

CONSTITUTIONALISM OF RIGHT TO EDUCATION IN SRILANKA AND INDIA: A COMPARATIVE UNDERSTANDING IN REGIONAL PARADIGMS

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INTRODUCTION

Education is the manifestation of perfection already in man. Like fire in a piece of flint, knowledge exists in the mind. Suggestion is the friction; which brings it out.

- *Swami Vivekananda.*

The Indian subcontinent has a long tradition of education. Since the Vedic period the education has flourished in the subcontinent. In the words of Dr. P. N. Prabhu, —Education in ancient India was free from any external control like that of the state and government or any party politics. It was the kings' duties to see that learned Pundits, pursued their studies and performed their duty of imparting knowledge without interference from any source what so ever.²

Etymologically, the word "education" is derived from the Latin *educatio* ("A breeding, a bringing up, a rearing") from *educō* ("I educate, I train") which is related to the homonym *educō* ("I lead forth, I take out; I raise up, I erect") from *e-* ("from, out of") and *ducō* ("I lead, I conduct")³. Education has the power to change the personality of a human being.

Education is a powerful tool by which economically and socially marginalized adults and children can lift themselves out of poverty and participate fully as citizens. The importance of the right to education is such that, according to the United Nations' Committee on Economic, Social and Cultural Rights (CESCR), it "epitomizes the indivisibility and interdependence of all human rights."⁴

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² Progress of Education in Ancient India, Available at www.mu.ac.in/myweb_test/ma%20edu/History%20of%20Edu.pdf (Last accessed on 12 July 2016.)

³ Available at www.etymonline.com/index.php?term=education&allowed_in_frame=0 (Last assessed on 10 July 2016.)

⁴ Committee on Economic, Social and Cultural Rights, General Comment 11, Plans of action for primary education (Twentieth session, 1999) <http://unesdoc.unesco.org/images/0022/002284/228491e.pdf> (Last assessed on 13 July 2016.)

Education is a fundamental human right and essential for the exercise of all other human rights. It promotes individual freedom and empowerment and yields important development benefits.⁵ The US Supreme Court has upheld the importance of the education in **Brown v Board of Education**⁶ that “*It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment*”

The universal declaration of human rights has recognized the right to education as the fundamental human right.⁷ Sub clause (2) of Art 26 provides 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....*”

This essay focuses on the constitutionalism of right to education in a comparative perspective with respect to India and Sri Lanka. India and Sri Lanka shares a strong historic cultural relation since the period of Emperor Asoka even though before that too, there were such relations. The relationship between the two countries is more than 2,500 years old and both sides have built upon a legacy of intellectual, cultural, religious and linguistic interaction. In recent years, the relationship has been marked by close contacts at the highest political level, growing trade and investment, cooperation in the fields of development, education, culture and defense, as well as a broad understanding on major issues of international interest.⁸

RIGHT TO EDUCATION-CONSTITUTIONAL PROVISIONS

In India

In India, Education is a subject under List III⁹ of the Seventh Schedule whereby the Centre and the States can make laws¹⁰. However the central law will prevail over the State laws¹¹.

⁵ The Right to Education Available at www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/ (Last assessed on 12 July 2016.)

⁶ 347 U.S. 483 (1954)

⁷ Article 26 (1) Of UDHR- 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.

⁸ Available at http://mea.gov.in/Portal/ForeignRelation/Sri_Lanka_January_2014.pdf (Last assessed on 14 July 2016.)

⁹ Entry 25 of List III of the Seventh Schedule- Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labor.

The right to education is a fundamental right under Art 21(A) of Part III of the Constitution of India which was added by the Constitution (Eighty-sixth) Amendment Act 2002?¹² Part IV of the Constitution of India under Directive Principles of the State Policy also bestows a duty upon the state to take effective provision to secure the citizens the right to education¹³ and also to provide early childhood care for children below 6 years of age.¹⁴ Under Article 51(A) of Part IV A of the Constitution, it is the fundamental duty of the citizens to provide their children opportunities for education.¹⁵

In Sri Lanka

The Sri Lankan population has a literacy rate of 92 percent, higher than that expected for a developing country. It has the highest literacy rate in South Asia and overall, one of the highest literacy rates in Asia. Education plays a major part in the life and culture of the country and the history of education in Sri Lanka dates back to 543 BC. Modern education system in Sri Lanka was brought about with the integration of Sri Lanka in to the British Empire in the 19th century and it falls under the control of both the Central Government and the Provincial Councils with some responsibilities lying with the Central Government and the Provincial Council having autonomy over others.¹⁶

¹⁰ Art 246 (2)- Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

¹¹ Art 254 of the Constitution of India 1950-. Inconsistency between laws made by Parliament and laws made by the Legislatures of States.—(1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

¹² Art 21(A) Right to Education-. 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."

¹³ Art 41. Right to work, to education and to public assistance in certain cases: The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

¹⁴ Art 45- Provision for early childhood care and education to children below the age of six years:- The State shall endeavor to provide early childhood care and education for all children until they complete the age of six years.

¹⁵ Art. 51 A (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.

¹⁶ Lakshman Keerthisinghe, *Is Sri Lanka's Education System Faced With A Crisis?*, The Sunday Leader, (Colombo, 22 January 2012) Available at www.thesundayleader.lk/2012/01/22/is-sri-lankas-education-system-faced-with-a-crisis/ (Last assessed on 14 July 2016.) Also Ninth Schedule, list I, provincial council List, entry 3. Education and Educational Services– Education to the extent set out in Appendix III.

The Constitution of Democratic Socialist Republic of Sri Lanka unlike India does not have separate provision for right to education as a Fundamental Right. Art 27(2) (h) of The Directive Principles of State Policy and the Fundamental Duties is the main provision with regard to right to education which reads as follows: “*the complete eradication of illiteracy and the assurance to all persons of the right to universal and equal access to education at all levels.*” This article should be read along with Art 12(1) and (4)¹⁷ under Fundamental rights and Art 21 under Part IV (languages).¹⁸

LEGISLATIVE MEASURES FOR IMPLEMENTING RIGHT TO EDUCATION

In India

The Government of India has enacted the Right to free and Compulsory Education Act in 2009 as the consequential legislation as envisaged under Article 21-A, which provides that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.¹⁹

The Right of Children to Free and Compulsory Education Act 2009 provides for free and compulsory education to all children in the age group of six to fourteen years. It is now a legally enforceable duty of the Centre and the states, to provide free and compulsory education.²⁰ ‘Free education’ means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education. ‘Compulsory education’ casts an obligation on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age groups. The other important provisions of the act are:²¹

¹⁷ Art 12 of the Constitution of Sri Lanka 1978-. (1) All persons are equal before the law and are entitled to the equal protection of the law. (4) Nothing in this Article shall prevent special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons.

¹⁸ Art 21 of the Constitution of Sri Lanka 1978- . (1) A person shall be entitled to be educated through the medium of either of the National Languages: Provided that the provisions of this paragraph shall not apply to an institution of higher education where the medium of instruction is a language other than a National Language.

¹⁹ Right to Education Available at <http://mhrd.gov.in/rte> (Last assessed on 13 July 2016.)

²⁰ *ibid*

²¹ *ibid*

- It lays down the norms and standards relating inter alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teacher-working hours.
- The Act mandates that even private educational institutions have to reserve 25 per cent seats for children from weaker sections.
- The state government and local authorities will establish primary schools within walking distance of one km of the neighborhood. In case of children for Class VI to VIII, the school should be within a walking distance of three km of the neighborhood.
- It prohibits (a) physical punishment and mental harassment; (b) screening procedures for admission of children; (c) capitation fee; (d) private tuition by teachers and (e) running of schools without recognition.
- It provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building on the child's knowledge, potentiality and talent and making the child free of fear, trauma and anxiety through a system of child friendly and child centered learning.
- Act also contains specific provisions for disadvantaged groups, such as child laborers, migrant children, children with special needs, or those who have a disadvantage owing to social, cultural, economic, geographical, linguistic, gender or any such factor.

In Sri Lanka

The existing legislative framework for implementing the right to education is the Education Ordinance of 1939²² and the subsequent Amendments brought in it. The ordinance empowers the minister of Education the power to make following regulations²³ :

- 1) To compel the children to attend the school
- 2) To specify the limits of area within which efficient provisions has been made for education by means of schools situated within or outside such area²⁴

²² An ordinance to make better provisions for education and to revise and consolidate the law relating thereto- No.31 of 1939; Legislative Enactments of Sri Lanka (1986) Vol XIV chapter 381.

²³ Section 37 of the Ordinance.

²⁴ Sec 37(2)(r)

- 3) To appoint the officers to secure the attendance of the children in the school in the areas in which regulations are in force.²⁵
- 4) To frame regulations regarding power of those officers to demand and obtain information with regard to children who are required by such regulation to attend such regulation to attend the school and to require the production of such children before them for inspection.²⁶

The ordinance casts a duty upon the parents to send their children in between the age group of 5 and 16 years to schools and correspondingly a duty on the state to provide schools within 2 miles of residence of the child to whom the regulation applies.²⁷

INTERNATIONAL CONVENTIONS ON RIGHT TO EDUCATION

The right to education has been manifested by several international conventions accepted by the world community. The first international instrument which recognized the right to education was **UNESCO Convention against Discrimination in Education (CADE) 1960**,²⁸ which, in addition to discrimination, addresses equality of opportunity, access to free primary education, general availability of the secondary education, making higher education available on the basis of individual capacity, and the rights of minority groups.

Article 5(1) (a) of the CADE provides that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms²⁹.

CADE was followed by **International Covenant on Economic Social and Cultural Rights**³⁰ which also upholds the right to education via Art 13³¹ and Art 14. Art 14 provides that “Each

²⁵ Sec 37(2)(o)

²⁶ Sec 37 (2)(p)

²⁷ Sec 37(2) (s).

²⁸ The right to education law, policy review guidelines Available at <http://unesdoc.unesco.org/images/0022/002284/228491e.pdf> (Last assessed on 13 July 2016)

²⁹ Available at www.unesco.org/education/pdf/DISCRI_E.PDF (Last assessed on 13 July 2016.)

³⁰ Available at <http://unesdoc.unesco.org/images/0022/002284/228491e.pdf> (Last assessed on 13 July 2016.)

³¹ Article 13 of ICESCR 1966-

1. The States Parties to the present Covenant recognize the right of everyone to education.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: a) Primary education shall be compulsory and available free to all;

b) 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;

State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.”

The **International Covenant on Civil and Political Rights, 1966** contains a provision ensuring the liberty of the parents in providing moral and religious education to the children as specified in Art 18(4) - *“The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions”*³².

The right of the child to education and the State’s duty to ensure free and compulsory primary education is guaranteed by the **Convention on Child Rights 1989**³³ via art 28(1).³⁴ Art 29 of CRC 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.

There are other international instruments along with this which include the right to education as part of it although it is not the primary objective of these instruments. **The Convention on Elimination of All Forms of Discrimination Against Women, 1979** is one among them. The

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- c) 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;
 - d) 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;
 - e) 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.

³² International covenant on civil and political rights Available at www.ohchr.org/en/professionalinterest/pages/ccpr.aspx (Last assessed on 14 July 2016.)

³³ Convention on rights of child, 1989 Available at www.ohchr.org/en/professionalinterest/pages/crc.aspx (Last assessed on 14 July 2016.)

³⁴ Article 28(1). 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:

- a) Make primary education compulsory and available free to all;
- b) 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;
- c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- d) Make educational and vocational information and guidance available and accessible to all children;
- e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment. States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.³⁵ Art 10 casts a duty on the state to take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women.³⁶

To ensure the rights of the children of the migrants especially with respect to their right to education, the **International Convention on the Protection of the Right of All Migrant Workers and Members of their Families-(1990)**³⁷ contains certain provisions. Art 12(4) provides that States Parties undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions. Art 30³⁸ and Art 45 (1)³⁹ are the other related provisions for ensuring that the children of the migrants are able to access the education.

Convention on Right of Persons with Disabilities, (2006), recognizes the rights of the persons with disabilities to education. States shall realize their right to education without discrimination and on the basis of equal opportunity by assuring that they are not denied access to general system of education and providing them inclusive, quality and free primary education.⁴⁰

³⁵ Convention on elimination of all forms of discrimination against women, 1979 Available at www.un.org/womenwatch/daw/cedaw/ (Last assessed on 14 July 2016)

³⁶ Article 10 of CEDAW www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article10 (Last assessed on 14 July 2016).

³⁷ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. 1990 Available at www2.ohchr.org/english/bodies/cmw/cmw.html (Last assessed on 14 July 2016.)

³⁸ Art 30- Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

³⁹ Art 45(1) (a)-. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to: Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;

⁴⁰ Art 24 of Convention on Right of Persons with Disabilities, (2006) Available at www.un.org/disabilities/convention/conventionfull.html (Last assessed on 14 July 2016)

JUDICIARY AND ENFORCEMENT OF RIGHT TO EDUCATION

Indian judiciary has played a tremendous role to ensure the citizens the right to education. Education was considered as a part and parcel of the right to life and personal liberty under Art 21 of the Constitution. In **Mohini Jain v. State Of Karnataka And Ors**⁴¹ the court held that right to education is a fundamental right under Art 21 of the constitution. Every citizen has a 'right to education' under the Constitution. The State is under an obligation to establish educational institutions to enable the citizens to enjoy the said right. However the Supreme Court in **Unni Krishnan, J.P v. State Of Andhra Pradesh And Ors**⁴² held that every child/citizen has a right to free education up to the age of 14 years and thereafter it is subject to limits of economic capacity and development of the State.

“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 generally available and higher education shall be equally accessible to all on the basis of merit.”⁴³ (*Emphasis added*)

Unlike Indian Judiciary, there are no reported case laws from Sri Lanka with regard to the topic of Right to Education.

COMPARATIVE ANALYSIS ON THE RIGHT TO EDUCATION IN INDIAN AND SRI LANKA

India is the largest democracy in the world with a strong population of youth in between the age of 15 -25. However the literacy rate of India is low when compared to Sri Lanka which possess 92% of Literacy rate. Education as a subject is given importance in both the South Asian Countries. In Sri Lanka, education is free and compulsory even though in practice it is only free and not compulsory and in India, education has been made a fundamental right with state to provide free and compulsory education to the children in between the age group of 6 and 14.

Although Sri Lanka has experienced serious difficulties with its education system in the past, substantial gains have been made in recent years. With a literacy rate of 92.3 percent and

⁴¹ 1992 AIR 1858.

⁴² 1993 AIR 2178.

⁴³ Maharshi Mahesh Jogi ... vs State of M.P. & Ors on 3 July, 2013 CIVIL APPEAL NO.6736 OF 2004

increased primary school enrollment, Sri Lanka seems to be set to accomplish its goal of ensuring that all children have the opportunity to attend school by 2015.⁴⁴

However, despite the progress that has been made, many children still lack the educational opportunities they need. Sri Lanka, which emerged from three decades of civil war in 2009, has made significant progress in enrolling children between the ages of 5 and 14 in primary school. According to UNICEF's report, 98 percent are enrolled. However, there are many children who remain out of school, or are at higher risk of dropping out. In particular, girls living in rural communities, children with learning disabilities and youths who have no choice but to work and support their families remain at risk⁴⁵

India is far behind Sri Lanka in literacy rate. As per the data of 2011, the total literacy rate of India is 74.04% with the male literacy level has reached 82.12%, while female literacy has touched 64.46%.⁴⁶ India has many problems ahead to be tackled to achieve quality education. The UNICEF has identified a few:⁴⁷

- An estimated 8.1 million children are out of school, majority of those belonging to the disadvantaged groups.
- Dropout rates are high. Despite achieving close to universal enrolment at primary level, 27% children drop out between Class 1 and 5, 41% before reaching Class 8, and 49% before reaching Class 10. The figures are higher for children from Scheduled Castes (27%, 43%, and 56% respectively) and Scheduled Tribes (36%, 55%, and 71%).
- Wide gender disparities exist in education. For every 100 boys enrolled in secondary education, there are 81 girls enrolled.
- Less than half (47%) of Class 5 students can read Class 2 text⁵. Children's attendance rate in rural primary schools has shown a decline from 73% in 2007 to 71%⁶ in 2012.
- As per RTE norms, there should be one teacher for every thirty students at primary level and one teacher for every thirty-five students at upper primary level. However, 41% of primary schools have a pupil-teacher ratio (PTR) of more than 30 and 31% of upper primary schools have a PTR more than 35. About 80% of regular teachers and 72% of contractual teachers are professionally qualified.

⁴⁴ Expanding Access to Education in Sri Lanka, Available at www.childfund.org/Expanding-Access-to-Education-in-Sri-Lanka (Last assessed on 13 July 2016.)

⁴⁵ *Ibid.*

⁴⁶ Ramakant Rai, Challenges in implementing the RTE Act, Available at <http://infochangeindia.org/education/backgrounders/challenges-in-implementing-the-rte-act.html> (Last assessed on 15 July 2016.)

⁴⁷ Education, Available at www.unicef.org/india/education.html (Last assessed on 20 July 2016.)

- Of the 1.3 million schools across India, only 72% of elementary schools have a separate girls' toilet, while only 85% of these toilets are functional.
- Significant challenges still remain to keep schools safe considering rising civil unrest and the wide prevalence of corporal punishment across the country

Outdated curricula, inadequate teacher training, and poor infrastructure, the expensive private education, malnutrition among the children, the reluctance of the parents to send the students to school and the consequent child labor, discrimination of girl child etc. are only few from the vast sea of problems faced by India in education sector. Along with these the unavailability of the funds also is a great hurdle.

The higher education in India is also not hassle free. Enrollment rates for higher education in India still lag far behind that in other countries, including China, even though India has the world's largest number of higher education institutions, with nearly one-third of these institutions being less than ten years old. The major challenges faced by India in the higher education sector are a lack of trained faculty; underfunded research facilities, libraries, and information technology systems; low quality research; and politicization of staffing appointments. In addition, there are widespread regional, rural-urban, and gender disparities in student enrollment.⁴⁸

Accesses to education and retention in schools have been identified as the main challenges facing the Sri Lanka education system.⁴⁹ The number of out of school children is also on hike. The major barriers to ensuring equity in access to education are poverty, lack of awareness of parents about gaining access to schooling, lack of interest of parents and children in participating in education due to various reasons, socio-cultural factors which make some communities accept their historical subordinate status, lure of 'easy money' in the liberalized economy rather than going through the formal education system to obtain employment, and incidence of abuse of children in the absence of proper care.⁵⁰

Among other barriers are conflicts, lack of support from home for children's education, stigmatization of children who want re-join school, and the small schools which service poor and remote communities being perceived as being uneconomical. Disparities in quality result from

⁴⁸ *Ibid.*

⁴⁹ Rohan Senarath Continuing Issues in the Sri Lankan Education System Available At www.idp-europe.org/eenet-asia/eenet-asia-5-EN/page30.php (Last assessed on 15 July 2016).

⁵⁰ Out-of-School Children in Sri Lanka: Country Study, UNICEF Sri Lanka Colombo February 2013< www.unicef.org/srilanka/2013_OSS.pdf (Last assessed on 20 July 2016.)

inequities in provision of infrastructural resources and in deployment of an adequate number of qualified and committed teachers in different subject specializations, and absence of proper monitoring and supervision of implementation of reform. Political, governance, capacity and financing factors often underlie both demand-side and supply-side barriers and bottlenecks⁵¹

In recent years, the levels of English fluency amongst the members of Sri Lanka's academic community and among members of the public service have deteriorated. Due to ultra-nationalistic political forces, English was abandoned, instead of being retained while encouraging vernacular languages.⁵²

There is a rise in demand for private education. Free education plays a key role today but insufficient government spending on education due doubtless to heavy military expenditure has led to a marked decline in educational standards in the country. Consequently the demand for private education is rising. In recent years several "international" schools have sprung up that do not come under the purview of the Ministry of Education nor the Department of Examinations. There is an absence of a desirable state regulatory mechanism to monitor the academic offerings and standards of these schools⁵³.

The higher education in Sri Lanka is also not free from hassles like their Indian Counterparts. The existence of 'unsatisfied social demand' for university education remains an important issue. Tertiary enrolment ratio is only 6 per cent and a mere 2 per cent of the student community remains full-time students. There are only 13 universities with the capacity to admit around 13,000 students each year as against 75,000 qualified aspirants. As a result, there is tremendous pressure for university admissions.⁵⁴

India and Sri Lanka, both are parties to the International Covenants with respect to Education.⁵⁵ In the year 2000, the world's governments adopted the six EFA goals⁵⁶ and the eight Millennium

⁵¹ *Ibid.*

⁵² Issues and trends impacting education in Sri Lanka, Available at www.fulbrightsrilanka.com/?page_id=610 (Last assessed on 21 July 2016).

⁵³ *Ibid.*

⁵⁴ N Manoharan, "Education System in Sri Lanka – I: The Problems" (2002), 766, Institute of peace and conflict Studies. Available at www.ipcs.org/article_details.php?articleNo=766 (Last assessed on 19 July 2016.)

⁵⁵ Available at https://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-11&chapter=4&lang=en (Last assessed on 21 July 2016.)

⁵⁶ Education for All Goals

- Goal 1: Expand early childhood care and education
- Goal 2: Provide free and compulsory primary education for all
- Goal 3: Promote learning and life skills for young people and adults
- Goal 4: Increase adult literacy
- Goal 5: Achieve gender parity

Development Goals (MDGs)⁵⁷, the two most important frameworks in the field of education targeted to be achieved by 2015. The two sets of goals are an ambitious roadmap for the global community to follow. They offer a long-term vision of reduced poverty and hunger, better health and education, sustainable lifestyles, strong partnerships and shared commitments⁵⁸

Sri Lanka has made significant progress toward achieving the Millennium Development Goals (MDGs).⁵⁹ The Island nation has already implemented the criteria of Universal Primary education for all, free and compulsory education even before the MDG.⁶⁰The government of India has even started an initiative named *Sarva Shiksh Abiyan*⁶¹ to ensure primary education accessible to all.

CONCLUSIONS AND SUGGESTIONS

After the target of universal primary education to all, the UN is planning to carry forward its goal to achieve good quality education at all levels, accountability with a wholesome stakeholder participation in its post 2015 Development agenda⁶² which is on table now for negotiations among the state. The paper on agenda prepared by UNESCO points out that Gender-based violence in schools undermines the right to education and presents a major challenge to achieving gender equality in education because it negatively impacts girls' participation and their retention in school. The agenda aims to provide a human right approach to education considering education as the girl's human right. All aspects of education should be considered from a rights perspective, including the learning environment, the teaching and learning process, government policy, school governance and support for teachers. Overcoming structural barriers to accessing good-quality education is vital for realizing education rights for all.⁶³ Equity is the foremost strategy which is

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- Goal 6: Improve the quality of education.

⁵⁷ Goals with respect to Education

Goal 2: Achieve universal primary education

Goal 3: Promote gender equality and empower women

⁵⁸ Education for All, Available at www.un.org/en/globalissues/briefingpapers/efa/ (Last assessed on 20 July 2016)

⁵⁹ Ganga Tilakaratna, "From MDGs to Post-MDGs: Some Lessons from Sri Lanka", 8 May 2014. Available at <http://post2015.org/2014/05/08/from-mdgs-to-post-mdgs-some-lessons-from-sri-lanka/> (Last assessed on 20 July 2016.)

⁶⁰ See Education Ordinance 1939.

⁶¹ Sarva Shiksha Abhiyan (SSA) is Government of India's flagship Programme for achievement of Universalization of Elementary Education (UEE) in a time bound manner, as mandated by 86th amendment to the Constitution of India making free and compulsory Education to the Children of 6-14 years age group, a Fundamental Right Available at <http://ssa.nic.in/> (Last assessed on 20 July 2016.)

⁶² Available at www.unicef.org/education/files/Making_Education_a_Priority_in_the_Post-2015_Development_Agenda.pdf (Last assessed on 20 July 2016.)

⁶³ *Ibid.*

given importance in the Agenda. The agenda also focuses on all the Stake holders' participation – teachers, students, multilateral agencies, civil society organizations etc. Recognizing their role in the implementation of the Education rights. The agenda also focuses on accountability, flexibility and harmonization. With its implementation the two South Asian neighbors will again have certain goals to achieve, miles to travel, to achieve the inclusive and better quality education to the responsible citizens of tomorrow.

The two South Asian countries have miles to travel to achieve better quality in higher education. There are many challenges for the countries of this region to provide quality education for all rather than education for all. There should be political consensus with regard to the investment in education sector. The South Asian Association for Regional Co-Operation (SAARC) can be a platform for the countries of this region to work together to achieve the aim of quality education with accountability and elaborate stakeholder participation. The recently held SAARC Education Ministers' Summit in Delhi adopted a Declaration- Delhi Declaration⁶⁴ where initiatives for inclusive education, quality improvement, use of ICT in education, development and sharing of e-resources, connectivity, e-learning and Massive Open Online Courses (MOOCs), mutual capacity building, more exchanges of students and researchers, etc. and SAARC priorities for Post 2015 Education Agenda was formulated. The declaration can be a milestone for the development of education in the region for a coordinated action to achieve SAARC federation which can be visualized in near future.

⁶⁴ New Delhi Declaration, 31 October 2014. Available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=111006> (Last assessed on 20 July 2016.)