CHAPTER 2
CONCEPTUAL FRAMEWORK OF RIGHT TO EDUCATION IN INDIA
Chapter II

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The idea of education is as old as the history of mankind itself. The need for the education was felt by human beings since ancient times; however, the concept was not defined. The discussion on the concept and basis of this right needs to trace its historical development in order to find out a universally acceptable definition. The other relevant issue in education, respect which attracts the attention is to locate particular law under which the protection may be properly accorded to this right. At this state it becomes necessary to look into provisions of the other constitutions in order to drive its fine points that may be beneficial for developing the parameters of the right in India. The definition and its analysis is discussed in this chapter as this is the basis for the whole work.

2.1. Definitional Concept

Life is not merely an animate or vegetative existence but it is a state of conscious being. It is supported with a valuable bundle of right to make it possible and meaningful in view of the fact the right to life cannot mean only a right to animate existence but it includes all those rights which are necessary to make life worth while. Such rights are innumerable beginning with the first moment of existence in the womb of the mother up to the last spur of existence. Of all such rights the most significant is the ‘right to education’. A person cannot live life properly unless prepared for it through education and training. Thus the first and the foremost obligation of the state, is that it must recognise and honour the ‘right to education’ of its people to make their lives better and try to make good citizens out of them. Especially when without education, a state cannot expect its citizen to be capable and skilled\(^8\). It is through education a person makes person ideal, meaningful and powerful because education means knowledge and “knowledge itself is power”. As rightly observed by John Adams\(^9\) the preservation of means of knowledge among the lowest rank is of more

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The word "Education" has been derived from the Latin term "Educatum" which means the Act of teaching or training. A group of educationists say that it has come from another Latin word "Educare" which means "to bring up" or "to raise". According to a few others, the word "Education" has originated from another Latin term "Educatione" which means "to lead forth" or "to come out". All these meanings indicate that education seeks to nourish the good qualities in man and draw out the best in every individual. Education seeks to develop the innate and inner capacities of man. By educating an individual some desirable knowledge, understanding, skills, interests, attitudes and critical thinking is imbibed in him. That is, he acquires knowledge of history, geography, arithmetic, languages and sciences. A person develops some understanding about the deeper things in life, the complex human relations, and the cause and effect relationship and so on. Also gets some skills in writing, speaking, calculating, drawing, operating some equipment etc. He develops some interests in and attitudes towards social work, democratic living, and co-operative management and so on. As an individual in the society, he has to think critically about various issues in life and take decisions about them being free from bias and prejudices, superstitions and blind beliefs. Thus all these qualities of head, hand and heart is learnt through the process of education.

2.1.2. Definitions of Education:

According to Oxford Dictionary, the term "Education" is defined as the process of education or being educated, and the theory and practice of teaching. It also gives information about or training in a particular subject or informal an enlightening experience. The term is defined in different perspectives. It may include the Act or process of educating or being educated; the knowledge or skill obtained or developed by a learning process; a program of instruction of a specified kind or level; a college education; the field of study that is concerned with the pedagogy of teaching and learning; an instructive or enlightening experience.

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According to Mira’s Legal and Commercial Dictionary the term Education is defined as, ‘The Action or process of education or of being educated; a stage of such process; the knowledge and development resulting from an educational process (a man of little) the field of study that deals mainly with method of teaching and learning in schools’.

Emile Durkheim defined education as ‘the Action exercised by the older generations upon those who are not yet ready for social life. Its object is to awaken and develop in the child those physical, intellectual and moral states which are required of him both by his society as a whole and by the milieu for which he is specially destined has emphasized this fact in the following words: “Today, education is perhaps the most important function of States and Local governments…It is required in the performance of our most basis responsibilities…It is the very foundation of good citizenship. Today it is the principal instrument in awakening the child to cultural values, in preparing him for latter professional training, and in helping him to adjust normally to his environment. In these days it is doubtful that any child may reasonable be expected to succeed in life if he is denied the opportunity of education” it is not only the governments which insisted the importance of education but also the Judiciary.

In Chartered Insurance Institute v. London Corporation The Court has emphasized the importance of education as in one sense the word “education” may be used to describe any form of training, any manner by which physical or mental attitude, which man may desire to have for the purpose of his work, may be acquired.

In Ramchand v.Malkapur Municipality the High Court of Bombay stress that Education means teaching or training up the person in general learning other than teaching or teaching up for a business or professional. Levy and collection of cess for the purpose of promoting the education would be covered by the term ‘education’ in Entry No.11 of List II of the Seventh Schedule of the Constitution.

In Mohini Jain v. State of Karnataka the Supreme Court highlighting the importance of education said that, the fundamental purpose of education is same at all

14 (1957)2 ALL ER 638.
16 AIR 1992 SC 1858.
time and in all places. It is to transfigure the human personality into a pattern of perfection through a synthetic process of the development of the body, the enrichment of the mind, the sublimation of the emotions and the illumination of the spirit. Education is a preparation for a living and for life. Besides in a democratic form of government, this depends for its sustenance upon the enlightenment of the populace, education is a social and political necessity. In India, the leaders harped upon universal primary education as desideratum for national progress but the percentage of illiteracy here is still appalling. In the era of knowledge explosion when the frontiers of knowledge are enlarging with incredible swiftness, it is the foremost need of the state to eradicate illiteracy that persists in a depressing measure. Education is enlightenment. It is the one that lends dignity to a man as was rightly, observed by Gajendraadkar J. in University of Delhi v. Ram Nath. "Education seeks to build up the personality of the Pupil by assisting his physical, intellectual, moral and emotional development". In T.M.A.Pai Foundation v. State of Karnataka the Court said that "All education is expected to be liberal. It should free us from the shackles of ignorance, prejudice and unfounded belief. If we are incapable of achieving the good life, it is due to faults in our inward being, to the darkness in us. The process of education is the slow conquering of darkness. To lead us darkness to light, to free us from every kind of domination except that of reason, is the aim of education.

The Concepts of Education as given by prominent Indian educationists are listed as follows.

- Principles of Education and School Organization;
- Rig-Veda: "Education is something which makes man self-reliant and selfless".
- Upanishad: "Education is for liberation".
- Bhagavad-Gita: "Nothing is more purifying on earth than wisdom."
- Shankaracharya: "Education is the realization of self".
- Gunrunner: "Education is self realization and service to people".
- Kautilya's: "Education means training of the country and love of the nation".
- Panini: "Human education means the training which one gets from nature".

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17 AIR 1963 SC 1873.
18 AIR 2003 SC 355.
• Vivekananda: "Education is the manifestation of the divine perfection, already existing in man."

• Gandhi: "By education, I mean an all-round drawing out of the best in the Child and man body, mind and spirit."

• Tagore: "The widest road leading to the solution of all our problems is education."

• Sri Aurobindo: "Education which will offer the tools whereby one can live for the divine, for the country, for oneself and for others and this must be the ideal of every school which calls itself national".

Concepts of Education as defined by Western philosophers.

• Socrates: "Education means the bringing out of the ideas of universal validity which are latent in the mind of every man".

• Plato: "Education is the capacity to feel pleasure and pain at the right moment. It develops in the body and in the soul of the pupil all the beauty and all the perfection which he is capable of."

• Aristotle: "Education is the creation of a sound mind in a sound body. It develops man's faculty, especially his mind so that he may be able to enjoy the contemplation of supreme truth, goodness and beauty of which perfect happiness essentially consists.

• Rousseau: "Education of man commences at his birth; before he can speak, before he can understand he is already instructed. Experience is the forerunner of the perfect".

• Herbert Spencer: "Education is complete living".

• Heinrich Pestalozzi: "Education is natural harmonious and progressive development of man's innate powers".

• Friedrich William Froebel: "Education is unfoldment of what is already enfolded in the germ. It is the process through which the child makes internal external".

2.1.3. Technical Education

To understand the concepts of education in the proper sense various types of education which has come out in this modernized world like technical and legal education has also been analysed. The development of technical education is another
aspect to the educational system in India and legislatures and judiciaries both have been showing their determination to maintain and up hold the dignity and standards in such institutions. In exercise of the power under Entry 66, List I of the VII Schedule, Parliament enacted All India Council for Technical Education (AICTE) Act 1987. The Act provides for the establishment of the council for the proper planning and coordinate development of the Technical education system through out the country, promotion of qualitative improvement of such education and other allied matters. The Act specifically empowered the council, inter-alia, to grant approval for starting new technical college and for introduction of new courses, to take all necessary steps to prevent commercialization of technical institutions. According the powers and functions assigned to AICTE, laying down norms and standards for programmers and institutions, prescribing guidelines for admission of students and the charging of fees, inspecting and evaluating the institution periodically with a view to maintain standards and to provide recognition or withhold recognition of programmes and institutions. As part of this overall co-ordination and developmental responsibilities the AICTE will also give grants to institutions, for identified developmental purposes. In addition, the AICTE will promote innovation, research and development, linkages with industries and greater access to technical education by women, handicapped and the weaker sections of the society. Now the question is what is technical education and what courses could be covered by the term. In Nachane Ashiwani Shivaram vs. State of Maharashtra, the Bombay high court speaking through Ashok Agarwal J. Held that the term covered all types of technical education and all type of medical education. Section 2(g) defines technical education; "means programmes of education, research and training in engineering technology, architecture, town planning, management pharmacy and applied arts and crafts and such other programmes or areas as the central government may, in consultation with the council, by notification in the Official Gazette, declare."

Section (h), further defines, Technical Institutions. It means "an institution, not begin a university, which offers courses or programmes of technical education, and shall include such other institution as central government may, in consultation with the

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22 The All India Council for Technical Education Act 1987
23 The All India Council for Technical Education Act 1987
council, by notification in the Official Gazette, declare as technical institutions. It is submitted that the scope of technical education has been widen, particularly after the passing of the Act 1987 and it include all types of technical and medical education.

In Inder Prakash case Justice Anand of Delhi High court impliedly relying upon Article 19(1)(g) instead of Article 19 1 (a), (b) and (c), 21 and 41 laid down. “where the right to pursue professional or technical studies, the completion of which would directly entitled a student to practice a profession, as in the present case, any improper interference in such a pursuit would attract the fundamental right to carry on the profession because the right to carry on the profession would be directly interfere with by such an improper Action. The court however, doubted whether every denial of an opportunity to carry out professional or technical education or studies would necessarily impinge on the fundamental right to carry on any trade or profession for which such technical or professional study may be pre-requisite”.

2.1.4. Legal Education

The Legal Education in any society is essential for eradication of social evil. The emergency of the concept of public interests litigation has paved the way for the court toward public policy as never before. These changes have spelt new opportunities and challenges for those who chose to embrace law as a profession. Gone on the days when these professional was the bastion of a specific social class whose member armed with a foreign degree, return to the country to inherit the flourishing legal practice of there fathers. A lawyer to day like his counterparts, in other field, is a thorough professional.

The Bar Council of India as well as the universities has a duty to lie down and improve the standards of legal education. Both the bodies have different powers to play in respect of affiliation, inspection, teaching and evaluation. Bar Council of India constituted under section 4 of the Advocate Act 1961 is an apex body for entire legal profession in India. Before the enactment of the Advocate Act 1961, the universities were prescribing their own subjects for the law examination, but now, they are bound by the policy of the Bar Council of India, which might not recognize a law degree if it is not in consonance with its policy. Section 7 (i) of the Advocates Act 1961 provides that the function of Bar Council of India is to recognize universities whose degree in

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24 1976, SCC (2) 977
law shall be qualification for enrolment as an advocate and for that purpose to visit and inspect universities or cause the state bar council to visit and inspect universities in accordance with such directions as it may give in this behalf. Under Section 7(h) of the Act one of the functions of Bar Council of India is to promote legal education and to lay down standard of such education in consultation with the universities of India imparting such education. However, the domain of Bar Council of India is confine up to LL.B. as a matter of fact legal education in India comes within the jurisdiction of Bar Council of India (BCI), University Grants Commission (UGC) and the universities. While the Advocates Act 1961 invests the BCI with wide ranging power to prescribe standards of legal education for the practice of law; the UGC is also possessed of statuary power to co-ordinate standard of higher education including law.

The scope of this profession particularly with liberalization, industrialization and globalization has expanded manifold in the last one decade. The Bar Council of India may make rules for the minimum qualification required to admission to a course of degree of law in any recognized university. The standards of legal education have to be observed by the universities in India and the inspection of universities of that purpose.

Thus, as the demand of legal education has been increasing, the judiciary which is the third important wing of democracy is upholding the merit in admission to such courses. In Rajesh Namdeo v. Awadh Pratap Sing Vishwavidyalaya, Rewa where the Madhya Pradesh High Court upheld Rule 5 of part IV of the Bar Council of India, which provided that admission of students to the course of instruction in law shall ordinarily be on the basis of merit. It further provides that student shall be admitted to the course of instruction in law unless he has, inter alia obtained 40 % marks in the qualifying examination for admission. In a significant judgement Supreme Court in Santan Gauda v. Berhampur University held that candidate passing M.A.Examination with 36% in the aggregate is duly qualified to be admitted to law course. In the instant case the candidate appellant was admitted to the law course and when he was in the final year and at the stage of the declaration of his results of the pre law and inter-law examinations the university raised the objection to his so-called ineligibility to be

25 Section 49, the Advocate Act, 1961.
26 AIR 1988 M.P.139.
27 AIR 1990 SC 1075
admitted to the course. Sawant J, speaking for the court held that the university is not justified in refusing to declare the appellant’s result of the pre-law and the inter-law examinations. The university was directed to declare the said results as well as the result of final examination if the appellant has appeared for the same.

Another aspect of legal education was considered by the Supreme Court where the issues before the court was whether the right to education and the right to educational institutions to receive the government aid if there is provision of grant in aid, will operate even in higher education, and right to legal education included under Article 21 in view of Article 39 A and pointed out that this aspect never arose for consideration on any previous occasion nor was it considered in Unni Krishnan case.

In view of the directive principle in Article 39 A to assure that the operation of the legal system promotes justice and to provide for legal aid so that justice is not denied to any citizens by reason of economic or other disabilities and the fundamental right to free legal aid and speedy trial. The court further held that Article 21 read with Article 39 A of the Constitution, imposed the duty on the state to afford grant-in-aid to recognized private law colleges. However, if the eligibility criteria have no relation to the object sought to be achieved or are discriminatory, courts are not reluctant to interfere.

2.2 Education Policies and System: A comparative study of Western and Eastern Countries.

The right to education has been guaranteed in some form or the other, either explicitly or implicitly, in many of the constitutions of the world. The previous and historical development of right to education and educational system of different countries such as U.S.A, England, Canada, Japan, Nepal, Pakistan, Bangladesh and some other countries of the world are being analysed.

2.2.1 United States of America

The history of education in the United States, often called foundation of education, is the study of educational policy, formal institutions and informal learning from the 17th to 21st century. The first American school opened during the colonial era. As the colonies began to develop, many in New England began to institute mandatory

38 Section 49, the Advocate Act, 1961.
39 AIR 1993 SC 2178
education schemes. In 1642 the Massachusetts Bay Colony made “proper” education compulsory. Similar statues were adopted in other colonies in the 1640s and 1650s. Virtually all of the schools opened as a result were private. The nation’s first institution of higher learning, Harvard University, was founded in 1636 and opened in 1638.

Religions denomination establishes most early universities in order to train ministers. In England there was emphasis on literacy to make people read the Bible. Most of the universities which opened between 1640 and 1750 from the contemporary Ivy League, including Harvard, Yale, Columbia, Princeton, Brown, the University of Pennsylvania, and several others. After the American Revolution, the new national government passed the Land Ordinance of 1785, which set aside a portion of every town ship in the unincorporated territories of United States for use in education. The provisions of the law remained unchanged until the Homestead Act of 1862. After the Revolution, an emphasis was put on education, especially in the northern states, which made the US as one of the highest literacy rates at the time.

Each state in United States has its own independent system of education, and there is no national system. The United States government has given vast tracts of the public domain, as well as large sums of money, to the various states, out of which have been created, in some cases, large school funds which yield a permanent income. Up to 1876 the United States had granted nearly eighty million acres of land for educational purposes. The Bureau of Education is obliged to rely on such statistics as its correspondents are willing to give, yet its work has been so valuable, its information so extensive and accurate, and its educational purpose so high, that cordial cooperation is generally given. This annual report is the finest issued by any nation in the world.

More significantly, through laws and new Constitutions, white legislatures systematically disfranchised most African Americans and tens of thousand of poor whites in each Southern state from 1890 – 1908. As one result, white dominated legislatures consistently under funded schools for African American. Most rural schools ran shortened schedule because children were needed in framing due to the African American community’s own tremendous efforts with the help of some

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Northern financial support in establishing schools and colleges that 30,000 African American teachers were trained and a majority of black in the south were literate.

By 1900, 31 states required children to attend school from the age of 8-14 years old. As a result by 1910, 72 percent of American children attended school. Half the nation's children attended one-room schools. In 1918, every state requires students to at least complete elementary education. The public school focused on assimilation, immigrants who were not protestant organized to develop their own schools. This was also an effort to create a social environment more supportive than the often hostile native who resented immigration by Catholics, in addition. Catholic communities raised to built colleges and seminaries to train teachers and religious head to their churches. The most numerous early Catholics were Irish immigrants in the early to mid 19th century, followed by Germans, Italians and other Catholics from Southern and Eastern Europe. By the time latter groups immigrated, Irish immigrants and their descendents had often built an extensive network of Churches and Schools in many cities. The Irish dominated the American Catholic Church for generations. Another important recent reform in America's education system came under the 'No Child Left Behind Act' of 2001. The current education structure in the United States has been compared with the development of fast food-standardized, pre-packaged and unhealthy. Political Acts such as No Child Left Behind that are intended to improve education tend to reinforce the Philosophy of education that knowledge is something that can be delivered in a uniform and efficient manner. This undermines the roles of both the students and teachers.

2.2.2. England

Education in England is the responsibility of the Department for children, schools and families and the Department for Innovation, Universities and skills department of the government of the United Kingdom. Until June 2007, education in England was the responsibility of the Department for Education and Skills. At a local level the authorities take responsibility for implementing policy for public education and state schools. There is also a strong tradition of independent schooling. In England, the full time education is compulsory for all children aged between 5 and 16.

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(inclusive) across England. This can be provided by state, schools, independent
schools, or home schoolings.\footnote{www.wikipedia.org. visited on 29.08.2012.}
The history of state sponsored education in England before 1950.\footnote{www.homeeducation.org.uk. visited on 29-08-2012.}
From medieval times, the Church providing education to all classes of society, in monasteries, at public, orphanages, charity schools, grammar schools, church foundations, or by the chaplains to private households. Until as late as the nineteenth century, all University fellows and many schoolmasters were expected or required to be in holy orders. Schoolmistress typically taught "the three Rs" (reading, writing and arithmetic) in dame schools, charity schools, or informal villages schools. The Church of England resisted early attempts for the state to provide secular education, and church schools still are an integral part of the state school system. In August 1833, the U.K. parliament voted sums of money each year for the construction of schools for poor children, the first time state had become involved with education in England and Wales, whereas the programme of universal education in Scotland began in 1561. A meeting in Manchester in 1837, chaired by Mark Phillips, led to the creation of Lancashire Public School’s Association. The Association proposed that non-denominational schools should be funded from local taxes. In 1839 government grants for the construction and maintenance of schools were switched to voluntary bodies, and became conditional on a satisfactory inspection.

The Grammar Schools Act expended Grammar School curriculum from classical studies to include science and literature in 1840. Before 1870, education was largely a private affair, with wealthy parents sending their children to fee-paying schools, and others using whatever local teaching were made available. The Education Act of 1870.

It was with the Education Act of 1870, also known as the "Forster Act", that we have the real birth of the modern system of education in England. This not only gave rise to a national system of state education but also assured the existence of a dual system - voluntary denominational schools and denominational state schools. The Act required the establishment of elementary schools nationwide. These were not to replace or duplicate what already existed but supplement those already run by the churches, private individuals and guilds. Under the Elementary Education Act 1880, education became compulsory from the ages of 5 to 10. The Free Education Act 1891 provided for the state payment of school fees up to ten shillings per week. The Elementary
Education Act 1893 raised the school leaving age to 11 and later to 13. The Elementary Education (Blind and Deaf Children) Act of the same year extended compulsory education to blind and deaf children, and made provision for the creation of the special schools. The ‘Balfour’ Education Act 1902 created local education authorities (LEAs), who took over responsibility for board schools from the school boards. Grammar schools also became funded by the LEA. The Act was particularly significant as it allowed for all schools, including denominational schools, to be funded through rates (local taxation). The Fisher Education Act 1918 made secondary education compulsory up to age 14 and gave responsibility of secondary schools to the states. Under the Act, many higher elementary schools and endowed grammar schools sought to become state funded central schools or secondary schools. However, most children attended primary schools up to the age of 14 years, rather than going to separate schools for secondary education. After passing the 1929 Local Government Act, Poor Law Schools became state funded elementary schools. The Butler Education Act of 1944 established the Tripartite System, and defined the modern split between primary and secondary education at age 11. Education was made compulsory up to age 15 in 1947, the post-war period.

Due to the perceived failures of the tripartite system, the labour government in 1965 requested proposal from all the UK’s regions for them to move from the tripartite system to the Comprehensive System. Note that was an optional reform for the region and regions still having the tripartite system.

Education was made compulsory up to age 16 in 1972. A generation of “ROSLA" (Raising of the school leaving age ) children caused significant problems for teachers, following the 1979 general Elections, the conservative party regained the power in the government, and made two main changes in this period.

The Education Reform Act of 1988

The 1988 Education Reform Act made considerable changes to the education system. These changes were aimed at creating a 'market' in education with schools competing with each other for 'customers' (pupils). The theory was that bad schools would lose pupils to the good schools and either has to improve, reduce in capacity or close. The National Curriculum was introduced, which made it compulsory for schools to teach certain subjects and syllabus. Previously the choice of subjects had been up to

the school. National curriculum assessments were introduced at the Key Stages 1 to 4 (ages 7, 11, 14 and 16 respectively) through what were formerly called Standard Assessment Tests (SATS). At Key Stage 4 (age 16), the assessments were made from the GCSE exam. League tables began showing performance statistics for each school. These are regularly published in newspapers and on the internet, so parents and the public can see results for schools in each area of the country. Formula funding was introduced, which meant that the more children a school could attract to it, the more money it got. Open Enrolment and choice for parents were brought back, so that parents could choose or influence which school their children went to. Schools could, if enough of their pupils' parents agreed opt out of local government control; becoming grant maintained schools and receiving funding direct from central government. The government offered more money than the school would get usually from the local authority as an enticement. This was seen as a political move given that often local authorities were not run by the governing Conservative Party whereas central government propounded new Labour's Educational Policies from 1997.

During the 1997 General Election, the Labour party mantra was "Education, Education, Education", a reference to their conference slogan. Winning the election returned them to power, but New Labour's political ideology meant that many of the changes introduced by the Conservatives during their time in power remained intact. They began changing the structure of the school and higher education systems. In 1997 there were 196 of these schools. In August 2002 there were 1000. By 2006 the plan is to have 2000, and the goal is to make all secondary schools specialist eventually. The Beacon Schools programme was established in England in 1998. Its aim was to identify high performing schools, in order to help them form partnerships with each other and to provide examples of effective practice for other schools. The programme was replaced in August 2005 with more broadly based programmes; the Leading Edge Partnership programme (for secondary schools) and Primary Strategy Learning Networks (PSLNs) (at the primary level). A new grade of Advanced Skills Teacher was created, with the intention that highly skilled teachers would be paid more if they accepted new posts with outreach duties beyond their own schools. City Academies were introduced. These are new schools, built on the site of, or taking over from existing failing schools. A city academy is an independent school within the state

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38 www.wikipedia.org/education_inengland. visited on 29.08.12
system. It is outside the control of the local education authority and set up with substantial funding from interested third parties, which might be businesses, charities or private individuals. Education Action Zones were introduced, which deprived areas are run by an Action forum of people within that area with the intention of making that area's schools better. Vocational qualifications were renamed/restructured as follows:

- GNVQs became Vocational GCSEs and AVCEs.
- NVQs scope expanded so that a degree-equivalent NVQ was possible.

The New Deal was introduced, which made advisors available to long-term unemployed (in the UK this is defined as being unemployed for more than 6 months) to give help and money to those who want to go back into Education. Introduced Literacy and Numeracy Hours into schools, and set targets for literacy and Numeracy. Set Truancy targets. Set a maximum class size of 30 for 5-7 year olds. Introduced the EMA, (Education Maintenance Allowance), which is paid to those between 16 and 18 as an enticement to remain in full-time education and get A-Levels/AVCEs.

In 2003 a green paper entitled Every Child Matters was published. It built on existing plans to strengthen children's services and focused on four key areas: Increasing the focus on supporting families and carers as the most critical influence on children's lives Ensuring necessary intervention takes place before children reach crisis point and protecting children from falling through the net. Addressing the underlying problems identified in the report into the death of Victoria Climbié - weak accountability and poor integration ensuring that the people working with children are valued, rewarded and trained. The green paper prompted a wide debate about services for children, young people and families. There followed a wide consultation with those working in children's services, and with parents, children and young people. The Government published Every Child Matters: the Next Steps in November 2004 and passed the Children Act 2004, providing the legislative spine for developing more effective and accessible services focused around the needs of children, young people and families. In January 2007 Education Secretary Alan Johnson announced plans to extend the school leaving age in England to eighteen by 2013. This would raise the leaving age for the first time since the last raise in 1972, when compulsory education was extended until sixteen. This change will include training such
as apprenticeships and work based training rather than exclusively offering continued academic learning\textsuperscript{39}.

2.2.3. Canada

The role of religion in Canadian education has been controversial for centuries. The first schools in New France were operated by the church. In the early nineteenth century the colonial governments moved to set up publicly funded education systems. However, soon religious divisions became problematic. At the time religious study was considered an integral part of education, but Protestants and Catholics were deeply divided over how this education should be delivered. In Upper Canada the Catholic minority rejected the Protestant practice of Biblical study in schools, while in Lower Canada the Protestant minority objected to the education system instilling Roman Catholic dogma. Thus in both these areas two schools systems were established, a Catholic and a Protestant. Upon Confederation these schools systems were enshrined in the British North America Act, 1867. British Columbia established a non-sectarian school system in 1872. Education in Canada is provided, funded and overseen by federal, provincial, and local governments. Education is with in provincial jurisdiction and the curriculum is overseen by the province. Education in Canada is generally divided into Elementary (primary schools, public schools), followed by Secondary (high school) post secondary (university, colleges). With in the provinces under the ministry of education, there are district schools broad administrating the educational programmes. Education is compulsory up to the age of 16 in every province in Canada, except for Ontario and New Brunswick, where the compulsory age is 18. In some province early leaving exemptions can be granted under certain circumstances at 14. Canada generally has 190 schools days in the year, officially starting from September (after Labour Day) to the end of June (usually the last Friday of the month, Wednesday in some Ontario schools)\textsuperscript{40}.

Elementary, secondary, and post-secondary education in Canada is a provincial responsibility and there are many variations between the provinces. Some educational fields are supported at various levels by federal departments. The Department of Indian and Northern Affairs Canada is responsible for the education of First Nations\textsuperscript{41}.

\textsuperscript{39}School learning age set to be 18, BBC News. Website: www.bbc.co Visited on 29-08-2012.
\textsuperscript{40}www.wikipedia.org/educationin_canda visited on 30-08-2012.
\textsuperscript{41}INAC Canada Website visited on 30-08-2012.
Vocational training can be subsidized by the Learning branch of Human Resources and Skills Development Canada (a federal department)\(^42\). Currently the Junior Kindergarten (or equivalent) official program exists only in Ontario. Kindergarten (or its equivalent) is available in every province, but provincial funding and the number of hours provided varies widely. Starting at grade one, at age six or seven, there is universal publicly funded access up to grade twelve (or equivalent). Dependent on the province the age of mandatory entry is at 4–7 years. Children are required to attend school until the age of sixteen (eighteen in Ontario and New Brunswick). About one out of ten Canadians does not have a high school diploma – one in seven has a university degree – the adult population that is without a high school diploma is a combination of both immigrant and Canadian-born. In many places, publicly-funded high school courses are offered to the adult population. The ratio of high school graduates versus non diploma-holders is changing rapidly, partly due to changes in the labour market that require people to have a high school diploma and, in many cases, a university degree. Canada spends about 7% of its GDP on education. Since the adoption of section 23 of the Constitution Act, 1982, education in both English and French has been available in most places across Canada (if the population of children speaking the minority language justifies it), although French Second Language education/French Immersion is available to Anglophone students across Canada. According to an announcement of Canadian Minister of Citizenship and Immigration, Canada is introducing a new, fast-track system to let foreign students and graduates with Canadian work experience become permanent eligible residents in Canada.

2.2.4. Japan

Japan is known for its well-maintained education system and excellent achievement. In successive international tests of mathematics, Japanese children consistently rank at or near the top. The Ministry of Education, culture, sports, science and technology (MEXT) is responsible for educational administration\(^43\). Formal education in Japan began with the adoption of Chinese culture in the 6th century. Buddhist and Confucian teachings as well as sciences, calligraphy, divination and literature were taught at the courts of Asuka, Nara and Heian. Scholar officials were chosen through an Imperial examination system. But contrary to China, the


\(^{43}\)www.wikipedia.org/education_in_japan visited on 31.08.2012
system never fully took hold and titles and posts at the court remained hereditary family possessions. The rise of the bushi, the military class, during the Kamakura period ended the influence of scholar officials, but Buddhist monasteries remained influential centers of learning. In the Edo period, the Yushima Seidō in Edo was the chief educational institution of the state; and at its head was the Daigaku-no-kami, a title which identified the leader of the Tokugawa training school for shogunate bureaucrats. Under the Tokugawa shogunate, the daimyo vied for power in the largely pacified country. Since their influence could not be raised through war, they competed on the economic field. Their warrior-turned-bureaucrat Samurai elite had to be educated not only in military strategy and the martial arts, but also agriculture and accounting. Likewise, the wealthy merchant class needed education for their daily business, and their wealth allowed them to be patrons of arts and science. But temple schools (terakoya) educated peasants too, and it is estimated that at the end of the Edo period 50% of the male and 20% of the female population possessed some degree of literacy. Even though contact with foreign countries was restricted, books from China and Europe were eagerly imported and Rangaku ("Dutch studies") became a popular area of scholarly interest. After the Meiji Restoration of 1868, the methods and structures of Western learning were adopted as a means to make Japan a strong, modern nation. Students and even high-ranking government officials were sent abroad to study, such as the Iwakura mission. Foreign scholars, the so-called o-yatoi gaikokujin, were invited to teach at newly founded universities and military academies. Compulsory education was introduced, mainly after the Prussian model. By 1890, only 20 years after the resumption of full international relations, Japan discontinued employment of the foreign consultants.

The rise of militarism led to the use of the education system to prepare the nation for war. The military even sent its own instructors to schools. After the defeat in World War II, the allied occupation government set an education reform as one of its primary goals, to eradicate militarist teachings and "democratize" Japan. The education system was rebuilt after the American model. The lower secondary school covers grades seven, eight, and nine, and children between the ages of roughly 12 and 15, with increased focus on academic studies. Although it is still possible to leave the formal

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45 Ibid.
education system after completing junior high school and find employment, fewer than 4% did so by the late 1980s.

Like elementary schools, most junior high schools in the 1980s were public, but 5% were private. Private schools were costly, averaging 558,592 per student in 1988, about four times more than the 130,828 that the ministry estimated as the cost for students enrolled in public junior high school. Teachers often majored in the subjects they taught, and more than 80% graduated from a four-year college. Classes are large, with thirty-eight students per class on average, and each class is assigned a homeroom teacher who doubles as counsellor. Unlike elementary students, junior high school students have different teachers for different subjects. The teacher, however, rather than the students, moves to a new room for each fifty or forty-five minute period.\(^{46}\) Instruction in junior high schools tends to rely on the lecture method. Teachers also use other media, such as television and radio, and there is some laboratory work. By 1989 about 45% of all public junior high schools had computers, including schools that used them only for administrative purposes. Classroom organization is still all course contents are specified in the Course of Study for Lower-Secondary Schools. Some subjects, such as Japanese language and mathematics, are coordinated with the elementary curriculum. Others, such as foreign-language study, begin at this level; though from April 2011 English became a compulsory part of the elementary school curriculum. The junior school curriculum covers Japanese language, social studies, mathematics, science, music, fine arts, health, and physical education. All students are also exposed to industrial arts and homemaking. Moral education and special Activities continue to receive attention. Most students also participate in one of a range of school clubs that occupy them until around 6pm most weekdays (including weekends and often before school as well), as part of an effort to address juvenile delinquency. A growing number of junior high school students also attend juku, private extracurricular study schools, in the evenings and on weekends. A focus by students upon these other studies and the increasingly structured demand upon students' time has been criticized by teachers and in the media for contributing to a decline in classroom standards and student performance in recent years. The ministry recognizes a need to improve the teaching of all foreign languages, especially English. To improve instruction in spoken English, the government invites many young native speakers of English to Japan to

\(^{46}\) www.wikipedia.org/education_in_japan visited on 31.08.2012
serve as assistants to school boards and prefectures under its Japan Exchange and Teaching Program. Beginning with 848 participants in 1987, the program grew to a high of 6,273 participants in 2002. However, the program has been on the decline in recent years due to several factors, including shrinking local school budgets funding the program, as well as an increasing number of school boards hiring their foreign native speakers directly or through lower-paying, private agencies.

High school

Even though upper-secondary school is not compulsory in Japan, 94% of all junior high school graduates entered high schools as of 2005. Private upper-secondary schools account for about 55% of all upper-secondary schools, and neither public nor private schools are free. The Ministry of Education estimated that annual family expenses for the education of a child in a public upper-secondary school were about 300,000 yen in the 1980s and that private upper-secondary schools were about twice as expensive. Vocational-technical programs include several hundred specialized courses, such as information processing, navigation, fish farming, business English, and ceramics. Business and industrial courses are the most popular, accounting for 72% of all students in full-time vocational programs in 1989. Training of disabled students, particularly at the upper-secondary level, emphasizes vocational education to enable students to be as independent as possible within society. Vocational training varies considerably depending on the student's disability, but the options are limited for some. It is clear that the government is aware of the necessity of broadening the range of possibilities for these students. Advancement to higher education is also a goal of the government, and it struggles to have institutions of higher learning accept more students with disabilities. When it comes to level of Universities and Colleges, as of 2005, more than 2.8 million students were enrolled in 726 universities. At the top of the higher education structure, these institutions provide a four-year training leading to a bachelor's degree, and some offer six-year programs leading to a professional degree. There are two types of public four-year colleges: the ninety-six national universities (including the Open University of Japan) and the thirty-nine local public universities, founded by prefectures and municipalities. The 372 remaining four-year colleges in 1991 were private. Based on 2011 Times Higher Education - QS World

47 http://www.mofa.go.jp/j_info/visit/jett/participants.pdf
University Rankings, there are 33 Japanese Universities in the top 100 Asian University Rankings.48

2.2.5. Nepal

Modern education in Nepal began with the establishment of the first school in 1853; this school was only for the members of the ruling families and their courtiers. Schooling for the general people began only after 1951 when a popular movement ended the autocratic Rana family regime and initiated a democratic system. In the past 50 years, there has been a dramatic expansion of education facilities in the country. As a result, adult literacy (age 15+) of the country was reported to be 48.2% (female: 34.6%, male: 62.2%) in the Population Census, 2001, up from about 5% in 1952–54. Beginning from about 300 schools and two colleges with about 10,000 students in 1951, there now are 49,000 schools (including higher secondary), 415 colleges, five universities, and two academies of higher studies. Altogether 7.2 million students are enrolled in those schools and colleges who are served by more than 2,22,000 teachers.49

The Ministry of Education is the apex body responsible for initiating and managing education Activities in the country. The Minister of Education, assisted by the State/Assistant Minister, provides political leadership to the Ministry. The Ministry, as a part of the government bureaucracy, is headed by the Secretary of Education and consists of the central office, various functional offices, and offices located at the regional and district levels. The Central Office or the Ministry is mainly responsible for policy development, planning and monitoring, and evaluation regarding different aspects of education. With a purpose of bringing education administration nearer to the people, the Ministry has established five Regional Directorates and 75 District Education Offices in five development regions and 75 districts respectively. These decentralized offices are responsible for overseeing nonformal and school-level education Activities in their respective areas. Regional Directorates are mainly responsible for coordinating and monitoring and evaluation of education Activities and the District Education Offices are the main implementing agencies.

2.2.6. Pakistan

Education in Pakistan is overseen by the government's Ministry of Education and the provincial governments, whereas the federal government mostly assists in curriculum development, accreditation and in the financing of research. Article 25-A of Constitution of Pakistan obligates the state to provide free and compulsory quality education to children of the age group 5 to 16 years. "The State shall provide free and compulsory education to all children of the age of five to sixteen years in such a manner as may be determined by law."\(^50\).

Pakistan's poor performance in the education sector is mainly caused by the low level of public investment. Public expenditure on education has been 2.2 percent of GNP in recent years, a marginal increase from 2 percent before 1984-85. In addition, the allocation of government funds is skewed towards higher education, allowing the upper income class to reap majority of the benefits of public subsidy on education. Lower education institutes such as primary schools suffer under such conditions as the lower income classes are unable to enjoy subsidies and quality education. As a result, Pakistan has one of the lowest rates of literacy in the world, and the lowest among countries of comparative resources and socio-economic situations\(^51\). As of year 2009, Pakistan faces a net primary school attendance rate for both sexes of 66 per cent. A figure below estimated world average of 90 per cent\(^52\).

According to the Quality Standard World University Ranking 2010 there are two Pakistani universities among top 200 Technology Universities of the World. Eleven Pakistani other universities including INSTITUTE OF SPACE TECHNOLOGY (IST), Quaid-e-Azam University, National University of Science & Technology, University of Karachi, ranked among World Top 1000 Universities of world, according to World Ranking of Universities\(^53\).

2.2.7. Bangladesh

The educational system in Bangladesh is three-tiered and highly subsidized. The government of Bangladesh operates many schools in the primary, secondary, and higher secondary levels. It also subsidizes parts of the funding for many private

\(^{50}\) http://www.moe.gov.pk/Pakistan%20Education%20Statistics%202007-08. Visited on 01-09-2-12.


\(^{52}\) UNESCO Institute for Statistics. "Adjusted net enrolment ratio in primary education".

schools. In the tertiary education sector, the government also funds more than 15 state universities through the University Grants Commission\textsuperscript{44}.

The overall responsibility of management of primary education lies with the Primary and Mass Education Division (PMED), set up as a separate division with the status of a Ministry in 1992. While the PMED is involved in formulation of policies, the responsibility of implementation rests with the Directorate of Primary Education (DPE) headed by a Director General. The primary and secondary levels of education are controlled by the seven General Education Boards, each covering a region. The boards' headquarters are located in Barisal, Comilla Chittagong, Dhaka, Dinajpur Jessore, Rajshahi and Sylhet. In addition, the Madrasah Education Board covers religious education in government-registered Madrasahs, and the Technical Education Board controls technical and vocational training in the secondary level.

At the tertiary level, universities are regulated by the University Grants Commission. The colleges providing tertiary education are under the National University. Each of the medical colleges is affiliated with a public university. Universities in Bangladesh are autonomous bodies administered by statutory bodies such as Syndicate, Senate, Academic Council, etc. in accordance with provisions laid down in their respective Acts.

2.2.8. Burma

The educational system of Burma is operated by the government Ministry of Education. Universities and professional institutes from upper Burma and lower Burma are run by two separate entities, the Departments of Higher Education (Lower Burma and Upper Burma), whose office headquarters are based in Yangon and Mandalay respectively. The education system is based on the United Kingdom's system, due to nearly a century of British and Christian presences in Burma. "The first Government high school was founded by the British colonial administration in 1874. Two years later, this Government High School was upgraded and became University College, Rangoon.\textsuperscript{55}" Nearly all schools are government-operated, but recently, there has been an increase in privately funded schools (which specialise in English). Schooling is compulsory until the end of elementary school, probably about 9 years

\textsuperscript{44} http://en.wikipedia.org/wiki/Education_in_Bangladesh \par
\textsuperscript{55} http://en.wikipedia.org/wiki/Education_in_Burma visited on 03-09-2012.
old, while the compulsory schooling age is 15 or 16 at international level. The literacy rate of Burma, according to the UNESCO Institute of Statistics (2005) stand at 89.7% (males: 93.7%, females: 86.2%), although there is dispute over the accuracy of the provided literacy rates. The annual budget allocated to education by the government is low; only about 1.2% is spent per year on education. English is taught as a second language from kindergarten.

- Article 33 says: When in particular, the state shall make provisions for free and compulsory primary education.
- Article 44 says: The State shall pay special attention to the young and promote their education.
- In 2010, 695 Burmese international students studied in the United States, particularly in private liberal arts colleges.

2.2.9. France

All educational programmes in France are regulated by the Ministry of National Education (officially called Ministère de l'Éducation national, de la Jeunesse et de la Vie associative). The head of the ministry is the Minister of National Education, one of the highest-ranking officials in the cabinet. As of August 2012, the Minister is Vincent Peillon. Schooling in France is mandatory as of age 6, the first year of primary school. Many parents start sending their children earlier though, around age 3 as nursery classes (maternelle) are usually affiliated to a borough's primary school. Some even start earlier at age 2 inpré-maternelle or très petite section classes, which are essentially day-care centres. The last year of maternelle, Grande section is an important step in the educational process as it is the year in which pupils are introduced to reading.

2.2.10. Germany

The responsibility for the German education system lies primarily with the states (Länder) while the federal government plays only a minor role. Optional Kindergarten (nursery school) education is provided for all children between three and six years of age, after which school attendance is compulsory, in most cases

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56 Quizon, Derek (25 July 2011). "Liberal arts colleges attract Burmese students". USA Today.
for 11 to 12 years\textsuperscript{58}. The system varies throughout Germany and decides its own educational policies in their states (Land). Most children, however, first attend Grund School from the age of six to ten or twelve. The German preschool is known as a Kindergarten (plural Kindergarten) or Kita, short for Kindertagesstätte (meaning "children's daycares center"). Children between the ages of 3 and 6 attend Kindergarten, which are not part of the school system. They are often run by city or town administrations, churches, or registered societies, many of which follow a certain educational approach as represented, e.g., by Montessori or Region Emilio or "Berliner Bildungsprogramm", etc. Forest kindergartens are well established. Attending a Kindergarten neither mandatory nor free of charge, but can be partly or wholly funded, depending on the local authority and the income of the parents. All caretakers in Kita or Kindergarten must have a three year qualified education, or are under special supervision during training. Kindergarten can be open from 7 a.m. to 5 p.m. or longer and may also house a Kinderkrippe, meaning crèche, for children between the ages of eight weeks and three years, and possibly an afternoon Hort (often associated with a primary school) for school-age children aged 6 to 10 who spend the time after their lessons there. Alongside nurseries, there are day-care nurses (called Tagesmutter, plural Tagesmütter – the formal, gender-neutral form is Tagespflegeperson(en)) working independently from any pre-school institution in individual homes and looking after only three to five children typically up to three years of age. These nurses are supported and supervised by local authorities.

The school year starts after the summer break (different from state to state, usually end/mid of August) and is divided into two terms. There are typically 12 weeks of holidays in addition to public holidays. Exact dates differ between states, but there are generally 6 weeks of summer and two weeks of Christmas holiday. The other holiday periods are given in spring (usually around Easter Sunday) and autumn (the former "harvest holiday", where farmers used to need their children for field work). Schools can also schedule two or three special days off per term.

2.3 Evolution of Education System in India

The education in India has a rich and interesting history. It is believed that in ancient days the education was imparted orally by the sages and the scholars and the

\textsuperscript{58} National summary sheets on education system in Europe and ongoing reforms -- Germany.

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information was passed on from one generation to the other. Masses remained away from formal education, even when everything was put together in the epics – 'Vedas', 'Smritis', 'Sutras', and 'Upanishads', because of the medium being Sanskrit. Vedas have their own characteristic features. Through them, one is able to know about the culture, civilization, life and philosophy of people in India. Vedas symbolise the chief objective of human life which has been deliverance from this world of births and deaths. The Indian Philosophy of life never has accepted life as purposeless. The deliverance of soul has been the chief objective of this philosophy of life from time immemorial. This fact is very clear from the study of the Rig-Veda. The substance of the knowledge, learning and research work of Rishis-Munis (sages and saints) was put in the form of rituals for the benefit of common-men. Certain practices/guidelines were shaped in the form of rituals by intellectuals and prescribed for the benefit of common men. These rituals and guidelines inspired people to lead a harmonious and healthy life.

India has a long tradition of inquiry and articulation of concepts of universe, self, role of state, economy, social order and other related matters. The methodologies adopted were subjective and objective and included observation, conceptualisation, verification, articulation and teaching.\textsuperscript{59} India had gone further in science than any other country before the modern-era especially in Mathematics, Astronomy and Chemistry, Metallurgy and Physics. Indian scientists discovered and formulated and anticipated by force of reasoning or experiment some of the scientific ideas and discoveries which Europe arrived at much later. India was well equipped in surgery and its system of medicine survives to this day. In India education has always occupied a place of prominence in Indian History.

2.3.1. Education in Ancient Period.

Education in Ancient India began around the 3\textsuperscript{rd} century B.C. The Vedas, Puranas, Ayurveda, Yoga, Kautilya's Arthasattra are only some of the milestones that show the traditional Indian Knowledge system. In the past, because of the method of education, education remained confined within a very small section of the society. In absence of any written material priestly schools in India had devised a most remarkable and effective system of transferring knowledge to succeeding generations in form of

hymns. The Gurukula System was an important concept associated with pursuit of studies in ancient India. A gurukula was a place where a teacher or a guru lived with his family and establishment and trained the students in various subjects. The gurukulas usually existed in forests. Admission into the gurukulas was not an easy process. A student had to convince his guru that he had the desire, the determination and the required intelligence to pursue the studies and had to serve him for years before he was admitted into the school and initiated into the subjects. Students in the gurukulas were subjected to rigorous discipline. They had to live in a very austere environment and practice yoga and meditation under the supervision of the master and also perform many menial jobs for the master's household. On specific occasions they had to undergo fasting as a necessary means of purification and mastery of the body and mind. Sometimes if the Guru traveled to other places, the students accompanied him. Girls were not admitted to the Gurukulas. They were not even allowed to study like the boys. Ancient India had some educated women, like Maitreyi, wife of Yajnavalkya, who were generally related to some seers and sages or wives of some great kings. But it is doubtful if ordinary women in ancient India had any role other than performing household duties and procreation. Lower caste people were not permitted to study any subject outside their occupation. In the early Rigvedic period, some gurus were broadminded enough to admit some low caste children as their students, as is evident from the story of Satyakama Jabala who was born to a free woman and Yajnavalkya who came from a very humble background. But the trend changed completely during the later Vedic period, so much so that even the mere Act of hearing the Vedic hymns by low caste men was declared a sacrilege and great crime. Ancient India had a number of universities and centres of education, where not one guru but several lived together and taught to groups of students different subjects. The emergence of Buddhism and the migration of gurus to towns and cities contributed to this new movement. Hinduism emphasizes the importance of verification of truth through personal experience. It regards the external world as a great illusion, but does not discourage those who want to study it in order to realize the nature of external reality. In ancient India a number of subjects other than religion were taught to students as a part of their occupational study or even general study. These included subjects such as mathematics, medicine, metallurgy, magic, music, art of warfare, sculpting, temple building, commerce, pottery, weaving and so on. Since the occupations were based upon castes, children were initiated into the secrets of their traditional vocations from a very early age.
Few of most important universities of ancient India were Taxila (being the first university of world established in Seventh century B.C.), Vikramshila University and Nalanda University (built in 4 A.D). Huan Tsang in his records mentioned the University of Taxila to be at par with Nalanda and Vikramshila Universities. These institutions were considered to be the best Universities of its times in the subcontinent and an honour to ancient Indian educational system. Takshila University was famous for medical studies. Varanasi was famous for religious teachings. In the South, Kanchi was famous for its studies while the Vallabhi University was no less. There was a galaxy of eminent teachers like Panini- well known grammarian, Kautilya- the minister of Chandragupta Maurya and Charaka – a medical teacher of repute. Nalanda university - Nalanda was supposed to be the highest learning centre not just for India, but also for the entire South Asia. Students from foreign countries like China, Japan, Korea used to come here for higher studies. It had eight colleges, one of it having four storied building and around 10,000 students and teachers on its roll cards. It was one of the earliest examples of residential cum learning complex.

Buddhism and Jainism overthrew the dominance of classical Vedic education by the end of the eighth century A.D, forcing education beyond the confines of hermitages. There after, several learned Brahmans started Pathsalas (schools) in important towns where they received patronage. Therefore, in ancient India, education was intertwined with the religion from the location of Gurukulas to sections of the society from accessing education; the system of education was clearly not accessible to all persons.

2.3.2. Education in Medieval Period (Mohammedans period)

The Mohammedan era was at the beginning a setback for both the ancient Hindu and Buddhist learning in India. Many centres of education were destroyed. However, later sometimes some education institutions were founded under the patronage of the rulers and princes places like Agra, Delhi, Lucknow, Ajmer and Patna were famous centres for learning The institution came under two categories namely Maktabs and Madrasahs. The Maktab was a primary school connected to a mosque where religion and Koran were taught. A madrash was school of higher

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60 www.ugc.ac.in. visited on 22.08.2012
learning where higher education in science, Philosophy and law were taught. Many of this institutions were owned by communities but supported and aided by government of the day. Again an element of privatization is seen here.\(^63\) The encyclopedia of Education points out that in the higher schools, there was support by imperial giants and private bounty. All students were welcome and the schools become a common meeting ground for Hindu and Muslim youth. In a Maktab children of general people were given primary education. Along with religious education they were also taught reading writings and arithmetic. The children of rich people generally did not attend Maktabs. Their parents used to make private arrangement at the homes for their education.\(^64\) The children of royal families were taught in palaces under the strict control of Maulavis. The princesses were taught Arabic and Persian and Islamic religion. Besides, they were also taught political science, law, Jurisprudence and military science in order that they could be able administrator. It was compulsory for princes to receive military training. Thus the children of the higher class people were given both theoretical and practical education.

After completing the education in a Maktab, one could come to a Madarsa for higher education. During the Muslim period Madrasas were centres of higher learning. Madarsas were granted Jagirs (land and Villages) by the kinds of their maintenance. They used to receive other financial grants as well. Some learned scholar was appointed as head of the Madarsa and he used to carry on the teaching work with the assistance of other teachers appointed for the purpose. The king never interfered in the administration of a Madarsa. The rich people used to give financial assistance to Madarsas. There was no official person or department for supervising the work of Madarsas. Akbar alone accepted the state responsibility of promoting education. Other rulers used to take interest in it either for their personal prestige or for expansion of islam some hostels were also constructed along with Madarsas for providing residential accommodation to students.\(^65\)

Muslim education in India was started with religious aim. Maktabs used to fulfil this major objective. But in the Madarsas, along with religious objective education, practical affairs of life were also attended to. Akbar did a great deal in this direction.

\(^{64}\) Dr. S.P. Chaube, “History and Problems of Indian Education” Agrawal Publications, p.50.  
\(^{65}\) Ibid
and tried to give a practical shape also to education in an unprecedented manner. But
inspite of his efforts education remained religious in spirit and for. There was no
restriction for admission in a Madarsa. After completing Maktab education one could
go for higher education in a Madarsa. Islamic religion was compulsorily taught to all
the students. But Akbar stopped this tradition of compulsory Islamic education to all.
He provided study of Hindu religion and Philosophy also in many Madarsas. He
provided books for the same in some Madarsas of his days. But the Muslim students
were compulsorily taught Muslim religion. During the Vedic and Buddhist Periods on a
charge of discipline, a student was expelled from the Ashram or Vihar. But during the
Muslim period on a charge of Indiscipline the student was given severe corporal
punishment. Usually most of the students were obedient, but the unruly one, in located,
was severely punished. The teacher was the sole judge of the undisciplined behaviour
and the nature of punishment to be given for the same. Muslim literature made great
progress during the Muslim period. This was only natural. The Muslim rulers were very
conscious about their glory. So they had appointed some able persons to write the
history of their period. This type of education was prevailed in Mohammedan’s era.

2.3.3. Education in British Period

The educational system during the ancient India was most advanced in the
world at a particular time. However, with the development of modern government it
was highly detoriated and destructed due to various historical facts. The study of
educational system with special reference to the development of right to education is
generally started with the British period. However, it does not meant that there was no
organized educational system in our country at past. The discovery of the sea route to
India, in 1498, influenced the course of development of education in the Indian sub-
continent. Although many scholars have commented the British policy of introducing
modern education, it was not a spontaneous benevolent. The progress in
education was facilitated with a view to serving their vested interests, i.e. to train
Indians as clerks, managers and other subordinate workers to staff their vast politico
administrative machinery. However, education of the ‘Indian masses’ was largely
neglected, and by the beginning of nineteenth century, it was in shambles.

Lord Macaulay was authorized to fulfill the educational hopes and visions of Indians. It was fortunate for India, "that a man with the tastes, and the trainings, of Macaulay came to her shore as one vested with authority and that he came at the moment when he did, for that moment was very turning point of her (India) intellectual progress." By 1834 all educational action was at a stand, for the committee of public Instruction was evenly divided—one half were for the continuation of the existing systems of education in Arabic Persian and Sanskrit with stipends given to students and with subsidies given for the publications of text books. The other half were for imparting elementary education in vernacular languages and higher education in English. The cogency and force at Macaulay's celebrated view won the day and on 7th March 1835 the government of Lord William Bentick announced, that "The great object of the British Government ought to be the promotion of European Literature and Science among the natives of India".

Sir Charles Wood's Dispatch of 1854, famously known as the 'Manga Carta of English Education in India', recommended creating a properly articulated scheme of education from primary school to the University. It sought to encourage indigenous education and planned the formulation of a coherent policy of education. Subsequently the universities of Calcutta, Bombay (Mumbai) and Madras (Chennai) were set up in 1857, followed by the University of Allahabad in 1887. When the Indian Education Commission was appointed in 1882, the proposal for adopting a law for universal compulsory education, or at least for children employed in factories was mooted. This was unfortunately rejected due to financial and administrative difficulties by the British Parliament.

The first experiment of making primary education compulsory occurred in 1893, when the ruler of the state of Baroda, Maharaja Sayajirao Gackwad, introduced compulsory education in the Amraoli division of his state. In this context, the demand for free and compulsory education (FCE) in India can be traced back to the early stages of the freedom struggle in British India. It subsequently became an integral part of the freedom struggle. The India national congress fought valiantly for the expansion of

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elementary education and literacy, in general, and in rural India, in particular. In the evidence placed before, the education commission (Hunter commission) appointed in 1882 Dadabhau Naoroji and Jyothiba Phule from Bombay demanded state-sponsored free education for at least four years. This demand was indirectly acknowledged in commission’s recommendations on primary education. The commission also recommended that schools should be open to all castes and classes. The first documented use of the word right in the context of elementary education appears in a letter written by Rabindranath Tagore to the International league for the Rational Education of Children in 1908. Since the result were promising he extended it to the entire state in 1906. The right to education was found mentioned in the constitution of India Bill, 1895. When Bal Gangadhar Tilak for the first time demanded right to education compulsory. The demand for the official introduction of primary education was also made by Gopal Krishna Gokhale in March 1910, when he moved a resolution in the Imperial Legislative Council. However, the British Government with the efforts of Vallabhbhai Patel rejected these demand. In 1918, Bombay passed a primary education Act permitting Municipalities to introduce compulsory education in their areas for all children’s subsequently, Acts aimed at compulsory primary education were passed in several provinces, like Punjab, the United provinces, Bihar and Orissa, Assam, Bengal and Madras. This law however, were not satisfactorily implemented due to reasons, namely, technical flaws in the statutes, lack of experience and interests on the part of the local boards. Unwillingness to make use of the power of prosecution under the Acts and delays in connection of defaulters. The exalted place that education held in our society, in spite of, its non-availability, to most people as discussed above, continue to retain that place even during the long spell of foreign rule. The Indian national congress was first conceived in the English brain. A.O.Hume saw the need for educated national forum in which “the picked men, the most highly educated of nations could meet each year to secure greater freedom—a more impartial administration and a larger share in the management of their own country”.

Similarly the Nehru report 1928 provides that “All citizens of the common wealth of India have the right to free elementary education without any distinction of

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74 www.education.nic.in
75 www.education.nic.in.
caste or creed in the matter of admission into any educational institution maintained or
aided by the state and such right shall be enforceable as soon as due arrangement shall
have been made by competent authority. In 1937, at the all India national
Conference on Education held at Wardha, Gandhi mooted the idea of self-supporting
‘basic education’ for a period of seven years through vocational and manual training.
This concept of self-support was floated in order to counter at the Government’s
constant excuse of lack of resources. The plan was to not only educate children through
vocational training/ manual training by choosing a particular handicraft, but also to
simultaneously use the income generated from the sale of such handicrafts to partly
finance basic education. Furthermore, education was supposed to be in the mother
tongue of the pupils with Hindustani as a compulsory subject. Two other interesting
features of the Wardha Scheme are as follows: first, within the ‘basic education course’,
there were two divisions; the ‘lower basic’ or ‘primary’ corresponded to classes I-V.
The ‘upper basic’ or ‘post-primary’ corresponded to classes VI-VII. The division
between primary and post primary was created with a view to giving pupils the option
of shifting to another form of education if they so desired after the first five years of
‘basic education’. Second, a minimum wage for teacher was stipulated under the
Wardha Scheme. Basic on these ideas, the Wardha Scheme of education was
formulated for rural areas. The next landmark development in the history of FCE in
India was the post war plan of education development of 1944, also called the sergeant
plan, which recommended FCE or eight years (6-14 year’s age group) During their
fight for freedom our leaders did not miss even a single opportunity to claim education
as a fundamental right for all in any possible future constitutional scheme for the
country. Unfortunately, this entire attempt made by the Indian leaders at times, where
rejected at the hand of the British Government as there is not mention of right to
education under the Government of India Act 1935. This situation continued till the
Indian independence. Thus the educational system failed to fulfill the aspiration of the
Indian people during the British rule. The right to education was confined to the level
of demand made at times by the Indian leaders and it was hardly conceived by the
British Govt. A few more universities were established during the period as centres of
higher education, which were insufficient in order to cater in the needs of the large

36 Nehru report 1928, fundamental rights Act 4(v)
37 B.G.Khareteal, Wardhe Education Scheme, First Communities Report, available at www.education.nic.in
38 Ibid
39 B.Shiva Rao, Framing of India’s Constitution, A Select Documents, 1968, Vol. 1, p.59
masses on the one hand and at the same time unsuitable to sustain and develop the
traditional occupational profession, art and craftsmanship of the Indian people on the
other hand.

2.3.4. Education in Framing of Constitution

In 1946, the Constituent Assembly was constituted to frame a Constitution for
free India. Nehru at the very outset told the members of the assembly: The first task of
this assembly is to free India through a new constitutions, to feed the starving people,
and to cloth the naked masses, and to give every Indian the fullest opportunity to
develop himself according to his capacity. On 23rd November, 1948, Pandit Lakshmi
Kant Mitra moved a motion by Amendment No.962, in the assembly. That in article
36, the words “Every Citizen” is entitled to free primary education and be deleted; and
the article will read quoted as: “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 object of this amendment was to bring article 36 into line with the
preceding and the subsequent articles, in form at any rate, because draft articles
30,31,32,33,34,35,37 and 38 of draft Constitution all begin with the words “The state
shall...draft article 36 provided; every citizen is entitled to education etc.” The learned
member argued therefore that if the words as referred above are deleted this also would
come into line with the other articles. He further pointed out that part IV deals with
directive principles of state policy, and the provisions in it indicate, the policy that is to
be pursued by the future government of the country. Unfortunately in article 36, this
directive principle is coupled with a sort of a fundamental right, i.e., “that every citizen
is entitled...” here Directive Principle is combined with a fundamental right, therefore
it was submitted by the learned member that the portion indicated above should be
deleted. Hon’ble Mr.Mitra also drew the attention of the Drafting Committee about the
original draft in the margin of which there was a note: “provision for the free primary
and secondary education”. “That is to say, to every citizen up to the age of 14 years, the
state shall provide within ten years of the commencement of this Constitution, free and
compulsory education. In the other words the education need not be confined to

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p.134.
primary but it may go upto the secondary stage, so song as the person is below the age of 14.

While commenting upon the amended provision of article 36; Naziruddin\textsuperscript{2} Ahmad suggested that it would be better to continue it to primary education and that should be a directive principle of state. As per the context and from other internal evidence that what was intended was compulsory “primary” education. The state cannot undertake to give compulsory education of a secondary character. Mr.Ahmad moved another amendment to article 36 as “That is article 36 a semi-colon be inserted after the word education”. When article 36 was kept open for general discussion Sri.B.Das\textsuperscript{3} criticised the inclusion of right to education under part IV of the Constitution on the ground of language. He said, Directive Principles are first pious hopes and pious wishes laid down them occasionally to create trouble for the provisional ministries and very seldom the central government will be affected by criticism of this House. He asked what free and compulsory primary education would be like, will it be one language or will it be two or three language, if a province has two or three kind of people making up the province? According to him, primary education gives individuals the chance to be communicated with their God, and in communication with the textbook of their religion, and consequently under Amendment No.970, it was asked for the free and compulsory primary education for all children in their respective mother tongues. It is to be noted that it is very primary and essential problem that we should not denationalize those people who have a mother tongues of their own, and compel them to learn the mother tongue of some one else. Commenting upon the amendment moved by Mr.Mitra Dr.B.R.Ambedkar said: “I accept that amendment proposed by my friend Mr.Mitra, which suggest the deletion of the word “every citizen is entitled to free primary education and; But I amnot prepared to accept the amendment of my friend Mr.Naziruddin Ahmad. The objective of the rest of the clasuse of article 36, after amendment is that every child shall be kept in an educational institution under training until the child is of 14 years. Its purpose is to forbids any child being employed below the age of 14, and child must be kept occupied in some

\textsuperscript{2} Constitutional Debates vol.VII p.539.
\textsuperscript{3} Constitutional Debates vol.VII p.539.
educational institutes and that is why I say the word ‘primary’ is quite inappropriate in that particular clause, and therefore I oppose his amendment.\textsuperscript{84}

Sri M. Ruthnaswamy asked that is right to education justifiable if the state government have no money. G.B. Pant pointed out that the above right cannot be justifiable and no court can possibly adjudicate. Sardar Vallabhai Patel, Chairman, Advisory Committee on Fundamental Rights, when submitting his Report to the president of the Constituent Assembly of India observed that “we have come to the conclusion that in addition to justifiable Fundamental Rights the Constitution should include certain directives of state policy which though not cognizable in any court of law, should be regarded as fundamental in governance of the country, and therefore, in this way the right to education was enshrined under the part IV of the Constitution. Ultimately Right to Education by the Constituent Assembly as incorporated under the draft article 38, which says, “The state shall, within the limit of its economic capacity and development makes effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, disablement and other cases of undeserved wards.”\textsuperscript{85} Thus it is submitted that our Constitution makers were not much aware of 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, in case the government has no money, it cannot be justifiable, which no court can adjudicate. Thus, this clause was transferred to part IV of the Constitution. They contended that if a right to education becomes non-justifiable, it would remain as pious wishes. They added that if it does not become imperative obligations of the state towards the citizens, they would be perpetuating a needless fraud. If the state has no such responsibility laced upon them, they might be inclined to avail themselves of every excuse to justify their own inactivity to the matter, indifference, or worse.

2.3.5. Education after Independence

Under the British rule in India, education was imparted through the medium of English. It not only deprived the people of the knowledge of their own language and

\textsuperscript{84} Constitutional Debates vol. VII p 540.
\textsuperscript{85} Constitutional Debates vol. VII p 323.
literature, but also wasted the precious time of the youth in cramming the rules of grammar of a foreign language. The pattern of education developed in India during the British rule was unplanned. In 1949 a University Education Commission was appointed under the chairmanship of Dr. S. Radhakrishnan to study the problems of university education and to recommend remedial measures. The Commission did a fine job and submitted a valuable report. According to one of the recommendations of this Commission, the University Grants Commission was set up to look after university education in the country.76 To study the problems of secondary education in the country and to make recommendations for changes to be introduced therein, a Secondary Education Commission was set up under the Chairmanship of Dr. Lakshman Swami Mudaliar. This Commission submitted its report in 1953 after undertaking a thorough study of the various aspects of secondary education in the country. The Commission made valuable recommendations regarding the objectives of education, reorganisation of teaching institutions, medium of instruction and the system of examinations.

In 1964 the Government of India appointed an Education Commission under the Chairmanship of Dr D.S. Kothari to advise the government on the policy of education. The Commission submitted its report in 1966. The report indicated the guidelines for formulation of a national policy on education. In July 1968 the Government of India declared its National Policy on Education to promote education amongst India's people. The policy covers elementary education to colleges in both rural and urban India. The first NEP was promulgated in 1968 by the government of Prime Minister Indira Gandhi, and the second by Prime Minister Rajiv Gandhi in 1986. Programme of Action (POA), 1992 under the National Policy on Education (NPE), 1986 envisaged conduct of a common entrance examination on all India basis for admission to professional and technical programmes in the country. Encouraged by the Unnikrishnan judgment is a public demand to enforce the right to education, successive governments from 1993 worked towards bringing a constitutional amendment to make education a fundamental right. That led to the 86th amendment in December 2002 which inserted the following articles in the Constitution:

- Insertion of new article 21A- After article 21 of the Constitution, the following article shall be inserted, namely: - Right to education.- “21A. The State shall

provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine."

- Substitution of new article for article 45. For article 45 of the Constitution, the following article shall be substituted, namely:- "Provision for early childhood care and education to children below the age of six years."

- Amendment of article 51A- In article 51A of the Constitution, after clause (J), the following clause shall be added, namely:- "(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years."

The Supreme Court in Unnikrishnan Vs State of A.P. (1993) ruled that the right to education is a Fundamental Right that flows from the right to life in Article 21 of the Constitution. Following this ruling the 86th Constitution Amendment Act 2002 added Article 21A, stating "The state shall provide free and compulsory education to all children of the age of six to fourteen years in such a manner as the state may, by law, determine". The 86th Amendment also modified Article 45 which now reads as "The state shall endeavour to provide early childhood care and education for all children until they complete the age of six years."

In the year 2009 it was made an Act to provide for free and compulsory education to all children of the age of six to fourteen years. The Act was named as 'The Right of Children to free and compulsory education Act-2009'. It is fortunate to have a positive move which is highly commendable.

2.3.6. Emerging Trends of Education system in India

Public school system in India experiences numerous issues and challenges. Many of those are directly or indirectly related to socio-economic condition of India and Indians living here. Most of the issues and challenges are both critical and complex. On one hand, there is a problem of illiteracy among children and adults caused by no schooling or school dropout; on the other hand, there are public schools about to shut down because of lack of students. At this point of time, Right to Education Act seems to be an initiative to address many of the issues and challenges.

The Right to Free & Compulsory Education Act, 2009 (RTE Act) became law on April 1, 2010. RTE fulfils the constitutional mandate for free and compulsory
primary education, but some of its provisions have raised debates. Numerous challenges and issues are being faced by various stakeholders while implementing the Act in the schools. Already there has been a major amendment notified by the central government to comply with the Supreme Court judgement safeguarding minority rights. The new law makes it obligatory on part of the state governments and local bodies to ensure that every child gets education in a school in the neighbourhood.

Democracy entails devolution of governance in the fields of development by providing scope for involvement of local entities in sorting real life problems in alternate strategies and Action rather than centralized, uniform normative strategies. In other words, defining specific roles and functions of three layers of governance instead of overarching control on all aspects of education through Act of central government may have to be debated.

To ensure 25% reservation for children from disadvantaged and weaker section, schools will have to disclose the lists of children taken in this category as well as ensure that diversity is maintained. The model rules already say that the state governments will undertake household surveys and neighbourhood school mapping to ensure that all children are sent to school. The debate over private versus public interests conceals the single greatest problem both private and government schools face: the shortage of qualified teachers. The state governments shall take ownership of our national commitment to education, and build the leaders of tomorrow who will educate our children. In any organization, whether government, private or NGO, the leader at the top has to set the example.

In the southern states where the system is in better health, the Right to Education will pose the challenge of radical improvement in quality. Kerala and Tamil Nadu are better placed than any other State to implement the Right to Education with confidence, but even they require radical measures to improve teacher training. The National Commission for the Protection of Child Rights (NCPCR), which has the responsibility to monitor the Right to Education. NCPCR is supposed to keep a vigilant eye on several million classrooms where the children are to be taught and protected from corporal punishment, mental harassment and discrimination.

87 Hindustan Times, 1 April, 2010.
88 Times of India, 1 April, 2010.
India has thus embarked upon a massive programme to lay foundations of a strong country with a statutory support. It has joined the small group of countries which have such a statutory provision. It is indeed a path breaking step towards universalisation of education. The Prime Minister made it clear that dalits, minorities and the girl students will be the focus of the effort to provide education to all. By saying that he wanted “every Indian to dream about a bright future and live this dream,” the education is in the concurrent list underlines the need for better cooperation at all levels.

Thus the education system took new social mapping and it must be undertaken with community involvement to ensure that children who cannot access school to social, economic and cultural reasons are enabled to do so.