CHAPTER 3
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Education has now be recognised as a human right and an instrument of social change. It is the single most vital element in combating poverty, empowering women, safeguarding children from exploitative and hazardous labour, promoting human rights and democratic ideals and protecting the environment. In this chapter the researcher traces the evolution of the fundamental right to education in India by referring to the international instruments and human right frame work. On the international level several conventions and declarations have recognized the right of a child to education. The world over recognized that every one has the right to education more over has been recognized that elementary education should be compulsory and free and available to all. Education shall directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedom. The emphasis laid on the education of children is more manifest in the UN declaration on the rights of the child, 1959 wherein, Interalia, it has been provided that children who are physically, mentally or socially handicapped shall be given special treatment, education and care required by their particular condition. This emphasis is to provide an education, which will promote general culture and an enable child to develop their abilities, Individual judgement and sense of moral and social responsibility thereby becoming useful members of society. The best interests of child shall be the guiding principle of those responsible for his education and guidance and that responsibility lies in the first place with his parents. About Children, a specific commitment has been made under convention on the Rights of the child 1989. Article 28 recognizes the rights of the child to education and renewed commitment to ensure that the basic learning needs of all are met effectively the world over. It asserts the fundamental right of all persons to education as an indispensable key to personal and social development. Thus under International law the right of a child to compulsory and free primary education has been guaranteed at the international level, UN agencies and organs, international development agencies and regional institutions were urged to help implement child

80 UDHR 1948, Article 26 & Article 13 of International Covenant on Economic, Social and Cultural Rights, 1966
81 Declaration on the rights of the child, 1959.
82 Ibidem, Principle 7.
development strategies. The UNICEF was assigned the role of analysing various plans and actions and preparing a consolidated report. This is in a nutshell the international commitment to children for their free and compulsory primary education. Many countries including England, US, European countries, Australia, New Zealand, China, Singapore etc. have accepted elementary education as a fundamental right for all children between the age of 6 to 18 years and some other instruments were discussed in the following pages.


The recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, disregard and contempt for human rights have resulted in barbarous Acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people is recognised by UDHR it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, Whereas it is essential to promote the development of friendly relations between nations, Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom, Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms, common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge, Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and United Nations Universal Declaration of Human Rights 1948 all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and

effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

The right to education has been universally recognised since the Universal Declaration of Human Rights in 1948 (though referred to by the ILO as early as the 1920s) and has since been enshrined in various international conventions, national constitutions and development plans. While the vast majority of countries have Signed up to, and ratified, international conventions (such as the UN Convention on the Rights of the Child) far fewer have integrated these rights into their national constitutions or provided the legislative and administrative frameworks to ensure that these rights are realised in practice. In some cases the right exists along with the assumption that the user should pay for this right, undermining the very concept of a right. In others, the right exists in theory but there is no capacity to implement this right in practice. Inevitably, lack of government support for the right to education hits the poorest hardest, the right to education is still denied to millions around the world. As well as being a right in itself, the right to education is also an enabling right. Education 'creates the voice' through which rights can be claimed and protected', and without education people lack the capacity to 'achieve valuable functioning as part of the living'. If people have access to education they can develop the skills, capacity and confidence to secure other rights. Education gives people the ability to access information detailing the range of rights that they hold, and government's obligations. It supports people to develop the communication skills to demand these rights, the confidence to speak in a variety of forums, and the ability to negotiate with a wide range of government officials and power holders.

Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Whereas disregard and contempt for human rights have resulted in barbarous Acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people, Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, it is essential to promote the development of friendly relations between nations, the peoples of the United Nations have in the Charter reaffirmed their faith in
fundamental human rights, in the dignity and worth of the human person and in the
equal rights of men and women and have determined to promote social progress and
better standards of life in larger freedom, Member States have pledged themselves to
achieve, in co-operation with the United Nations, the promotion of universal respect for
and observance of human rights and fundamental freedoms, common understanding of
these rights and freedoms is of the greatest importance for the full realization of this
pledge, therefore the general assembly proclaims this universal declaration of human
rights as a common standard of achievement for all peoples and all nations, to the end
that every individual and every organ of society, keeping this Declaration constantly in
mind, shall strive by teaching and education to promote respect for these rights and
freedoms and by progressive measures, national and international, to secure their
universal and effective recognition and observance, both among the peoples of Member
States themselves and among the peoples of territories under their jurisdiction.

"Everyone has the right to education. Education shall be free, at least in the elementary
and fundamental stages. Elementary education shall be compulsory. Technical and
professional education shall be made generally available and higher education shall be
equally accessible to all on the basis of merit. Also education shall be directed to the
full development of the human personality and to the strengthening of respect for
human rights and fundamental freedoms. It shall promote understanding, tolerance and
friendship among all nations, racial or religious groups, and shall further the activities
of the United Nations for the maintenance of peace, and Parents have a prior right to
choose the kind of education that shall be given to their children."

3.2 Convention against Discrimination in Education 1960.

Adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 14 December 1960, the General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 14 November to 15 December 1960, at its eleventh session, recalling that the Universal Declaration of Human Rights asserts the principle of non-discrimination and proclaims that every person has the right to education, Considering that discrimination in education is a violation of rights enunciated in that Declaration, Considering that,
under the terms of its Constitution, the United Nations Educational, Scientific and

94 http://portal.unesco.org/cn/ev
95 Article 26 of U.D.H.R., 1948
96 http://www.hrea.org/
Cultural Organization has the purpose of instituting collaboration among the nations with a view to furthering for all universal respect for human rights and equality of educational opportunity. Recognizing that, consequently, the United Nations Educational, Scientific and Cultural Organization, while respecting the diversity of national educational systems, has the duty not only to proscribe any form of discrimination in education but also to promote equality of opportunity and treatment for all in education. Having before it proposals concerning the different aspects of discrimination in education, constituting item 17.1.4 of the agenda of the session, having decided at its tenth session that this question should be made the subject of an international convention as well as of recommendations to Member States, Adopts this Convention on the fourteenth day of December 1960. The first article defines the term "discrimination" which includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:—of depriving any person or group of persons of access to education of any type or at any level; of limiting any person or group of persons to education of an inferior standard; Subject to the provisions of article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or of inflicting on any person or group of persons conditions which are incompatible with the dignity of man. For the purposes of this Convention, the term "education" refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given. "When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of article 1 of this Convention:—The establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study; The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil's parents or legal guardians, if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in
particular for education of the same level; The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.

Article 3 of the convention says that "In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake": To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education; To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions; Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries; Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group; To give foreign nationals resident within their territory the same access to education as that given to their own nationals, and "The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular: To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law; To ensure that the standards of education are equivalent in all public education institutions of the same level, and that the conditions relating to the quality of education provided are also equivalent; To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the

97 These provisions are embodied in Article 2 of Convention against Discrimination in Education 1960.
continuation of their education on the basis of individual capacity; To provide training for the teaching profession without discrimination. 

Article 5 of the convention says that “The States Parties to this Convention agree that”: Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the Activities of the United Nations for the maintenance of peace; It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions; and no person or group of persons should be compelled to receive religious instruction inconsistent with his or their conviction; It is essential to recognize the right of members of national minorities to carry on their own educational Activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language, provided however; “In the application of this Convention, the States Parties to it undertake to pay the greatest attention to any recommendations hereafter adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization defining the measures to be taken against the different forms of discrimination in education and for the purpose of ensuring equality of opportunity and treatment in education” and Article 7 of the convention says that “The States Parties to this Convention shall in their periodic reports submitted to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other Action which they have taken for the application of this Convention, including that taken for the formulation and the development of the national policy defined in article 4 as well as the results achieved and the obstacles encountered in the application of that policy.” Article 8 of the

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98 Article 4 of the Convention against Discrimination in Education 1960.
convention says that “Any dispute which may arise between any two or more States Parties to this Convention concerning the interpretation or application of this Convention which is not settled by negotiations shall at the request of the parties to the dispute be referred, failing other means of settling the dispute, to the International Court of Justice for decision”. Article 9 and 10 of the convention says that “Reservations to this Convention shall not be permitted”. “This Convention shall not have the effect of diminishing the rights which individuals or groups may enjoy by virtue of agreements concluded between two or more States, where such rights are not contrary to the letter or spirit of this Convention”.100

Article 12 of the convention says that “This Convention shall be subject to ratification or acceptance by States Members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures and the instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization”. The ratification and its procedure adopted by secretariat is mentioned in some articles101 which enshrines that this convention is opened to accession by all states, not only member of UNESCO.

3.3 International Covenant on Economic, Social and Cultural Rights 1966102.

The International Covenant on Economic, Social and Cultural Rights in Articles 13 and 14 of the ICESCR set out detailed formulations of the right to education. Article 13 contains a general statement that everyone has the right to education and that education should contribute to the full development of the human personality. It also specifically stipulates, primary education shall be compulsory and available free to all, secondary education, including technical and vocational education, shall be made generally available and accessible to all by every appropriate means, in particular by the progressive introduction of free education, Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, in particular by the progressive introduction of free education, Fundamental education shall be

100 Article 8, 9 & 10 of the Convention against Discrimination in Education 1960.
102 http://www2.ohchr.org/english/law/cescr.htm
intensified for those persons who have not received or completed the whole period of their primary education. Systems of schools shall be established and the material condition of teaching staff shall be continuously improved. The liberty of parents or guardians to choose for their children schools other than those established by the public authorities which conform to minimum educational standards shall be respected. In addition, article 13 recognizes the liberty of parents or guardians to ensure the religious and moral education of their children in conformity with their own convictions. Article 14 requires each state party that has not been able to secure compulsory primary education free of charge, to undertake, "within two years, to work out and adopt a detailed plan of Action for the progressive implementation ... of compulsory primary education free of charge for all." Convention on the Rights of the Child (CRC) in Articles 28 and 29 of the CRC deal with the right of the child to education. Article 28 is similar to the provisions contained in ICESCR. In addition, it states that school discipline should be administered in a manner consistent with a child's human dignity. Article 29 stipulates that the education of the child shall be directed towards the development of the child's personality, talents, and mental and physical abilities to their fullest potential. Even before the adoption of the Universal Declaration on Human Rights (a non-legally binding document) in 1948, broad agreement existed that the rights which were to be enshrined in the Declaration were to be transformed into legally binding obligations through the negotiation of one or more treaties. In 1966, two separate treaties, covering almost entirely all the rights enshrined in the Universal Declaration of Human Rights were adopted after approximately 20 years of negotiations: one for civil and political rights, the International Covenant on Civil and Political Rights (ICCPR), and one for economic, social and cultural rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICESCR was adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 3 January 1976\textsuperscript{103}.

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Recognizing that these rights derive from the inherent dignity of the human person, Recognizing that, in accordance with the Universal Declaration of

\textsuperscript{103} If otherwise not referenced the information included in this Fact sheet can be found in the International Covenant on Economic, Social and Cultural Rights or on the website of the office of the United Nations High Commissioner for Human Rights (www.ohchr.org).
Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights, Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms, Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant, Agree upon the following articles.

"The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the Activities of the United Nations for the maintenance of peace and the States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right.

Primary education shall be compulsory and available free to all, Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education, Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education, Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education, The development of a system of schools at all levels shall be Actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

The parties have to respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the

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public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.


The States Parties to the present Convention, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom. Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance, Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community, Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding, Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity, Bearing in mind that the need to extend particular care

to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth", Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration, Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries, have agreed as follows:

Article 28 of the convention says that "States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular" Make primary education compulsory and available free to all, Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need, Make higher education accessible to all on the basis of capacity by every appropriate means, Make educational and vocational information and guidance available and accessible to all children, Take measures to encourage regular attendance at schools and the reduction of drop-out rates. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity
with the present Convention. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries. Article 29 of the convention says that "States Parties agree that the education of the child shall be directed to" the development of the child's personality, talents and mental and physical abilities to their fullest potential, The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations, The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own, The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin. The development of respect for the natural environment. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

3.5. Convention on Technical and Vocational Education 1989\textsuperscript{106}.

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting at Paris from 17 October 1989 to 16 November 1989 at its twenty-fifth session, Recalling that it is the Organization's constitutional duty to promote and develop education, Recalling also the principles set forth in Articles 23 and 26 of the Universal Declaration of Human Rights which relate to the right to work and to education, the principles contained in the Convention against Discrimination in Education, adopted in Paris on 14 December 1960, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, adopted in New York on 16 December 1966, as well as the

\textsuperscript{106} Resolution adopted on the report of Commission II at the twenty-ninth plenary meeting, on 10 November 1989,231.

Taking into account the relevant recommendations of the International Conference on Education, Bearing in mind the provisions of the Convention (No. 142) and Recommendation (No. 150) concerning Vocational Guidance and Vocational Training in the Development of Human Resources, adopted by the International Labour Conference at its sixtieth session in 1975, Noting further the close collaboration between UNESCO and the International Labour Organisation in drawing up their respective instruments so that they pursue harmonious objectives and with a view to continuing fruitful collaboration, Considering the need to make a special effort to promote the technical and vocational education of women and girls, Paying special attention to the diversity of education systems and socio-economic and cultural conditions, in particular those in developing countries which need special considerations and provisions, Considering that, in spite of this diversity, generally similar objectives are pursued and that similar problems arise in many countries, making it desirable to develop common guidelines in technical and vocational education, Recognizing that the pace of technological, social and economic development has considerably increased the need to expand and improve the technical and vocational education provided for both young people and adults, Recognizing that technical and vocational education meets the global aim of developing both individuals and societies, Convinced of the need for the exchange of information and experiences in the development of technical and vocational education and of the desirability of
strengthening international co-operation in this field, Convinced of the utility of an international legal instrument to reinforce international collaboration in the development of technical and vocational education, Adopts the present Convention this tenth day of November 1989:

The Contracting States agree that for the purpose of this Convention, ‘technical and vocational education’ refers to all forms and levels of the educational process involving, in addition to general knowledge, the study of technologies and related sciences and the acquisition of practical skills, know-how, attitudes and understanding relating to occupations in the various sectors of economic and social life; This Convention applies to all forms and levels of technical and vocational education provided in educational institutions or through co-operative programmes organized jointly by educational. This Convention shall be applied in accordance with the constitutional provisions and legislation of each Contracting State.\(^{107}\)

Article 2 of the convention says that The Contracting States agree to frame policies, to define and to implement, in accordance with their needs and resources, and curricula for technical and vocational education designed people and adults, within the framework of their respective strategies programmes for young education systems, in order to enable them to acquire the knowledge and know-how that are essential to economic and social development as well as to the personal and cultural fulfilment of the individual in society. The general framework for the development of technical and vocational education shall be determined in each Contracting State by appropriate legislation or other measures indicating: The objectives to be attained in technical and vocational fields, taking into consideration economic, social and cultural development needs and the personal fulfilment of the individual; The relationship between technical and vocational education, on the one hand, and other types of education, on the other, with particular reference to horizontal and vertical articulation of programmes; The structures for administrative organization of technical and vocational education defined by the responsible authorities; The roles of the public authorities responsible for economic, social and development planning in the various sectors of the economy and, where applicable, of professional associations, workers, employers and other interested parties. The Contracting States shall guarantee that no individual who has attained the

\(^{107}\) Article 1 of the Convention on Technical and Vocational Education, 1989
educational level for admission into technical and vocational education shall be
discriminated against on grounds of race, colour, sex, language, religion, national or
social origin, political or other opinions, economic status, birth, or on any other
grounds. The Contracting States shall work towards the right to equal access to
technical and vocational education and towards equality of opportunity to study
throughout the educational process. The Contracting States shall pay attention to the
special needs of the handicapped and other disadvantaged groups and take appropriate
measures to enable these groups to benefit from technical and vocational education.

Article 3 of the convention says that The Contracting States agree to provide
and develop technical and vocational education programmes that take account of:

The educational, cultural and social background of the population concerned
and its vocational aspirations, The technical and professional skills, knowledge and
levels of qualification needed in the various sectors of the economy, and the
technological and structural changes to be expected, Employment opportunities and
development prospects at the national, regional and local levels, Protection of the
environment and the common heritage of mankind, Occupational health, safety and
welfare. Technical and vocational education should be designed to operate within a
framework of open-ended and flexible structures in the context of lifelong education
and provide:

An introduction to technology and to the world of work for all young people
within the context of general education, Educational and vocational guidance and
information, and aptitude counselling, Development of an education designed for the
acquisition and development of the knowledge and know-how needed for a skilled
occupation, A basis for education and training that may be essential for occupational
mobility, improvement of professional qualifications and updating of knowledge, skills
and understanding, Complementary general education for those receiving initial
technical and vocational training in the form of on-the-job or other training both inside
and outside technical and vocational education institutions, Continuing education and
training courses for adults with a view, in particular, to retraining as well as to
supplementing and upgrading the qualifications of those whose current knowledge has
become obsolete because of scientific and technological progress or changes in the
employment structure or in the social and economic situation, and also for those in special circumstances.

Technical and vocational education programmes should meet the technical requirements of the occupational sectors concerned and also provide the general education necessary for the personal and cultural development of the individual and include, inter alia, social, economic and environmental concepts relevant to the occupation concerned. The Contracting States agree to tender support and advice to undertakings outside educational institutions which take part in co-operative programmes in technical and vocational education. At each occupational level, the competence required must be defined as clearly as possible and curricula must be continuously updated to incorporate new knowledge and technical processes. In assessing the ability to carry out occupational activities and determining appropriate awards in technical and vocational education, account should be taken of both the theoretical and practical aspects of the technical field in question, and this should apply both to persons who have received training and to persons who have acquired occupational experience in employment.

The Contracting States agree to review periodically the structure of technical and vocational education, study programmes, plans, training methods and materials, as well as forms of co-operation between the school system and the world of work, so as to ensure that they are constantly adapted to scientific and technological progress, to cultural progress and to changing employment needs in the various sectors of the economy, and that advances in educational research and innovation are taken into account with a view to application of the most effective teaching methods, the Contracting States agree that all persons teaching in the field of technical and vocational education, whether working full time or part time, should have adequate knowledge, theoretical and practical, of their professional field of competence as well as appropriate teaching skills consistent with the type and level of the courses they are required to teach. Persons teaching in technical and vocational education should be given the opportunity to update their technical information, knowledge and skills through special courses, practical training periods in enterprises and any other organized form of activity involving contact with the world of work; in addition, they should be provided with information on and training in educational innovations that may have applications in their particular discipline and be given the opportunity to
participate in relevant research and development. Equal employment opportunities should be offered, without discrimination, to teachers and other specialized staff in technical and vocational education, and their employment conditions should be such that it is possible to attract, recruit and retain staff qualified in their areas of competence, to facilitate international co-operation, the Contracting States agree: to encourage the collection and dissemination of information concerning innovations, ideas and experience in technical and vocational education and to participate actively in international exchanges dealing with study and teacher-training programmes, methods, equipment standards and textbooks in the field of technical and vocational education; To encourage the use in technical and vocational education of international technical standards applied in industry, commerce and other sectors of the economy; To promote approaches to achieving the recognition of equivalences of qualifications acquired through technical and vocational education; To encourage international exchanges of teachers, administrators and other specialists in technical and vocational education; To give students from other countries, particularly from developing countries, the opportunity to receive technical and vocational education in their institutions, with a view, in particular, to facilitating the study, acquisition, adaptation, transfer and application of technology; To promote co-operation in technical and vocational education between all countries, but in particular between industrialized and developing countries, in order to encourage the development of the technologies of the countries; To mobilize resources for strengthening international co-operation in the field of technical and vocational education.\(^{108}\).

Article 15 of the convention says that In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization. Done in Paris, this sixteenth day of November 1989, in two authentic copies bearing the signature of the President of the twenty-fifth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in Article 9 as well as to the United Nations.

\(^{108}\) Article 4, 5 & 6 of the Convention on Technical and Vocational Education, 1989

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3.6. The Beijing Declaration on Education 1995\textsuperscript{109}.

The Beijing platform for action, a statement of intention on the part of government representative at the Fourth World Conference for women in Beijing, 1995 recognized education as basic human rights and an essential tools for achieving more relations between women and men. It recommended investing informal and non-formal education and training for girls and women as one of the best means of achieving economy growth and development that is sustained and sustainable. The platform for action proposes these strategic objectives, ensure equal access to education; ensure the completion of primary education by at least 80 percent of children, with special emphasis on girls, by the year 2000, Close the gender gap in the primary and secondary education by the year 2005 and achieve universal primary education in all countries before the year 2015, Reduce the female illiteracy rate, especially among the rural areas. Migrant refugee internally displaced and disabled among woman to at least half the 1990 level, Eradicate illiteracy among woman world wide, Improve women’s access to vocational training, science and technology continuing education, Develop non discriminatory education and training by developing and using curriculum’s, textbooks and teaching aids free of stereotyping for all levels of education, Allocate sufficient resources for and monitor the implementation of education reforms, Maintain or increase funding levels for education in structural adjustments and economic recovery programmers, Promote lifelong education and training for girls and women’s, and create flexible education programmes to meet their needs.


The Ministers of Education meeting at the 44th session of the International Conference on Education Strive resolutely, to base education on principles and methods that contribute to the development of the personality of pupils, students and adults who are respectful of their fellow human beings and determined to promote peace, human rights and democracy, To take suitable steps to establish in educational institutions an atmosphere contributing to the success of education for international

\textsuperscript{109} The fourth world conference on women, Beijing, 4\textsuperscript{th} to 15\textsuperscript{th} September 1995.

understanding, so that they become ideal places for the exercise of tolerance, respect for human rights, the practice of democracy and learning about the diversity and wealth of cultural identities. To take action to eliminate all direct and indirect discrimination against girls and women in education systems and to take specific measures to ensure that they achieve their full potential, To give special attention to improving curricula, the content of textbooks, and other educational materials including new technologies, with a view to educating caring and responsible citizens open to other cultures, able to appreciate the value of freedom, respectful of human dignity and differences, and able to prevent conflicts or resolve them by non-violent means. To adopt measures to enhance the role and status of educators in formal and non-formal education and to give priority to pre-service and in-service training as well as the retraining of educational personnel, including planners and managers, oriented notably towards professional ethics, civic and moral education, cultural diversity, national codes and internationally recognized standards of human rights and fundamental freedoms. To encourage the development of innovative strategies adapted to the new challenges of educating responsible citizens committed to peace, human rights, democracy and sustainable development, and to apply appropriate measures of evaluation and assessment of these strategies, To prepare, as quickly as possible and taking into account the constitutional structures of each State, programmes of Action for the implementation of this Declaration.

3.8. Mission to educate, to train and to undertake research: Article 1 of the World Declaration on Higher Education (1998)\textsuperscript{111}.

To imbibe higher education, the mission contributed to the sustainable development and improvement of society as a whole, which preserved, reinforced and further expanded, the scope which enshrines that, educate highly qualified graduates and responsible citizens able to meet the needs of all sectors of human activity, by offering relevant qualifications, including professional training, which combine high-level knowledge and skills, using courses and content continually tailored to the present and future needs of society, Provide opportunities for higher learning and for learning throughout life, giving to learners an optimal range of choice and a flexibility of entry

and exit points within the system, as well as an opportunity for individual development and social mobility in order to educate for citizenship and for active participation in society, with a worldwide vision, for endogenous capacity-building, and for the consolidation of human rights, sustainable development, democracy and peace, in a context of justice. Advance, create and disseminate knowledge through research and provide, as part of its service to the community, relevant expertise to assist societies in cultural, social and economic development, promoting and developing scientific and technological research as well as research in the social sciences, the humanities and the creative arts, Help understand, interpret, preserve, enhance, promote and disseminate national and regional, international and historic cultures, in a context of cultural pluralism and diversity, Help protect and enhance societal values by training young people in the values which form the basis of democratic citizenship and by providing critical and detached perspectives to assist in the discussion of strategic options and the reinforcement of humanistic perspectives, Contribute to the development and improvement of education at all levels, including through the training of teachers.

3.9. Education for all as a fundamental right.

The Governments, organizations, agencies, groups and associations represented at the World Education forum, committed themselves to the achievement of education for all (EFA) goals and targets for every citizen and for every society. In order to achieve the goals and objectives set at Dakar, they pledged themselves to a strategy, inter alia, to: mobilize strong national and international political commitment for education for all, develop national action plans and enhance significantly investment in basic education. The Dakar Framework for action expresses a collective commitment to action. The importance of the state obligation in further underlined by the expanded commentary on the Dakar Framework for action also. Education planners have a responsibility to find the children who are not in school and to design programmes to include every child in education, guided by the principle of the best interests of the child.

112 UNESCO Education for all Conference, France, UNESCO (April,2006).
114 United Nations Secretary General, We the Children-Meeting the promises of the World Summit for Children, United Nations, (September 2001) P.20.
For achieving the six objectives agreed at the World Education Forum, the main responsibility develops upon the governments. Advancing the Right to Education including the right to Higher Education, as enshrined in the Universal Declaration of Human Right is central to UNESCO’s mission. Free, compulsory and universal primary education for all is among the most clear defined of these rights, which governments have duty and responsibility to make a reality. This was further underlined at the first meeting of the High Level Group on Education for All, convened by the Director General of UNESCO at UNESCO Headquarter on 29 and 30 October 2001. In the communiqué issued at end of the meeting, the participants underlined the core responsibility of governments for, education and especially to provide free and compulsory quality basic education for all. The state obligation for providing education, undertaken at the World Education Forum must be viewed as part of the obligation under international law and pertaining to the right to education as contained in international instruments, notably Article 26 of the Universal Declaration on Human Rights. Under the International covenant, the obligation of the state is broad - the obligation to respect, protect and fulfill. This obligation has been interpreted to be of continuing nature moving as expeditiously and effectively as possible towards the realisation of this right and is of immediate effect. The state obligation for the right to education was underlined by UNICEF also. In one of its meeting it was observed. These were united in the knowledge that a quality primary education is the right of all children and the obligation of all governments, its primacy proclaimed by agreements ranging from the Universal Declaration of Human Rights to the convention on the Rights of the child and the Jomtien Declaration on Education for All.

Article 26 (1) of UDHR proclaims that: Every one has a right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary

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116 Article 26 of the UDHR states that every one has the right to education and that higher education shall be legally accessible to all on the basis of merit and endorsing the basic principal of the convention against discrimination in education (1960). Article 4 commits the state parties to it to make higher education legally accessible to all on the basis of individual capacity.
120 General comments No.13 on the right to education (article 13 of the covenant), adopted by the committee on Economic, Social and Cultural Rights at its twenty first session in 1999. E/C.12/1999/10, (2 December 1999), para.50.
121 Statement by the representative of UNICEF at the first meeting of the high-level group of education for all, convened by UNESCO’s Director General, (UNESCO, Paris, 29-30 October 2001)
education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit." Article 26 (2) states that Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for maintenance of peace. Further, Article 26 (3) provides that parents have a prior right to choose the kind of education that shall be given to their children."The right to education has also been recognized by the International covenant on Economic, Social and Cultural Rights. Article 13 States that: The states parties to the present covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and sense of its dignity, and shall strengthen the respect for human right and fundamental freedoms.... Article 13 Further provides that the states Parties to the present covenant recognize that, with a view to achieving the full realization of this right: Primary education shall be compulsory and available free to all, Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education, Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education, Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received on completed the whole period of their primary education, The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

During the general discussion by the committee on Economic, Social and Cultural Rights on the right to education (1998), an agreement was reached that four elements define its core content: No one shall be denied a right to education, Everyone is entitled to basic (primary) education in one form or another; this include basic education for adults. Primary education must be compulsory and free. No one may withhold a child from primary education. A state has an obligation to protect this right from encroachment by third persons, the minorities have the right to be taught in the
language of their choice, in institutions outside the official system of public education. UNESCO has adopted a number of normative documents, conventions and recommendations ensuring the enjoyment of the right to education for everyone.

The best known among these is the Convention against Discrimination in Education, which was adopted on 14th December 1960 by the General Conference and which entered into force in 1962. The role of international organisation regarding the implementation of the right to education is just not limited to the preparation of documents and conducting conferences and conventions but it also undertakes the operational programmes assuring, access to education of refugees, migrants, minorities, indigenous people, women and the handicaps. India participated in the drafting of the Declaration and has ratified the covenant; Hence India is under obligation to implement such provisions. The Founder Fathers of the nation recognizing the importance and significance of right to education made it a constitutional goal, and placed it under chapter IV Directive Principle of State Policy of the Constitution of India. Article 45 of the Constitution requires state to make provisions within 10 years for free and compulsory education for all children until they complete the age of 14 years.

Further Article 46 declares that the state shall promote with special care the educational and economic interests of the weaker section of the people... It is significant to note that among several Articles enshrined under Part IV of the Indian Constitution, Article 45 had been given much importance as education is the basic necessary of the democracy and if the people are denied their right to education then democracy will be paralyzed; and it was, therefore, emphasized that the objective enshrined under Article 45 in Chapter IV of the Constitution should be achieved within ten years of the adoption of the Constitution. By establishing the obligations of the state the Founder Fathers made it the responsibility of coming governments to formulate a programme in order to achieve the given goals, but unresponsive and sluggish attitude of the government to achieve the objective enshrined under Article 45 belied the hopes and aspirations of the people. However, the Judiciary showed keen interest in providing free and compulsory education to all the children below the age of fourteen years. In case of Mohini Jain V State of Karnataka122, the Supreme Court held that right to education is fundamental right under Article 21 of the Constitution. The right to

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122 AIR 1992 3 SCC 666.
education springs from right to life. The right to life under Article 21 and the dignity of the individual cannot fully be appreciated without the enjoyment of right to education. The Court observed, right to life is compendious expression for all those rights which the Courts must enforce because they are basic to the dignified enjoyment of life. It extends to the fully range of conduct which the individual is free to pursue. ... The right to life under Article 21 and the dignity of the individual cannot be assured unless it is accompanied by the right to education. The State Government is under an obligation to provide educational facilities at all levels to its citizens. In case of UnniKrishan V State of Andhra Pradesh, the Supreme Court was asked to examine the decision of Mohini Jain's case. In the present case the Apex Court partly overruled given in the Mohini Jain case. The Court held that, the right to education is implicit in the right to life and personal liberty guaranteed by Article 21 and must be interpreted in the light of the Directive Principle of State Policy contained in Articles 41, 45 and 46.

The Apex Court, limited the State obligation to provide educational facilities stating that every citizen of this country has a right to free education until he completes the age of fourteen years, Beyond that stage, his right to education is subject to the limits of the economic capacity of the state. Further the Supreme Court in M.C. Mehta V State of Tamil Nadu the Supreme Court observed that, to develop the full potential of the children they should be prohibited to do hazardous work and education should be made available to them. In this regard the Court held that, the government should formulate programme offering job oriented education so that they may get education and the timings be so adjusted so that their employment is should not be affected. Again in Bandhua Muit Morcha V Union of India, Justice K. Ramaswamy and Justice Sagir Ahmad, observed, illiteracy has many adverse effects in a democracy governed by rule of law. Educated citizens could meaningfully exercise his political rights, discharge social responsibilities satisfactorily and develop spirit of tolerance and reform. Therefore, education is compulsory, compulsory education is one of the states for stability of democracy, social integration and to eliminate social evils." The Supreme Court by rightly and harmoniously construing the provision of Part III and IV of the constitution has made right to education a basic fundamental right.

The Government of India by Constitutional (86th Amendment Act) Act, 2002 had added a new Article 21A which provides that "the state shall provide free and

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122 AIR 1993 SC 2178.
125 AIR 1997 SC 2218.
compulsory education to all children of the age of 6 to 14 years as the state may, by law determine". And further strengthened this Article 21A by adding clause (K) to Article 51A which provides, who is a parent or guardian to provide opportunities for education to his child or ward between the age of 6 and 14 years. On the basis of Constitutional mandate provided in Article 41, 45, 46, 21A and various judgments of Supreme Court the Government of India has taken several steps to eradicate illiteracy, improvement the quality of education and make children back to school who left the school for one or the reasons. Some of these programmes are National Technology Mission, District Primary Education Programme, and Nutrition Support for Primary Education, National Open School, Mid-Day Meal Scheme, Sarva Siksha Abhiyan and other state specific initiatives. Besides, this several states have enacted legislation to provide free and compulsory primary education such as- the Kerala Education Act 1959, the Punjab Primary Education Act 1960, the Gujarat Compulsory Primary Education Act 1961, U.P. Basic Education Act 1972, Rajasthan Primary Education Act 1964, etc.

The Constitution of India and Supreme Court have declared that the education is now a fundamental right of the people of India, but it does not speak about millions of children who are in the age group of 0-5 years. It is needed that the Constitution should again be amended and the children of age group of 0-5 years should be included; as by the time the child reaches the age of 6 years he/she gets in to the child labour due to the poverty. Moreover the Constitution only ensures that the state shall provide primary education to the children up to the age of 14 years, and the secondary and higher education is contingent and conditional upon the economic capacity of the state. The right to education will be meaningful only and only if the all the levels education reaches to all the sections of the people otherwise it will fail to achieve the target set out by our Founder Father to make Indian society an egalitarian society.