was prescribed under Article 45. **Such a time-limit is found only here.** If, therefore, endeavour has not been made till now to make this article reverberate with life and articulate with meaning, the Court should step in. The State can be obligated to ensure a right to free education of every child up to the age of 14 years. **Thus the right to free education up to the age of 14 years is a fundamental right.**

18. **Article 46 commands that “the State shall promote with special care the educational and economic interests** of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation”. Education means knowledge — and “knowledge itself is power”. As rightly observed by John Adams, “the preservation of means of knowledge among the lowest ranks is of more importance to the public than all the property of all the rich men in the country”. (Dissertation on Canon and Feudal Law, 1765) It is this concern which seems to underline Article 46. It is the tyrants and bad rulers who are afraid of spread of education and knowledge among the deprived classes. Witness Hitler railing against universal education. He said : “ Universalisation of education is the most corroding and disintegrating poison that liberalism has ever invented for its own destruction.” (Rauschnig, *The Voice of Destruction : Hilter Speaks.*) A true democracy is one where education is universal, where people understand what is good for them and the nation and know how to govern themselves. The three Articles 45, 46 and 41 are designed to achieve the said goal among others. It is in the light of these Articles that the content and parameters of the right to education have to be determined.
. We feel constrained to say that **allocation of available funds to different sectors of education in India discloses an inversion of priorities indicated by the Constitution.** The Constitution contemplated a crash programme being undertaken by the State to achieve the goal set out in Article 45. **It is relevant to notice that Article 45 does not speak of the “limits of its economic capacity and development” as does Article 41, which inter alia speaks of right to education.**

19. The right to education which flows from Article 21 is not an absolute right. It must be construed in the light of directive

principles. A true democracy is one where education is universal, where people understand what is good for them and the nation and know how to govern themselves. Articles 45, 46 and 41 are designed to achieve the said goal among others. It is in the light of these articles that the content and parameters of the right to education have to be determined. Right to education, understood in the context of Articles 45 and 41, means that (a) every child/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 14 years, his right to education is circumscribed by the limits of the economic capacity of the State and its development. **It is significant that among the several articles in Part IV, only Article 45 speaks of a time-limit; no other article does.** It is not a mere pious wish and the State cannot flout the said direction even after 44 years on the ground that the article merely calls upon it to "endeavour to provide" the same and on the further ground that the said article is not enforceable by virtue of the declaration in Article 37. The passage of 44 years – more than four times the period stipulated in Article 45 — has converted the obligation created by the article into an enforceable right. At least now the State should honour the command of Article 45. It must be made a reality.

EXISTING THE CONSTITUTION : COLLAPSING
ELEMENTARY INTO PRIMARY EDUCATION

During the Constituent Assembly debate on the Draft Constitution of India, the Article 51 was under discussion. A part of it is the present day Article 51. The Draft Article 51 was as follows:

PART II

Article 51 (draft)

Every citizen shall be bound to receive primary education and the State shall provide free education for all children up to the age of fourteen years. The State shall also provide free education for all children up to the age of sixteen years.

**THE POST-JOMTIEN
CONTEXT**

There were two amendment proposals. A Member proposed that the reference to 'free primary education' be deleted so that it does not impinge the reference to 'until they complete the age of fourteen years'. Another Member considered that, in view of the repeated instances where the reference to the 'age of fourteen years' be replaced by the 'age of six years' and the commitment of the State be limited to only primary education.

Dr. B. R. Ambedkar responded to these amendments originally in the following words:

I accept the amendment proposed by my friend Mr. Mahua, which suggests the deletion of the words 'Every citizen is bound to receive free primary education' but I am not prepared to accept the amendment of my friend Mr. Mahua.

TWISTING THE CONSTITUTION : COLLAPSING ELEMENTARY INTO PRIMARY EDUCATION

During the Constituent Assembly debates on the Draft Constitution of India, the Article 36, was under discussion. A precursor of the present day Article 45, the Draft Article 36 read as follows :

Article 36 (Draft)

Every citizen is entitled to free primary education and the state shall endeavour to provide, within a period of ten years from the commencement of this constitution, for free and compulsory education for all children until they complete the age of fourteen years.

There were two amendment proposals. A Member proposed that the reference to 'free primary education' be deleted so that it does not contradict the reference to 'until they complete the age of fourteen years'. Another Member contended that, in view of the expected resource crunch the reference to the 'age of fourteen years' be reduced to the 'age of ten years' and the commitment of the State be limited to only primary education.

Dr. B. R. Ambedkar responded to these amendment proposals in the following words :

"I accept the amendment proposed by my friend, Mr. Maitra, which suggest the deletion of the words 'Every citizen is entitled to free primary education and'. But, I am not prepared to accept the amendment of my friend, Mr.

Naziruddin Ahmad. He seems to think that the objective of the rest of the clause in article 36 is restricted to free primary education. But, that is not so. The clause as it stands after the amendment is that every child shall be Kept in an educational institution under training until the child is of 14 years. If my hounarable friend, Mr. Naziruddin Ahmad had referred to article 18, which forms part of the fundamental rights, he would have noticed that a provision is made in article 18 to forbid any child being employed below the age of 14. **Obviously, if the child is not to be employed below the age of 14, the child must be kept occupied in some educational institution. That is the object of article 36 and that is why I say the word 'PRIMARY' is quite inappropriate in that particular clause, and I therefore oppose his amendment (emphasis ours)."**

(Vol. 3, p. 540; Nov. 23, 1948)

The consensus in the Constituent Assembly led to the Article 45 of the Constitution which reads as follows :

Article 45

Provision for free and compulsory education for children - The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

The *first* National Policy on Education, 1968 made the following unambiguous commitment :

1. *Free and Compulsory Education*

Strenuous efforts should be made for the early fulfilment of the Directive Principle under Article 45 of the Constitution seeking to provide free and compulsory education for all children up to the age of 14. Suitable programmes should be developed to reduce the prevailing wastage and stagnation in schools and to ensure that every child who is enrolled in school successfully completes the prescribed course.

The National Policy on Education, 1986, repeated the commitment and provided clear target years for ensuring education to all children until they complete fourteen years of age in the following statement :

A RESOLVE

5.12 The new education policy will give the highest priority to solving the problem of children dropping out of school and will adopt an array of meticulously formulated strategies based on micro-planning, and applied at the grass-roots level all over the country, to ensure children's retention at school. This effort will be fully coordinated with the network of non-formal education. It shall be ensured that all children who attain the age of about 11 years **by 1990 will have had five years of schooling**, or its equivalent through the non-formal stream. Likewise, **by 1995** all children will be provided free and compulsory education **upto 14 years of age**.

In 1990, India participated in the World Conference on Education for All organised by the World Bank and a number of international agencies including the UN agencies. The conference, held at Jomtien (Thailand), issued a 'World Declaration on Education for All' and a 'Framework for Action to Meet Basic Learning Needs'. These two documents did not make any reference whatsoever to **eight years of schooling**, (i.e. elementary education) implied in Article 45 of the Indian Constitution. Instead, the World Declaration defined 'Basic Learning Needs' essentially in terms of **five years of primary schooling** alone. This had an immediate impact on the National Policy on Education which was modified in 1992. The modified policy statement avoided any commitment to target years and read as follows :

A RESOLVE

5.12 The new education policy will give the highest priority to solving the problem of children dropping out of school and will adopt an array of meticulously formulated strategies based on micro-planning, and applied at the grass-roots level all over the country, to ensure children's retention at school. This effort will be fully coordinated with the network of non-formal education. It shall be ensured that free and compulsory education of satisfactory quality is provided to all the children upto 14 years **before we enter**

the twenty-first century. A national mission will be launched for the achievement of this goal.

In addition to the policy, the Parliament also approved a Programme of Action in 1992 which made a commitment to the launching of a **National Elementary Education Mission (NEEM)** in the following words :

7. LAUNCHING OF NATIONAL MISSION

7.7.1 The Revised Policy Formulations provide for launching of a National Mission for the achievement of the **goal of UEE**. This being an important and immediate task, suitable mechanisms will be worked out to identify the objectives, strategies, functions, structure, etc. of the proposed National Mission. In this process wide consultations will be held with the State Governments, voluntary agencies, educational and social institutions, educationists, women activists, etc. The proposed Mission will have the central objective of mobilising all the resources, human, financial and institutional, necessary for achieving the goal of UEE.

7.7.2 The Mission will be made operational during the year 1993-94

But there was to be no such mission for the next five years! By 1993, instead of talking of Universalisation of Elementary Education (UEE), the Government began to talk of **only five years of education** and started declaring its programmes and strategies for **only primary education**. This shift from the obligations flowing out of Article 45 coincided with the launching of Education for All (EFA) in 1993 and District Primary Education Programme (DPEP) in 1994.

EFA was a consequence of Jomtien Conference.

So was DPEP.

Again, DPEP became possible in the wake of Jomtien Conference. The Government agreed to allow the World Bank to intervene in Indian primary schools for the first time in the post independent history. Since, the Memorandum of Understanding (MOU) for loan for primary education was signed between the Government of India and the World Bank, we

talked less and less of the commitment to **eight years of education** (i.e. elementary education) and more and more of only **five years of education** (i.e. primary education).

By 1995, UEE had been almost **replaced by Universalisation of Primary Education (UPE)**. The document entitled 'Synergy Sub-Group on Primary Education and Literacy' prepared by the Ministry of HRD, Govt. of India, in 1995 had no qualms in maintaining that the new goal of the Government is **UPE, and not UEE**.

The worst was still to come. The Progress Overview (August 1997) of DPEP defies the Constitution by making the following statement :

"National Elementary Education Mission (NEEM) renamed as DPEP Mission has been set up in accordance with India's National Policy on Education - 1986, as revised in 1992."

This shift of focus from Elementary to Primary Education is one of the hall-marks of the post-Jomtien phase of Indian education. While this shift was taking place, the **Parliament was being quietly by-passed!**

FUNDAMENTAL RIGHT TO EARLY CHILDHOOD CARE AND EDUCATION

(extracted from the Ramamurti Committee Report, 1990)

The Rationale

5.1.1 The activities which foster and promote the all-round balanced development of the child in the age group of 0-6 years in all dimensions - physical, mental, social, emotional and moral - have been collectively described in NPE 1986 as Early Childhood Care and Education (ECCE). Both these components, care and education, are essential, since either by itself is inadequate. In this sense of a means to promote balanced human development, ECCE is the birthright of every child.

5.1.2 The Constitution, in Article 45, lays down, as a directive principle that every child up to the age of 14 shall receive free and compulsory education. Articles 39 f, 46 and 47 respectively lend further support to this Constitutional directive. The founding fathers of the Constitution clearly intended to ensure that every child, irrespective of social or economic status of his/her parents, received care and education from birth up to the age of 14 years. This goal was to have been achieved 'within a period of ten years from the commencement of this Constitution' (Article 45) ! But all along this directive has been interpreted narrowly as applicable only to the education of children from the age of five or six upwards. It is, however, never too late to acknowledge that, since care and education must begin at birth, ECCE is part of the provision originally envisaged under the Constitution for the development of 'all children until they complete the age of fourteen years.'

5.1.3 ECCE is also of immense significance from two other standpoints - Universalisation of elementary education and equality of opportunity for women. ECCE is linked both directly and indirectly to universalisation of elementary education. Directly, it helps to prepare the young child for school. Further, its child-centred approach and playway and other non-formal methods can help to prepare the school to receive children. Indirectly, yet powerfully ECCE, particularly for infants in the age-group of 0-3 years, can enable girls, engaged in taking care of younger siblings, to attend school. Since older girls' involvement in child care is one of the major reasons for their non-attendance, child care services, in close proximity to and co-ordination with school, offer an effective strategy for the enrolment and retention of girls in primary schools.

5.1.4 ECCE is equally vital in promoting women's opportunities for participation in work, education and social development. Since child care forms the major portion of the 'triple burden' borne by crores of poor women (i.e. as workers, homemakers and mothers), child care services would be significant in redressing this inequity and in promoting women's development. ECCE, therefore, is a cross-sectoral programme addressing the inter secting needs of women, children and girls.

5.1.5 The Education Commission (1964-66), clearly recognised the significance of pre-primary education in child development and of its critical link with enrolment, retention and learning outcome in primary schools. Yet, the National Policy on Education (1968), despite its concern for 'early fulfilment of the Directive Principle of Article 45' and for reducing the 'prevailing wastages and stagnation in schools', preferred to ignore the Commission's recommendations on pre-primary education. Years later, presumably as a consequence of the National Policy for Children (1974), the Fifth Five Year Plan made a beginning by formulating a comprehensive project in the form of the Integrated Child Development Services (ICDS) for the under-privileged and educationally backward sections of society.

5.1.6 Although ICDS made rapid strides in the late seventies and early eighties, the Government's commitment towards universalisation of early childhood education remained ambiguous, as there was still no clear policy declaration. It is for this reason that the NPE 1986 is a historic document in that it boldly recognises the importance of ECCE and lays down the 'holistic' principles on which the programme is to be developed.

The policy declaration views ECCE as an essential component in children's development and as a support service for universalisation of elementary education and women's development. However, the NPE does not refer to the Constitutional imperative to provide, ECCE to all children.

Recommendation

The scope of the Constitutional directive (Article 45) of providing, within a specified time-frame, free and compulsory education for 'all children until they complete the age of fourteen years', should be enlarged to include ECCE.

EDUCATION AND MOTHER TONGUE

CONSTITUTION

350A. Facilities for instruction in mother-tongue at primary stage - It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

REPORT OF THE KOTHARI EDUCATION COMMISSION (1964-66)

1.51 Medium of Education in Schools and Colleges : The development of the modern Indian languages is inextricably linked with the importance given to them in the educational system, specially at the university stage. The medium selected should enable students to acquire knowledge with facility, to express themselves with clarity and to think with precision and vigour. From this point of view, the claims of the mother-tongue are pre-eminent. About thirty years ago, delivering the convocation address of the Calcutta University, **Rabindra Nath Tagore** had expressed his views in this matter in no uncertain terms:

"In no country in the world, except India, is to be seen this divorce of the language of education from the language of the pupil. Full hundred years have not elapsed since Japan took its initiation into Western culture. At the outset she

had to take recourse to textbooks written in foreign languages, but from the very first, her objective had been to arrive at the stage of ranging freely over the subjects of study in the language of the country. It was because Japan had recognized the need of such studies, not as an ornament for a select section of her citizens, but for giving power and culture to all of them, that she deemed it to be of prime importance to make them universally available to her people. And in this effort of Japan to gain proficiency in the Western arts and sciences, which was to give her the means of self-defence against the predatory cupidity of foreign powers, to qualify her to take an honoured place in the comity of nations, no trouble or expense was spared. Least of all was there the miserly folly of keeping such learning out of easy reach, within the confines of a foreign language."

Learning through a foreign medium compels the students to concentrate on cramming instead of mastering the subject matter. Moreover, as a matter of sound educational policy, the medium of education in school and higher education should generally be the same.

1.54 (1) We are convinced of the advantages of education through the regional languages. We regard the development of regional languages as vital to the general progress of the country, and as an important step towards the improvement of quality in education.

NATIONAL POLICY ON EDUCATION, 1986

4.6 (11) The socio-cultural milieu of the STs has its distinctive characteristics including, in many cases, their own spoken languages. This underlines the need to develop the curricula and devise instructional materials in tribal languages at initial stages, with arrangements for switching to the regional language.

PROGRAMME OF ACTION-1992 Approved by the Parliament for Implementation of NPE -1986 (as modified in 1992)

18.1.1 The National Policy on Education (NPE), 1986 has reiterated, in respect of languages, the policy elaborated in the National Policy on Education, 1968.

18.2.1 However, the need to provide education through the mother tongue, which may be different from a modern Indian language included in the VIII Schedule, is recognised on academic grounds.

RAMAMURTI COMMITTEE REPORT, 1990

While fully supporting Kothari Commission on the use of mother tongue as a medium of learning, the Ramamurti Committee indicated its perspective on education in the medium of minority languages through the following recommendation :

Primary Level

(a) Where in an area speakers of minority language constitute 10% or more of the total population, one or more minority language medium primary schools should be set up according to need. Such schools should need not be exclusively of one medium. Efforts should be made to keep all students at the same school to avoid segregation irrespective of their mother tongue.

(Chapter 11, p.269)

YASH PAL COMMITTEE REPORT, 1993

IV. Recommendation

. The question of medium of instruction, particularly in early life will not be fully resolved till the time our dominant and externally connected sections of society continue to give more importance to elementary graces in a foreign language, than to intimate connections with the 'vernacular' knowledge which our children gain during every week of their growing up before they go to school. It is because of this reason that we have restrained ourselves from repeating the recommendation that mother tongue alone should be the medium of instruction at the primary stage.

12. (C) Language textbooks should adequately reflect the spoken idiom. An attempt should be made in future textbooks to give adequate representation to children's life experiences, imaginary stories and poems, and stories reflecting the lives of ordinary people in different parts of the country. Pedantic language and excessive didacticism ought to be avoided.

THE SUPREME COURT JUDGEMENT, 1993

..... First of all, we have to give to large linguistic minorities their right to be educated - especially in the primary stages - in their own language (p. 677)

..... At the same time, I think what he has pleaded for must be kept in mind as a general policy. It should be direction of the Central and the Provincial Governments to see that wherever there are congregations of boys and girls having a distinct mother tongue, schools should be provided in that language. (p. 678)

TOWARDS GENDER EQUITY IN EDUCATION

*Realising the goal of gender equity requires radical changes in the education system and assumes critical importance for universalisation of elementary education, given that half of the children are girls! Special provisions are essential in the socio-economic realm of the girl-child to enable her participation in school. **Has the Bill taken this into account?***

We present excerpts from various National Committees on women and education.

Excerpts from 'Towards Equality', Report of the Committee on the Status of Women in India, 1974.

The deep foundations of the inequality of the sexes are built in the minds of men and women through a socialisation process which continues to be extremely powerful. Right from the earliest years, boys and girls are brought up to know that they are different from each other and this differentiation is strengthened in every way possible-through language forms, modes of behaviour of labour etc.

(p. 281)

The educational system is the only institution which can counteract traditional belief in inequality of sexes. The educational system today has not even attempted to undertake this responsibility. The schools reflect and strengthen the traditional prejudices through their curricula,

classification of subjects on the basis of sex and unwritten code of conduct enforced on their pupils. This is one area where a major change is needed in the content and organisation of education. Educators must admit their responsibility and bring about this much needed change in the values of the younger generation.

(p. 372)

In the period after Independence, the gap between the enrolment of boys and girls has continued to increase at all levels and the proportion of girls in the relevant age groups covered by the school system still remains far below the Constitutional target of universal education upto the age of 14.

(p. 368)

In our opinion, any plan for educational development of women which does not take these imbalances into account will contribute to the increase in inequalities between different sections of the population.

(p. 369)

Pre-Primary Schools

Attempts to reduce inequalities in educational opportunities must begin early if they are to have any impact. A child who has attended a pre-primary school is better adjusted to the school environment... It is the best time for socialisation and inculcating egalitarian values in the children as they are unaware of differences of caste, class, creed or sex and are unhampered by social inhibitions or taboos.

(p. 276)

Our survey reveals several difficulties in the way of facilities for girls' education. Nearly 53% of the respondents refer to shortage of schools in general, 57.65% to absence of separate schools for girls in many places, 43.57% to over-crowding in schools and 53.95% to distance from house to school.

(p. 262)

The irrelevance of education as imparted in schools today has been discussed at length by the Education Commission. While endorsing their views, we would like to add that this has a particularly adverse effect on parental attitude to the education of girls, especially in rural areas. . . . Mothers of young girls told us that except for reading and writing, which the girls could pick up in two or three years, schools taught very little that was useful. One peasant woman in Punjab village felt that one way of

making school education more meaningful would be to train girls to handle and repair tractors. Some women in Kulu valley wanted training in methods of fruit preservation, so that they could fully utilise the products of their orchards.

(p. 262)

As observed by the Education Commission, 'the task of universal education begins when children are enrolled in class I. It is completed only when they are successfully retained till they complete class VIII'.

(p 255)

Excerpts from the Report of the 'National Commission on Self Employed Women and Women in the Informal Sector', June 1988 (Shram Shakti Report)

Both qualitatively and quantitatively, women's access to education is far less than men's. . . . Their relative share falls sharply as one moves from the primary to the middle and higher levels of education. This sets up a chain effect, adversely influencing their status and opportunities for employment and training in general.

(p. 22)

The Commission strongly recommends that every agency of the government should be responsible to ensure that their planned resources and programmes benefit men and women equally. Besides fixing this responsibility, there should be a Monitoring Cell in each agency which should be able to monitor and evaluate the utilisation of resources and the implementation of the programme vis-a-vis women.

(p 253)

Education is both an important instrument for increasing and bettering the chances of women's employability and for empowering women as they learn to think for themselves, become confident and also develop the capability of recognising more acutely the areas of exploitation.

(p. 283)

The Commission does realise that literacy in itself is not a solution to the basic problems of poor women, viz. exploitation and hunger; and therefore literacy has to be understood in the wider context of the social structure. Therefore, the Commission recommends that any attempt to eradicate poverty should lead the women to deal with the question of equality, social

justice and development. Therefore it is crucial to have teaching materials and teachers who deliver the service with these objectives. Ultimately the poor women should gain self-confidence to deal with her environment.

(p. 285)

With the provision of child care on the lines recommended by us we believe that enrolment of children particularly girls in the school will improve. We are strongly of the view that with the provision of guaranteed employment and adequate wages to the mother, there will be no need for child labour and we recommend that child labour must be abolished by 2000 A.D.

(p. 293)

For a country as large as ours and to cater to the needs of the vast majority of labouring women in poverty, there cannot be a single model of education. Various alternatives of education need to be developed. These alternatives may be developed in a decentralised manner, preferably with an area specific approach.

(p. 285)

Excerpts from the National Policy on Education, 1986

Education will be used as an agent of basic change in the status of women. In order to neutralise the accumulated distortions of the past, there will be a well-conceived edge in favour of women. The National Education System will play a positive, interventionist role in the empowerment of women. It will foster the development of new values through redesigned curricula, textbook, the training and orientation of teachers, decision-makers and administrators, and the active involvement of educational institutions.

(p. 6)

Excerpts from the Committee for Review of the National Policy on Education, 1986

The prevailing cultural norms of gender behaviour and the perceived domestic and reproductive roles of women tend to adversely affect the education of girls. these are reflections of the patriarchal values and attitudes which are dominant in society.

(p 29)

The evaluation of policy in relation to women's education needs necessarily to be made in the larger context of the socio-cultural reality in which women live; and the educational situation that is sought to be addressed and subsequently redressed.

(p. 28)

The NPE seemingly construes education alone as an agent of basic change in the status of women. The concern for 'support services', such as water, fuel, fodder, child-care and hostel facilities, have not been adequately operationalised in the POA.

(p.30)

A glimpse of the post-Jomtien policy twist on the gender issue :

..... there is an abundance of empirical evidence showing that rising education levels - especially among women - coincide with declining fertility rates. Education thus, can be seen to work in ways that are both direct and indirect to reduce fertility rates and, over time, population.

(EFA Summit - Delhi, 1993 : Analysis and Synthesis)

Is this the radical re-construction for gender equity?

The struggle for equity continues.

THE COMMON SCHOOL SYSTEM

Abstracts from 'Education and National Development', Report of the Education Commission (1964-66)

1.36 *The Common School.* In a situation of the type we have in India, it is responsibility of the educational system to bring the different social classes and groups together and thus promote the emergence of an egalitarian and integrated society. But at present instead of doing so, education itself is tending to increase social segregation and to perpetuate and widen class distinctions. At the primary stage, the free schools to which the masses send their children are maintained by the government and local authorities and are generally of poor quality. Some of the private schools are definitely better; but since many of them charge high fees, they are availed of only by the middle and the higher classes. There is thus segregation in education itself - the minority of private, fee-charging, better schools meeting the need of the upper classes and the vast bulk of free, publicly maintained, but poor schools being utilised by the rest. What is worse, this segregation is increasing and tending to widen the gulf between the classes and the masses.

1.37 This is one of the major weaknesses of the existing educational system. The identification and development of the total national pool of ability is greatly hampered. The position is thus undemocratic and inconsistent with the ideal of an egalitarian society. The children of the masses are compelled to receive sub-standard education and, as the programme of scholarships is not very large, sometimes even the ablest among them are unable to find access to such good schools as exist, while the economically privileged parents are able to 'buy' good education for

their children. This is bad not only for the children of the poor but also for the children from the rich and privileged groups. It gives them a short-term advantage in so far as it enables them to perpetuate and consolidate their position. But it must be realised that, in the long run, their self-interest lies in identifying themselves with the masses. By segregating their children, such privileged parents prevent them from sharing the life and experiences of the poor and coming into contact with the realities of life. In addition to weakening social cohesion, they also render the education of their own children anaemic and incomplete.

1.38 If these evils are to be eliminated and the educational system is to become a powerful instrument of national development in general, and social and national integration in particular, we must move towards the goal of a common school system of public education,

- which will be open to all children, irrespective of cast, creed, community, religion, economic conditions or social status;
- where access to good education will depend not on wealth or class but on talent;
- which will maintain adequate standards in all schools and provide at least a reasonable proportion of quality institutions;
- in which no tuition fee will be charged; and
- which would meet the needs of average parent so that he would not ordinarily feel the need to send his children to expensive schools outside the system.

Such an educational system has, for instance, been built up in the USSR and is one of the major factors which have contributed to its progress. It has also been developed, in different forms and to varying degrees, in other nations like the USA, France and the Scandinavian countries. The traditional English system has been different and has allowed good education, under private management, to be largely reserved for those who have the capacity to pay the necessary fees. But recently the so-called Public Schools have come in for strong criticism in England itself and it is not unlikely that a radical change may be initiated to make them more democratic. A somewhat similar system was transplanted in India by British administrators and we have clung to it so long because it happened to be in tune with traditional hierarchical structure of our society.

Whatever its past history may be, such a system has no valid place in the new democratic and socialistic society we desire to create.

10.05 *The Creation of the Common School System of Public Education.*

..... This is the goal which the country should strive to reach, and a number of steps will have to be taken for its early realisation.

(1) The first is to ensure that the undesirable discrimination that now exists between teachers working under different managements - government, local authority and private organizations should be done away with

(2) The ultimate goal should be to provide tuition-free education at the school stage. From this point of view, tuition fees will have to be abolished in a phased programme - fees at the primary stage being abolished by the end of the Fourth Plan and those at the lower secondary stage by the end of the Fifth Plan.

(3) The roles of local bodies and private organisations in school education should be properly integrated with those of the state governments to ensure that the minimum conditions necessary for the successful working of educational institutions are provided in every institution within the common system of public education, irrespective of its management. Every such institution should be intimately involved with its local community. Each should be regarded as an individuality and given adequate freedom. A continuous attempt should be made to develop each school to the best extent possible in accordance with a plan to be prepared and implemented jointly by the management, parents, teachers and students, and the department; and every institution should be assured of adequate financial support to discharge its responsibilities to its student body.

(4) The neighbourhood school plan should be adopted as a step towards eliminating the segregation that now takes place between the schools for the poor and underprivileged classes and those for the rich and the privileged ones

Abstracts from the National Policy on Education - 1986 Review Committee, 1990 (Ramamurti Committee Report, 1990)

4.4.5 The National Policy on Education, 1968 had accepted the recommendation of the Education Commission for bringing about the Common School System.

4.4.7 The reasons why the Common School System has not gained ground so far are the following :

- Economic and social disparities; the well-to-do communities send their children to the school with better infrastructure, teachers and teaching standards; ordinary schools are not sought after; and in turn, results in low investments in them.
- The constitutional protection given to the minorities to establish and administer their own educational institutions etc. does not go with the concept of the Common School System.
- In government schools, the quality of education has remained poor.
- Lack of political will .
- Public schools, privately managed English medium schools, charging capitation fees and those having expensive coaching classes have proliferated.
- Growth of institutions in the Government sector like the Sainik Schools and Kendriya Vidyalayas meant for separate categories of students.

4.4.8 The first step in securing equity and social justice in education is the building up of a Common School System. Specific actions required in this context are the following :

Recommendations

- Provision of significantly increased outlay for elementary (particularly primary) education . This would help in the building up of the required levels of infrastructure and quality of education, thereby transforming Government, local-body and aided schools into genuine Neighbourhood Schools.

- Provision of special allocations for improvement of school system in backward areas, urban slums, tribal areas, hilly tracts, desert and marshy areas, drought and flood-prone zones, coastal belts and islands.
- Ensuring instruction for all in the medium of mother tongue at the primary level, particularly for linguistic minorities; active encouragement of teaching in the regional languages at the secondary level; and thus discontinuance of State aid to the schools imparting education otherwise than in the medium of mother tongue/regional languages.
- Phased implementation of the Common School System within a ten year time frame; and essential minimum legislation, particularly to dispense with early selection process, tuition fee, capitation fee etc.
- Exploring ways of including the expensive private schools into the Common School System through a combination of incentives, disincentives and legislation.

13

EDUCATION AND PARTY'S HISTORICAL APPROACH

INDIAN NATIONAL PARTY

PART III

**POLITICAL PARTIES ON
EDUCATION**

1. Increase more spending on education progressively to at least 10% of our Gross National Product.
2. Spread more on primary education and meet the full cost of post-primary education in the state.
3. Provide free education in order to universalize access to primary education.
4. Give incentives in the form of tax breaks, subsidies, grants-in-aid, etc. to encourage private initiative and investment in education.
5. Encourage learning period and introduce self-employment oriented vocational training programmes.

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EDUCATION AND PARTY MANIFESTOS (1996)

BHARATIYA JANATA PARTY

Education

The past five years have witnessed this core area of human resource development being increasingly deprived of state support. As a result, quality education is fast becoming the preserve of the social and economic elite of the country. The vast multitudes, who have been victims of inequity, continue to be denied the cherished ideal of literacy. The BJP will stress on providing equal opportunity of education, literacy and information.

Towards this end, we will :

1. Increase state spending on education progressively to at least six percent of our Gross National Product;
2. Spend more on primary education and enrol the help of non-government organisations in this area;
3. Provide free education in order to universalise access to primary education;
4. Offer incentives in the form of free text books, nutrition programmes and stipends to check dropout rate so that at least 80 percent children, both boys and girls, who enrol complete primary education;
5. Reduce learning period and introduce self-employment oriented vocational training programmes at high school level;

6. Introduce an anti-cheating law which will be applicable to all States and whose abuse will be prevented through adequate safeguards;
7. Launch community-level adult education programmes to provide functional literacy to at least 90 per cent of our adult illiterates in both villages and the cities;
8. Set up a special monitoring authority to scrutinise the quality of education and remove gender disparity;
9. Ensure autonomy to universities to universities, encourage them to mobilise resources for research and higher education, and provide academic freedom to our scholars, especially in the social sciences;
10. Improve the pay and emoluments of teachers at all levels and remove anomalies in college/university promotion rules;
11. Enroll industry's help to set up more technical and agro-industrial institutions that will provide affordable education;
12. Abolish the system of capitation fees and monitor the functioning of private engineering and medical institutions;
13. Launch a scheme for low interest bank loans for meritorious students who want to go in for higher education; and.
14. Thwart attempts by foreign universities, colleges and institutes of dubious reputation to open branches in India and prevent the out flow of foreign exchange on studies abroad unless the course is relevant to our needs and requirements.

INDIAN NATIONAL CONGRESS (I)

Education

The Congress Government of Shri P. V Narasimha Rao has made a public and firm commitment to spend 6% of the country's GDP on education. This would mean a doubling of investments in education by the turn of the century.

The Congress Government launched a new mid - day meal programme to increase nutrition and improve school attendance of 11 crore children in

classes I to IV in three years. In the very first year of the scheme, 3.4 crore children have been covered.

An innovative programme has been launched for overhauling primary education in 42 of the educationally backward districts of the country. This programme is focused on the education of girls and disadvantaged groups such as girls, Scheduled Castes, Scheduled Tribes children with disabilities. This programme, which is in operation in educationally backward districts of the country would be extended to districts soon.

In more than 300 districts of the country total literacy campaigns have been taken up. The National Literacy Mission has made big strides and its achievements have been acknowledged widely. These total literacy campaigns would be further strengthened with special emphasis upon marginalised groups like child workers, pavement dwellers, migrant labour, etc.

Despite tight fiscal constraints, the Central Plan budget allocation for education has gone up by over 90% in the last three years. The Congress Government's commitment to education can be seen from the fact that Plan investment in elementary education has gone up by 130% in the same period.

The Congress is committed to ensuring universal access to elementary education by the year 2001, laying particular emphasis on the Girl Child and imparting a strong vocational bias to secondary education.

Access to Technical education, Vocational education and Higher education would be expanded and improved through distance learning modes, open schools and open universities.

Emerging areas of technology and management would be encouraged, supported and nurtured through centres of excellence.

* * *

- Mid-day meal for all primary school children
- Improved health and education facilities for all children
- Complete implementation of Operation Black Board all over the country by end of IXth plan.

* * *

- Extend the National Mid-Day Meal Programme to cover all elementary schools in the country and enhance the quantum of foodgrains supplied per child from 3 kg per month to 5 kg per month, with the condition of 20 days' attendance of the child per month in the academic year.

* * *

- Ensure that 6% of the country's GDP is spent on education and intensify all related activities for promotion of capability and involvement of teachers and provision of school buildings and educational aids on a mission mode to achieve universallisation of elementary education and foster excellence in higher education.

COMMUNIST PARTY OF INDIA

Perspective

- The problems of poverty, unemployment, illiteracy and disease so far from being tackled, are getting aggravated as a result of structural adjustment programme dictated by the International Monetary Fund and the World Bank, and the new trade regime imposed by the World Trade Organisation . The worst victims of the new economic policies are the people below the poverty line.

The policy of liberalisation, globalisation and privatisation has struck a heavy blow at the self-reliant path of development for a big country like ours with abundant resources .

Education for All

Free and compulsory education for all citizens up to the age of 14 with training in productive skills. While charitable institutions and private societies have an important part to play in the educational field, oppose privatisation and commercialisation of education. Six per cent of the GNP to be allocated for education.

Launch National Literacy Campaign for achieving total literacy within a time- bound period. Mobilise youth and students for the campaign.

Child Labour and Bonded Labour

The shame of child labour and bonded labour must be eliminated. Children must be in schools and not in jobs. To ensure this, network of schools easily accessible to children must be created.

To ensure presence of children in schools and guard against drop-outs 'Food for Education Scheme must be implemented, providing 1 kg of foodgrain for every child for every day of schooling.

Child abuse, especially sexual exploitation of the girl child must be severely punished.

Bonded labour must be rescued and rehabilitated, and a national minimum wage must be enforced. National Commission on Child Labour and Bonded Labour must be constituted with powers for implementing and enforcing suitable measures.

COMMUNIST PARTY OF INDIA (Marxist)

Education

The Congress (I) had promised expanding investment in primary and secondary education. Instead, in real terms there has been a contraction of central government's expenditure. Privatisation and commercialisation of education have been high-lights making both the access to and cost of education beyond the reach of the common man.

* * *

- Increase allocation on education and mass literacy. Stop privatisation and commercialisation of education; the allocation must be at least 10 percent of the national budget and 30 percent of the state budgets; free and compulsory education must be guaranteed by law for all children up to the age of 14 years; syllabus and curriculum to strengthen scientific temper, secularism, national unity and integrity.

* * *

- Children : Suitable legislation to prevent sexual abuse of children; abolition of child labour; adequate child - care facilities at work place.

JANATA DAL

Education

Education as an activity must contribute to social justice, promote knowledge and excellence in society with equity, and accelerate economic progress.

Education will be made an effective instrument for securing equality and justice for women, the Scheduled Castes and Tribes, other socially, educationally and economically backward classes, and minorities.

The level of investment in education will be raised to at least 6 percent of the Gross National Product as recommended by the Kothari Commission. At least 50 percent of the funds allocated to education shall be invested in elementary education. Half of all the funds allocated to education at different stages shall be utilised for promoting girls' and women's education.

Janata Dal commits itself to fulfill the goal of universal elementary education by devising a package of suitable incentives with a special emphasis on mid-day meal scheme.

The Neighbourhood School concept shall be introduced and universalised by stages in order to correct elitist aberrations in education. Special programme shall be started to develop excellence and talent without discrimination on the grounds of creed, caste, gender and economic status.

The Janata Dal considers the education of the minorities both religious and linguistic, to be a national responsibility and we will take vigorous steps to see that the constraints on their educational progress are removed as speedily as possible through planned and concerned action.

The Acharya Ramamurti Committee Report (1990) on the review of the 1986 National Policy on Education shall be carefully considered and taken up for early implementation.

* * *

- It is a sad commentary on our overall socio-physical environment that a tenth of the children born die in infancy and less than a fifth of the surviving children develop to anywhere near their full inherent potential. At any time, half the children of school age are out of school, a situation which is linked to extensive and exploitative child labour.

These and many other adverse trends specific to children will be reversed by the National Front through a number of inter-related approaches :

- Recognising and restoring the human rights of children by ratifying, implementing and monitoring the convention on the rights of the child;
- Meeting the development needs of children, a central concern of national planning, by implementing a time-bound programme of action towards basic inter-linked goals in nutrition, health and education in a holistic approach to the mother-child life cycle; and
- Breaking the negative nexus between female illiteracy and ill health on one hand and early marriage on the other.

* * *

- National Education Insurance or some guaranteed incentive scheme to ensure that children, particularly female children, of even the poorest families procure education and to eliminate the phenomenon of dropouts must also be introduced.

SAMATA PARTY

Perspective

- The objective of self-reliance for the country has been given up. The process of plan development for social and economic change has been disrupted and shift in policies is from planning to dependence on market forces to resolve the country's problems. The role of the state is being reduced to the minimum. By doing this state mechanisms would lose all orientation and relevance to problems of poverty, health, education or concerns of rural-urban divide, inter-personal disparities or growing concentration of economic power in the hand of a few. The Directive Principle of State Policy would be reduced to mere rituals.

India suffers from continuance of extreme disparities in wealth, income and consumption. In this situation dependence on market oriented mechanisms for allocation of national and scarce resources can only mean denial of essentials for the vast poor majority and abundance for the rich. The free market system cannot but be unjust on the one hand and most unstable on the other. In the absence of any corrective measures, the market system only accentuates disparities further. Abolishing of the planning process amounts to denial to the people their expectation to meet the basic needs. The Indian state cannot run away from discharging its national obligations.

Education and Health

An obstacle in the betterment of our rural population is the virtual neglect of sufficient investment in education and health facilities. It is a national disgrace that after decades of independence, and in spite of the Constitutional injunction, more than two - thirds of our population in rural areas remain illiterate and in poor health. We cannot ever hope to occupy our rightful place amongst the nations of the world as long as these shameful conditions persist. Much more importantly, our ability to solve the basic problems of poverty, unemployment and social disparities depends vitally on improving the physical and mental capabilities of the vast labour resource available. The state has systematically starved education and health sectors, especially following the structural adjustment programme sponsored by the World Bank, of necessary resources and

other support, while wasting enormous amount on the creation of capital assets benefiting the rich and privileged classes of society. The Samata Party will reorder priorities so as to ensure that within the shortest possible period the realisation of the objectives of universal literacy and access to basic education and health facilities to all citizens are realized. The party will make compulsory and uniform primary education one of its major plans for action and link it with the struggle to liberate child labour.

UNITED FRONT

Perspective

- The right to free and compulsory elementary education shall be made a fundamental right and enforced through suitable statutory measures. Special programmes will also be launched to take care of children and the disabled and to eradicate child labour in all occupations and industries.
- The Central government and the State governments have not addressed themselves comprehensively and consistently to measures which would bring economic freedom, educational equality and true equality of opportunities to these people.

Education

Six percent of nation's GDP will be earmarked for education. This will be achieved by the year 2000. 50% of these funds will be spent on primary education. Substantial funds will be earmarked for imparting technical and vocational skills and training in order to turn out more employable and self - employed youth. The goal of the National Literacy Mission to cover 10 crore adults will be achieved by the target year 1998 - 1999. The NLM will give special attention to the spread of literacy among women.

The United Front is also committed to making the nation fully literate by the year 2005. A special effort will be made in the States where there is very high incidence of illiteracy and constitute the bulk of educational

deprivation. Weaknesses and loopholes in the implementation of the literacy programme will be identified and removed.

The mid-day meal scheme will be implemented in all the States to ensure regular attendance and retention in primary and middle schools. In every initiative that is taken to promote the spread of education, the girl-child will be a special focus of attention.

