

Denial of the Right to Education: A Human Right's Violation

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Introduction

Non-implementation of the provision of Article 45 of our Constitution is one of the worst forms of human rights violation. Child labour can never be eliminated without implementing the provision of this article, and that India cannot make any progress in any field without achieving the goal of universal compulsory basic education.

"There is one field... which does not appear to be in the priority list of human rights organisations—education and schooling of children. ... It was stipulated by our constitution makers that children upto the age of fourteen will be given free and compulsory education. ... The attempts made by Union and State Governments since the time India attained independence indicate that education is not a subject which deserves top priority. The government has, however, spent huge amount by way of setting up Commissions and Committees which in turn have produced voluminous reports. Some of these Commissions started with the assumption that anything that was recommended by any Commission during the British regime must be scrapped--for example, the Sargent Commission Report. ... The fact remains that an increasing number of children are growing as illiterates.." (*PUCL Bulletin*, September 1990).

"It is said that parents don't send their children to schools because of economic reasons—they want their children to add to the family income and therefore they either do not send their children to school, or children drop out after a year or two. This is at best only half-truth, and half-truth is more dangerous than falsehood.... Even where schools function, the physical condition is deplorable—there are no desks, no drinking water facilities, no lavatories. You visit any Corporation and Government schools in Delhi and you find that children in primary sections are not provided with desks; they are required to squat. Children from poor families do deserve better physical environment than in their places of residence where they have no amenities of life. Let them have some amenities at least in their school where they can feel happy, and if they are happy they may not drop out" (September 1990).

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What does the concept, "Right to Education" mean? And who is to enforce this right of the child¹? I maintain that this right can become a reality in India, as also in other developing countries, if the state implements the programme of universal free compulsory education. It is the duty and primary responsibility of the State to enforce this right, but the State has failed to perform its duty — its duty to introduce universal free compulsory education. I also hold the view that there is no shortcut — the State must become guardian of all citizens, upto the age of fourteen. It is important, therefore, that we concentrate on the rights of the child in the perspective of the education challenge.

United Front Government

When the United Front came to power at the Centre, an attempt was made to enforce this right. It introduced a bill (83rd Constitutional Amendment) in the Rajya Sabha on 28 July 1997 with a view to recognising elementary education as a fundamental right of all Indian citizens, that is, to make Article 45 of the Constitution a fundamental right. (The present BJP-led government has revived the bill - reluctantly though, but there is no indication that the matter will be pursued. In fact the proposal to make this a fundamental right is gathering dust).

The United Front Government in its "Statement of Objects and Reasons" declared that "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"². It is hardly necessary for me to make any comments about "pious and fond" hopes and wishes! While the United Front HRD Minister made this statement, the bureaucrats in this Ministry said in no uncertain terms that it is not a viable proposition since it will cost forty thousand crore rupees over a period of five years to implement the obligation. The fact remains that none takes the concept of the right to education seriously.

Pre-independent Era

In pre-independent India, a couple of significant efforts were made to introduce universal free compulsory basic education. Gokhale — one of the very few freedom fighters who gave importance to universal compulsory free basic education - made an effort to make primary education compulsory. He moved a resolution (19 March 1910) in the Imperial Legislative Council: "a beginning should be made in the direction

of making elementary education free and compulsory throughout the country". The bill was, however, rejected³. Another effort was made by Gandhiji and Dr. Zakir Hussain -- what is popularly known as Wardha Scheme of Education⁴.

Another important landmark during the British period was "The Plan of Post-War Educational Development in India prepared by the Central Advisory Board of Education (1944) popularly known as the Sargent Plan (after the name of the then Educational Advisor to the government in India, Sir John Sargent). The Plan recommended a system of universal, compulsory and free education for **all** children 6-14 age group. It was a highly realistic plan; in view of the non-availability of teachers, the plan suggested that the plan would be implemented (i.e. all children 6-14 age-group would receive education) within forty years⁵. In 1966 when the Kothari Commission Report was published a seminar was organised to discuss the Report. The Secretary of the Commission, the well-known Gandhian scholar, Dr. J.P. Naik referred to a number of reports and recommendations made during the British period and in independent India, but he did not refer to the Sargent Plan. When I drew his attention to the Plan, Dr. Naik dismissed the Plan, rather contemptuously. His main objection was to the long period of forty years, and that it was made by a British imperialists! Well, do we have to make any comments about such "patriotic" zeal and the fact that we are nowhere near the goal even after 53 years!].

Constitution Makers

Our founding fathers - the constitution makers played politics with the right to education and free compulsory basic education. They did not give any importance to the right to education, and did not accept it as a social welfare programme. It may be recalled that originally, the sub-committee on Fundamental Rights of the Constituent Assembly proposed that basic education be included in the list of fundamental rights, but subsequently it was rejected by the constitution makers. One member said, "Is this a justiciable right? Suppose the government has no money?" Pandit Govind Ballabh Pant quipped, "It cannot be justiciable. No court can possibly adjudicate". So "this clause be transferred to Part I (Directive Principles)".

Although this committee had distinguished and self-proclaimed liberals and Gandhians like Mr. M. R. Masani, only one member, Mr. K. T

Shah had the courage of conviction and gave a dissenting note. He said that if a right to education becomes non-justiciable, it "would remain as no more than so many pious wishes". He added that if it does not become "imperative obligations of the state towards the citizen, we would be perpetuating a needless fraud". Furthermore, he wrote in the dissenting note, "once an unambiguous declaration of such a right is made (justiciable), those responsible for it would have to find ways and means to give effect to it. If they had no such responsibility placed upon them, they might be inclined to avail themselves of every excuse to justify their own inactivity in the matter, indifference, or worse"⁶. Prophetic words, indeed! No surprise, therefore, that the operative part of Pandit Nehru's famous tryst with destiny speech was not meant to be implemented.

Others

What is worse is that even NGOs, "progressive" intellectuals and activists like the Sarvodayists, radical humanists and other activist-groups do not place compulsory education at the top of their agenda. Mr. V M. Tarkunde once prepared a document on behalf of the Radical Humanist Association, "People's Minimum Programme for Prompt Action by the New Government", the last BJP government, demanding that "resources should be made available to provide free primary education", but not compulsory⁷.

Mr. Tarkunde does not consider "compulsory education" to be a feasible proposition for legal and other reasons⁸, reminiscent of what our Constitution makers said. Mr. Madhu Dandavate, when he was Vice-Chairman of the Planning Commission-this subject is supposed to be on the agenda of the Commission-did not find time even to have an in-depth discussion on the subject, with experts, not to speak of implementing it. The former Prime Minister, Mr. I.K. Gujral, dispensed with the subject by making an announcement from the Red Fort that the provisions of Article 45 would be implemented. His government's performance in this regard was limited to the production of a totally unreadable report to make elementary education a fundamental right, and more importantly, a fundamental duty without spelling out the responsibilities of the State for non-compliance.

Another argument advanced by economists and even Gandhians is that poverty of resources stands in the way of introducing compulsory

education. No less a person than J.P. Naik maintained this in a report prepared for the Citizens For Democracy of which Mr. Jayaprakash Narayan was President and Mr. Tarkunde General Secretary⁹. (Obviously he forgot what he had said in 1966 apropos of the Sargent Plan!). This is a typical middle-class mindset, and it has never taken Article 45 of the Constitution and the right to education seriously. Without a change in this mindset, implementation of this right will continue to remain a distant goal.

West Bengal Governments Record

We may give a quick look at the West Bengal government's performance. I refer to West Bengal since the communists, specially, CPI-M claim to be the only "progressive" force in the country (the State has now been ruled by a CPM-led front for 24 years). The literacy rate of the Scheduled Castes in West Bengal is 42.21 per cent of the total SC Population of the State. This ranks way behind that of most other states in India. The literacy rate of the Scheduled Tribes is worse. 27.78 per cent of the total ST population in the State again, way behind that in most other states in the country is illiterate. With regard to SC/ST female literacy, the percentage is much lower. West Bengal does not come anywhere near States like Kerala and Tamil Nadu, or even Himachal Pradesh in respect of overall literacy and education. It is in the company of Bihar and UP. The Communists do not seem to regard education as child's right. If it did, it would have implemented the provision of Article 45 of the Constitution. Twenty four years is a very long time. Communist China did not take such a long time to eradicate illiteracy. According to the latest statistical profile in respect of women's development programmes brought out by the Planning Commission, the ranking of West Bengal (status of women) is "low" as against "very good", "good" and "medium" ranking of the states (except the BIMARU States whose ranking is "very low"). The fact is that the middle-class in our country including the Communists, as also their leader Mr. Jyoti Basu, are bereft of sensitivity.

NGOs and Others

At this point we may take note of the approach of some of our influential activists and their organisations. For a long time now they have concentrated on eradicating child labour without giving any importance

to the right to education and our constitutional provision of free and compulsory education to all children 6-14 years age group. It is only very recently that some of the internationally known activists have started talking about "quality education, education to children below the age of six, free meal", and so on in the context of the 83 Amendment Bill. I don't remember having heard from these NGO quarters about the importance of the right to education. They don't refer to the middle-class mindset which stands in the way of the education challenge. We as a nation are known for shibboleths. The latest one relates to presentation of chalks and slates to MPs! One should have thought the education challenge, and the right to education are very serious matters.

I may refer to a revealing controversy between two activists, who have made themselves known to VIPs, NHRC, Governments, both Indian and foreign, and organisations abroad. I quote from both without any comment (*see, Against Child Labour* edited by Klaus Voll)¹⁰.

Swamy Agnivesh apropos of child labour in India, says in his contribution to the book: "I accuse the Western powers of hoodwinking the poorer countries, politically as well as economically, and their insincerity is writ large. They don't want to grasp the problem and solve it once and for all. They are playing truant with the problem. They are trying to run with the hare and hunt with the hounds. It's a double standard game and therefore I don't trust even the Western media, which initially, I thought, were doing a great service by highlighting the plight of child labour and bonded labour in my country". With regard to the much talked about 'Rugmark Label' and the 'Global March' in 1988, widely reported in the West, organised by Mr. Kailash Sathyarathi, among others, the Swami says:

"After the initial enthusiasm died down, we found that there were certain other motives... [in respect of] the problem of child labour in India... We got to know that it was the German government which has largely funded the Indo-German Export Promotion Project (IGEP), to bring about the 'Rugmark' Foundation... We grew a little suspicious... when my own colleague, Kailash Sathyarathi drifted away from the mainstream of Bandhua Mukti Morcha... Surprisingly, the vested interests started projecting him as the champion of the cause of the child labour in India and thereafter honours were poured on him... Our suspicions and our worst fears came true when we saw a huge march against child labour... The western countries helped him to raise the money, around US \$2 million or more... may be doubled it subsequently. The ILO decided to promote it, because the International Confederation of Free Trade

Unions (ICFTU) was supporting it... We have seen the game-plan through and we think that the western powers are out to sabotage the real onslaught against child labour exploitation. They are going to cash in on this whole situation. They are propping up leaders, they are propping up NGO's ... The American celebrities who participated, and some of them were here in Delhi, were not shown child labour in agriculture or in brick-kilns or in the stone quarries, things which are not exported. They were straight away taken to Jaipur... This made it very clear that the intention of 'Global March' was not to fight the child labour in its entirety, but just to highlight child labour in export oriented industries... Nearly half of child labour is in agriculture, the other half's predominant share is in industries or activities which are not at all exported".

Regarding the 'Global March' Mr. Kailash Sathyarathi says (Chapter 8):

"We have been able to initiate discussion, debate and some sort of movement in many countries [other than India and Pakistan]... That was another important achievement... [Another] aim was to sensitize, galvanize and influence the whole ILO process of the new convention of the worst forms of child labour... One could observe an unprecedented harmony on the issue... The March was officially welcomed by the whole ILO Convention... The most important part is the implementation of the upcoming convention". In Chapter 22, Mr. Sathyarathi says: "People should feel that it [child labour] is a serious problem. If there is a culture shock, so much the better. I believe that we have been able to hammer this into the heads of the politicians, the bureaucracy, the common people and the parents themselves... We could not do more because of our own constraints. I would say that the part of a huge rehabilitative basic education is still lacking. It is part of the government programmes and policies. In India we have not been able to build up a national movement for basic education. Education is the most important alternative to child labour and unless the former is made available, the latter will not be eliminated... Regarding the foreign funds, we personally were never influenced by their agendas. Rather, in most of the case, we have influenced their agendas. [However] I personally know several NGOs where the people believe that if someone is a donor, then that someone is a great person. When any donor comes, they virtually lie at their feet, touch their feet, surrender everything..."

It is hardly necessary to add any comments!

Non-implementation of Article 45

Let us be clear. There are not many takers for the implementation of Article 45, and the right to education. (We must not confuse the provisions of Article 45 - free compulsory basic education to children upto the age of fourteen - with literacy programme, literacy campaign, adult education, non-formal education package, and so on).

Those who maintain that this social welfare programme cannot be implemented for various reasons and yet, at the same time, bring out plans for eradicating child labour, indulge in unalloyed hypocrisy. Child labour is, of course, a human rights violation. Deprivation of the right to basic education is also a human rights violation—equally obnoxious and atrocious, if not more. This second aspect has been almost totally neglected, both by Indian NGOs and NHRC, and those from abroad. They have been concerned, rightly, with child labour; but they have hardly been agitated over the non-introduction of universal basic education. Why? This must be investigated by NHRC and the civil society who are engaged in human rights education. They might find that one of the reasons is the middle-class mindset which would have taken this violation seriously if the victims belonged to their class—the NGOs too belong to this class; the fact is that the victims, almost all, belong to SC/STs, OBCs, the Muslim minority, and the girl children.

Politicians and bureaucrats averse to or unable to implement a social welfare programme for the deprived sections of our people, know how to get away with it through the in-built escape route in the system. Over the years, they have perfected and legitimised the art of doublespeak and the language of deceit and arrogance, like George Orwell's four-legged dictator who quietly changed the original thesis of the revolution, "four legs good, two legs bad" to "four legs good, two legs better"; and from "all animals are equal" to "all animals are equal but some animals are more equal than others". Our political rulers and bureaucrats justify and rationalise the non-implementation of Article 45 and non-recognition of the right to education in the kind of language referred to above. Language of reason has been totally lost on them. I give below a couple of examples of such language as also of quibbling and backtracking which is insulting to millions of our illiterate people.

BJP Government

The first announcement made by Dr. Murli Manohar Joshi, an eminent RSS ideologue and present Human Resource Development Minister, during the last BJP government, even before the Prime Minister sought the vote of confidence in the Lok Sabha (during the second term of Atal Behari Vajpayee's government), that all efforts will be made to provide education to children upto class 'V' - indeed, a "fresh" interpretation of the Constitutional provisions!

On another occasion, sharply reacting to India being called the "illiteracy Capital of the world", Dr. Joshi angrily retorted, "India has a very large number of literate people also. Why don't you talk about them? The literacy rate is 50 per cent, so we have about 48 crore literate people in India, which is double the population of the U.S.". Victims of human rights violation-deprivation of the right to basic education- know why Dr Joshi and his likes get annoyed when reminded that India's illiterate population exceeds the total population of the USA, Canada and Japan.

The mindset behind this kind of quibbling and false pride cannot be expected to implement faithfully this social welfare programme and to recognise the right to education. So that a vast number of our people will continue to be deprived of this basic human right; and our country will remain deprived of all the benefits including economic development, social progress, population control, reduction in infant and child mortality rate, and so on.

Dr. Joshi and his ministry seem to have evolved a new scheme (reminiscent of former Prime Minister Mr. I. K. Gujral's scheme of making it mandatory for all fresh graduates to teach at least five children for receiving the Bachelor's degree). It is called the National Reconstruction Corps (NRC) which is to launch the literacy drive, because, Dr. Joshi said, "the ministry doesn't have enough money" to impart basic education to our children. Under this scheme, boys and girls in the age group of 18-21 who have passed their 10+2 examination will be employed to teach children and paid Rs. 1,500/- per month.

Two short points in this regard. One, since the minimum qualification for teaching primary classes is 10+2 pass certificate, why not appoint them as regular teachers and pay them the prescribed pay and allowances? (The spontaneous answer: We don't have the money! The government has not been short of funds for anything except the programme of basic education). Two, girls and boys having +2 certificates are not equipped to teach students of class VII and VIII - children upto the age of 14. The NRC cannot be a substitute for compulsory basic education as a fundamental right. NRC can be introduced in addition to regular schooling with full-time teachers, proper class rooms, and other educational equipment. Or, is it that Dr. Joshi has now finally decided to stick to his earlier announcement, namely, that primary education will be provided upto class V and not upto the age of fourteen? (Here again,

we are reminded of Orwell's *Animal Farm* and the sheep chanting regularly the revised lessons and the animals in the farm begin to believe that these are the true lessons! They forget the original lessons, "all animals are equal", and "four legs good"!).

Dr. Joshi, at one stage, decided not to revive the Constitutional Amendment bill, making free and compulsory elementary education a fundamental right (which had been moved by the United Front Government). He and his ministry feel that it is not necessary to make it a fundamental right. As mentioned above, now, under compulsion of electoral politics, the present BJP-led government has revived the bill. It is known, however, that Dr. Joshi is very unhappy over the development!

This is further reinforced by another exercise undertaken by a government of India Research Institute, the V. V. Giri National Labour Institute in Noida. Some time back it prepared a draft bill, the title of which is "The Child Labour Rehabilitation Bill 1998-an Act to Prohibit and Regulate Employment of Children". Note, it is to regulate child labour! Furthermore, may one ask, what has happened to the number of constitutional provisions and the 21 legislative enactments on the subject? Nobody, certainly not those in the Government, need be told and reminded that these provisions as well as the 1993 and 1996 Supreme Court Judgements have not made any dent in the Government's immunity from action. Such negative and futile exercise is undertaken because it is an unwritten and unstated fact that illiteracy, which is limited largely to the marginalised section of our society, does not find a place on the agenda of Government's priority.

Human Development in South Asia 1998

It is in the above context that we must take serious note of the report, *Human Development in South Asia 1998: The Education Challenge* (written by the late Mahbub ul Haq, one of the best known economists of our time and Khadija Haq for Human Development Centre, Islamabad and published by O.U.P.)¹²

The report presents a dismal picture. I give below a very brief summary of the report as also a few statistics given in the report relating to India, which should make all thoughtful people sit up and work for a movement to compel the Government to implement the programme without diluting the provision of Article 45. Once this is done, all other problems like

family planning, health care, economic development, successful management of local self-government, and so on will become tractable.

Summary of the Report

South Asia has emerged by now as the most illiterate region in the world, and that income poverty is no barrier to the spread of basic education. If Sri Lanka and the Maldives could achieve over 90% adult literacy rate, and if Bangladesh could make rapid strides in this regard, why can't India make progress?

Political commitment to basic education in India remains both faint and fragile. With the result that India has the largest illiterate population in the world. Many countries which are poorer than India have managed a much higher rate of literacy. (1) Tazakistan - real GDP per capita income 1117 dollars, and literacy rate 98 per cent; (2) Kenya - 1404 dollars, and literacy rate 94 per cent; (3) Vietnam - 1208 dollars and literacy rate 78 per cent. In 1994, India's real per capita income was 1348 dollars but its literacy rate was 52 per cent. Poverty of resources [the reason for not achieving literacy not only given by government agencies but also by intellectuals and activists like the late J.P. Naik, as mentioned above] is not the real reason for India's dismal performance in the field of basic education.

Even in India, there are some States which have made rapid progress in this field, which in turn has ushered in improvements in other spheres like population control, health care, quality of life. Kerala whose per capita income is less than the all-India figures, has a literacy rate of over 90 per cent. The other extreme is that about three-quarters of out-of-school children live in six states - Andhra Pradesh, Bihar, Madhya Pradesh, Rajasthan and West Bengal.

In short, India, the report points out, is still first in the world in terms of the number of total illiterate persons. According to official sources, female literacy is 26 percentage points below the male literacy, that is, there are 91 million more adult illiterate females than males in India. About 35 million children in the 6-10 age group do not attend primary school; 37% of all primary school children drop out before reaching grade 5.

According to statistics collected by the authors of the report, from official sources, vulnerable groups in India are often deprived of

educational opportunities. The literacy rate varies from 90% for rich urban males to a mere 17% for poor, rural Scheduled Caste women. SC/STs have a literacy rate of 40% compared to nearly 60% for higher caste Hindus. The enrollment rate of 6 to 14 year old Muslim children is 62% compared to 77% for non-SC Hindus.

The main thesis of the report is: "Education leads to many social benefits, including improvement in standards of hygiene, reduction in infant and child mortality rates, decline in population growth rates, increase in labour production and an improved sense of national unity ... It is certain that South Asian economies cannot hope to engineer a decisive breakthrough in development or to become the industrialisation tigers of the future without a generous investment in basic education and technical skills".

This thesis was also propounded by Professor Jean Dreze and Amartya Sen in 1995¹³. What they wrote regarding the wilful neglect of this programme deserves to be quoted: "In India, both ancient and modern biases shape our policies reflecting prejudices of class division as well as of traditional cultures. The difficulty in getting even left-wing parties interested in combating inequalities in education relates to the general social atmosphere in India, including the nature of the leadership of the different parties which takes some major disparities as simply 'given' and not particularly worth battling against in view of other -- perceived to be more pressing - challenges".

Conclusion

Some economists hold the view that basic education does not necessarily lead to economic development. They give the instances of Sri Lanka, Jamaica and Costa Rica where the literacy rate is very high but the economy has not grown very fast. These economists maintain, therefore, that economic growth leads to widespread education, and not the other way. Which means, in plain and simple language, that eradication of poverty is the precondition for implementing this welfare programme of basic education. This amounts to putting the cart before the horse, for poverty can be eliminated only when the people are literate. Even if we accept their thesis, for the sake of argument, does it mean that the right to education is not a human right?

These economists also maintain that government should not be involved in education, both in regard to finance and provision of education. They do not take into account the fact that implementation of social welfare programmes is one of the primary duties of a democratic government. How can a country like India where the vast majority of the people are poor achieve the goal of universal basic education without the active involvement of government? The governments of Japan and Great Britain in the 19th Century carried out this welfare programme and took care of the total financial obligation in this regard. The results are there for all to see. Today, there is no Western country which is not wholly and solely responsible for school education. The private sector and NGOs cannot implement this programme; they can and should supplement as they have done in Kerala.

I may add that Professor Andre Bettle, formerly of Delhi University - I sometime wonder if most social anthropologists are not reactionaries - maintains that the right to education is useless because it is not enforceable. He has, therefore, argued that elementary education must not be made a fundamental right.

It is urgent that thoughtful people in our country start a movement with a view to compelling the government to perform its duty -- to implement the provision of Article 45. Let me repeat, India cannot take its place in the comity of civilised nations without achieving this goal.

NOTES AND REFERENCES

1. Professor Jean Dreze's (one of the team members of PROBE - Public Report on Basic Education in India 1999) observations about right to education are apt: "Education itself is the most important form of human rights education. Indeed, education has a major role to play in empowering marginalised sections of the population to participate in the democratic system and to defend their human rights in education in general can be seen as a form of human rights education. From that perspective (among others) the ongoing campaign for official recognition of elementary education as a fundamental right assumes great importance.

"First of all, what is the right to education? One reason why this point calls for clarification is that the right to education is often confused with compulsory education. The two are not the same thing at all. The right to education, as I understand it, is a right of the child vis-a-vis society. It states that every child is entitled, say, to eight years of schooling. Who is responsible for translating that right into reality? According to one school of thought, anyone's right has to be someone else's responsibility. However, I do not think that the right to

education is of this kind. One child's right to education is not the responsibility of one particular person or institution. It is a shared responsibility. First and foremost, it is a responsibility of the State, which has to provide the necessary facilities, outline the curriculum, make sure that teachers are qualified and accountable, and so on. But parents also have a responsibility to send the children to school, teachers to impart learning, and employers not to employ children in ways that conflict with their education. Thus, the overall responsibility of guaranteeing the right to education is shared between different persons and institutions, though not in equal parts.

"This feature has led my esteemed colleague Andre Beteille [former Professor of Sociology in Delhi University] to argue that the right to education is useless because it is not enforceable'. Since the right to education is nobody's specific responsibility, says he, it cannot be enforced in court and therefore has no teeth. Following on this, Andre Beteille has argued against elementary education being made a fundamental Constitutional right, on the grounds that this would devalue the notion of fundamental right. With due respect, I disagree. It is true that, in so far as the responsibility for implementing the right to education is a shared responsibility, not all aspects of it can be enforced in court. For instance, if a teacher sleeps in the classroom, I don't think that taking him or her to court would be the best course of action. Other aspects, however, are enforceable. For instance, if elementary education is made a fundamental right, those who live in a village where there is no school will be able to demand one as a matter of right (instead of depending on the goodwill of the administration). This would be an important step forward".

"With this background, let me come back to the relation between the right to education and compulsory education. As I said, the two are not the same, and conflating these distinct notions (as is often done in official circles) would be a dangerous dilution of the right to education. However, compulsory education is one of the means that may be used (in some circumstances at least) to make the right to education a reality. Compulsory education sends an important message to parents, to the effect that it is not up to them to decide whether to send their children to school or to keep them at home. They have a duty to send children to school. This message is very important, even if reluctance to send children to school is confined to a minority of parents".

"One striking finding of the PROBE survey is that an overwhelming majority of parents are in favour of compulsory education. One reason for this is that people understand very well that when other parents in the village send their own children to school, it also makes it easier for them to send their own children. This applies especially in the case of girls. Those who take the first step in sending their daughters to school often find it difficult to go against the current norm. If school participation itself is the norm, things are much easier for hesitant parents. Compulsory education has an important role to play in shaping these norms and perceptions".

"Having said this, it is easy to trivialise compulsory education and even to make it counter-productive. For example, if compulsory education involves

authoritarian sanctions against recalcitrant parents (even those who face real difficulties in sending their children to school), it may undermine the perception that education is important for its own sake and foster resentment against the schooling system.

"The fact that compulsory education can be trivialised was brought home to me in a striking manner a few months ago, in a conversation with a Block Education Officer in Rajsamand district (Rajasthan). This was on 1st April, 1998 - a most appropriate date. As we were talking about recent education-related initiatives, BEO suddenly remembered (just "by the way") that compulsory education was about to be introduced in the district. I asked him to tell me more, upon which he summoned his peon and instructed him to fish out the relevant papers. After a brief perusal of the documents, he said, "as it happens, it starts from today"! That was the end of the matter as far as he was concerned" (*Human Rights Education*, ed R.M. Pal and Somen Chakraborty, 2000, published by Indian Social Institute, New Delhi.)

2. Statement by S.R. Bommai, HRD Minister in United Front Government. "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 upto 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), 1985, as modified in 1992, states that free and compulsory elementary education of satisfactory quality shall be provided to all children upto 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*, AIR 1993 SC 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 fundamental right and to enforce it through suitable statutory measures.

"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 as 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 Principle 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.

"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 ele-

mentary 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".

3. See Gokhale's Resoulution quoted by S.P. Agrawal and Meena Usmani, *Children's Education in India: From Vedic Times to Twenty First Century*, New Delhi: Shipra, 2000, Pp.127-129.
4. An account of the scheme in Ibid, Pp.136-141.
5. Post-war Educational Development in India: Sargent Report, Delhi: Manager of Publications.
6. B. Shiva Rao. 1968. *The Framing of the Constitution - Select Documents*, New Delhi: Indian Institute of Public Administration.
7. See *The Radical Humanist*, June 1998, p.11.
8. Mr. Tarkunde told this writer in a meeting of radical humanists and a few trustees of the Indian Renaissance Institute including its Chairperson — all of them agreed with Mr. Tarkunde. I expressed my disagreement.
9. *Education for our People*, a report prepared under the guidance of Dr. J.P. Naik for Citizens for Democracy, New Delhi, with a Forward by Jayaprakash Narayan and Preface by V.M. Tarkunde, Allied Publishers Pvt. Ltd., New Delhi, 1978. The main agument in this report is: "one of the principal reasons which has hindered the progress of universal elementary education is the paucity of financial resources. If this is to be overcome the unit cost of educating a child at the elementary stage should be kept within reasonable limits.... That, in poor naations, money will always be in short supply ... [and] that we have given education a high priority as indicated by the high level of total educational expenditures already reached, [so] that the possibilities of further growth in educational expenditure is limited... The formal system of education is wasteful and inefficient". In this 77 page document right to education and non-implementation of the provision of Art.45 of the Constitution are hardly ever referred to.
10. Klaus, Voll (ed). 1999. *Against Child Labour*, Mosaic Books and TMT, New Delhi, see chapters 3 and 8.
11. *Outlook* (a magazine), 6 July 1998.
12. Mahbub ul Haq and Khadija Haq. 1998. *Human Development in South Asia 1998: The Education Challenge*, OUP.
13. Jean Dreze and Amartya Sen. 1995. *India: Economic Development and Social Opportunitites*, OUP.