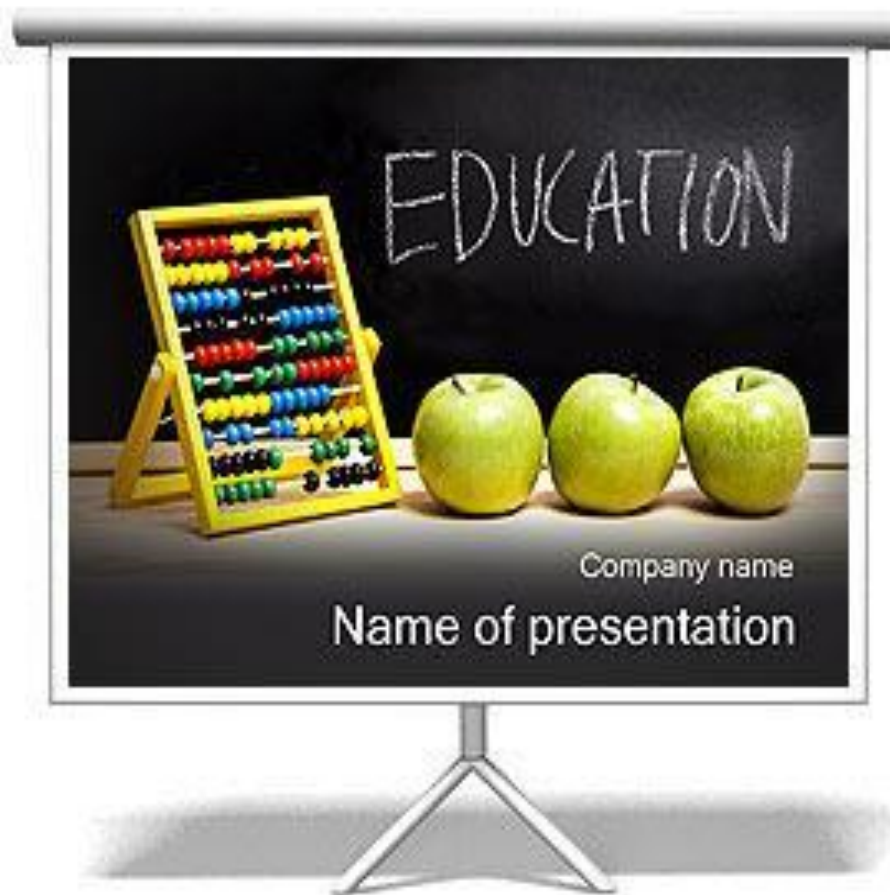


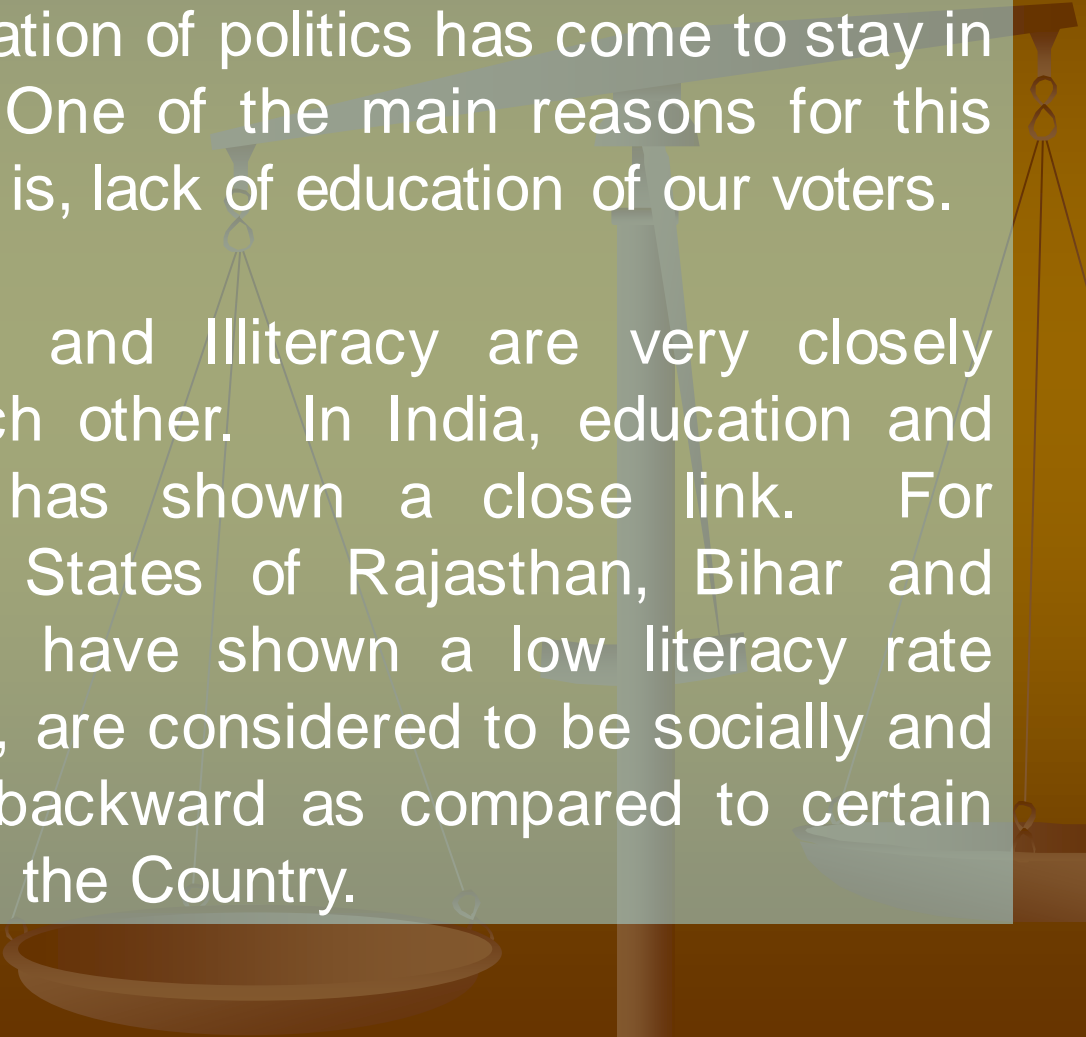
POLITICAL, SOCIAL AND CONSTITUTIONAL DIMENSIONS OF RIGHT TO EDUCATION IN INDIA :

Bv - Adv. (Dr.) Santosh A. Shah



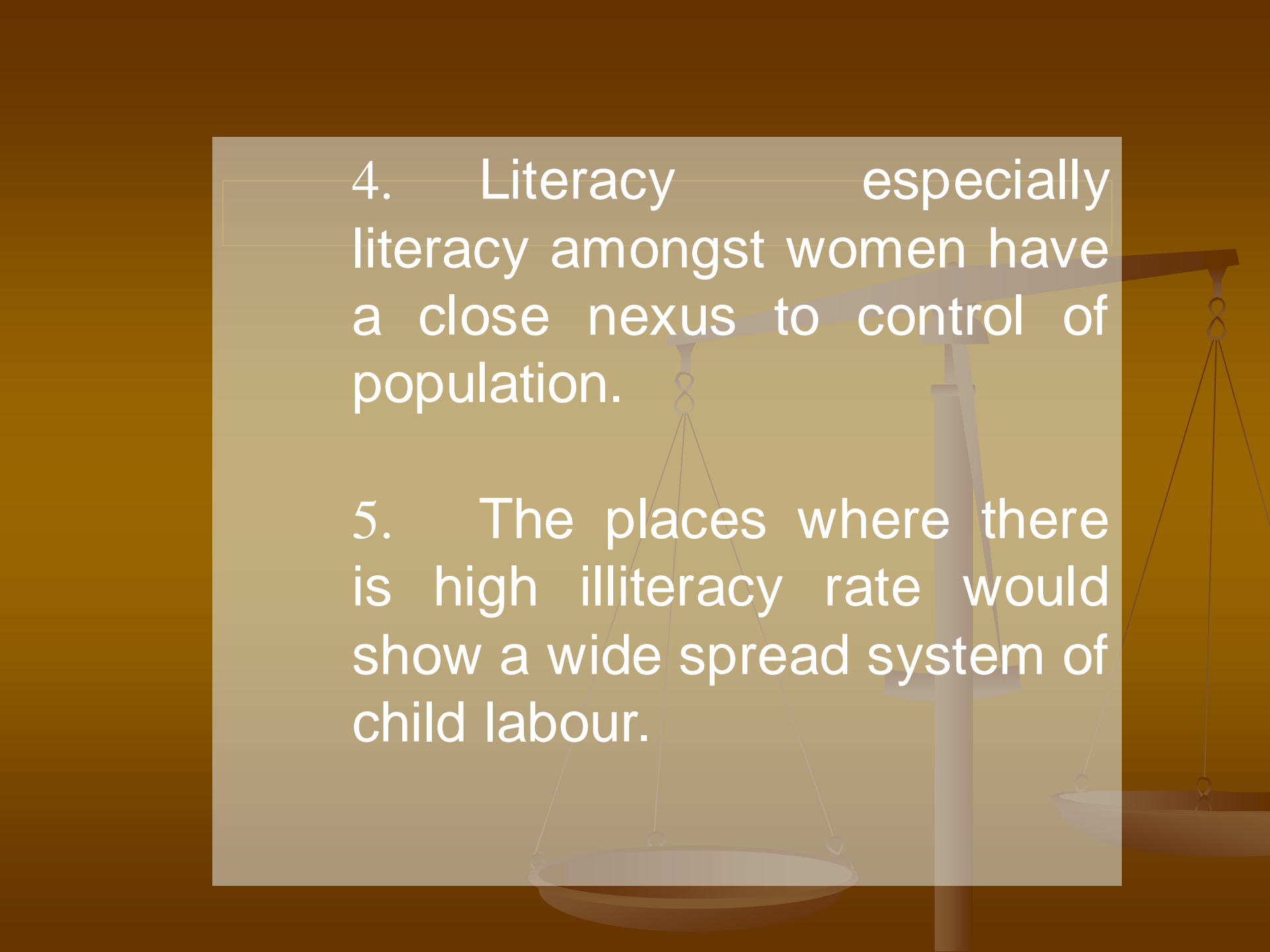
I. SIGNIFICANCE OF RIGHT TO EDUCATION

1. Education and Human Rights whether they be Civil, Political, Social, Economic or Cultural have a direct relation. Even after completion of about 59 Years of independence, the literacy rate in India is still very low. This rate is indeed shameful for a country like India which dreams to be a super power of the world in the 21st Century.



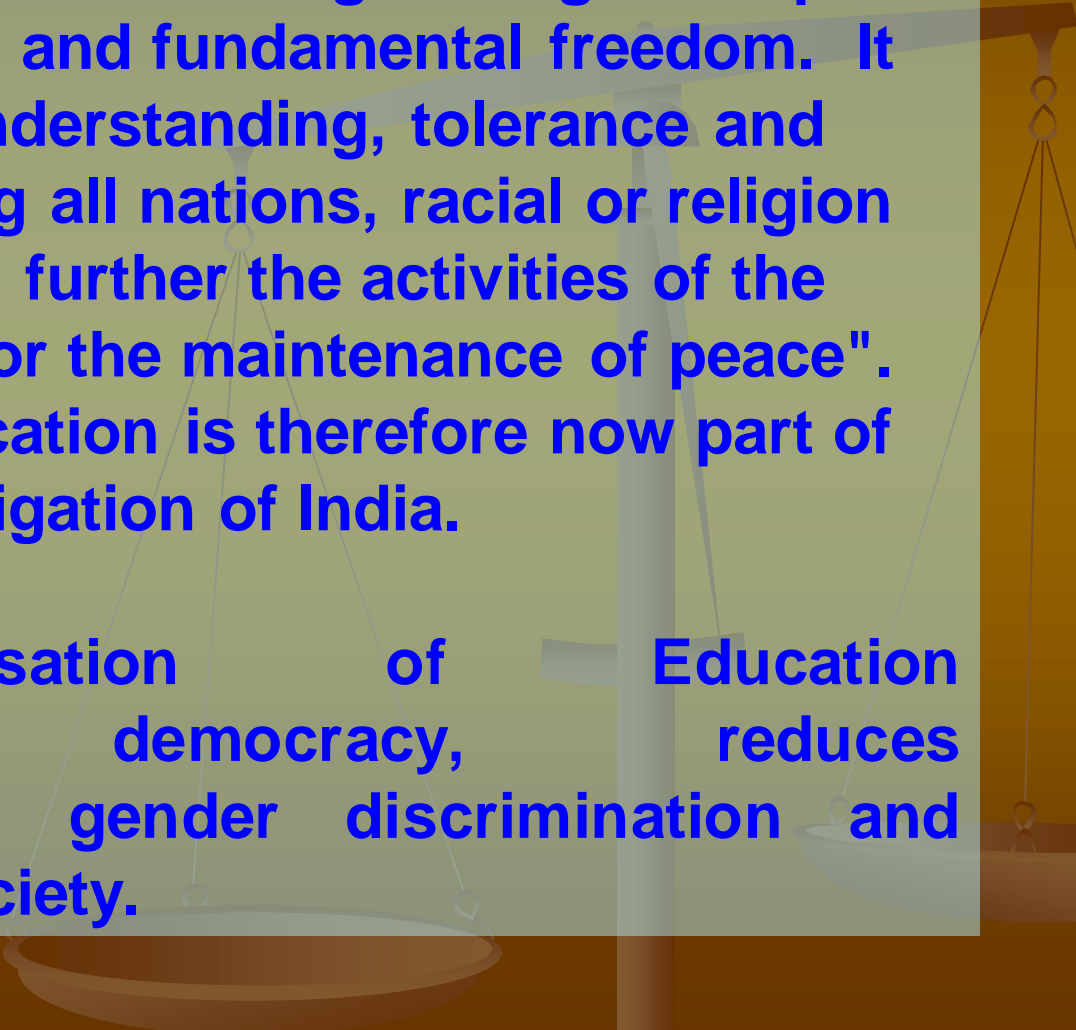
2. Every election in India goes to show that, the elections are held on the basis of caste, communal politics and self interest. Corruption and criminalisation of politics has come to stay in this country. One of the main reasons for this state of affairs is, lack of education of our voters.

3. Poverty and Illiteracy are very closely related to each other. In India, education and development has shown a close link. For example, the States of Rajasthan, Bihar and Utter Pradesh have shown a low literacy rate and, therefore, are considered to be socially and economically backward as compared to certain other States in the Country.



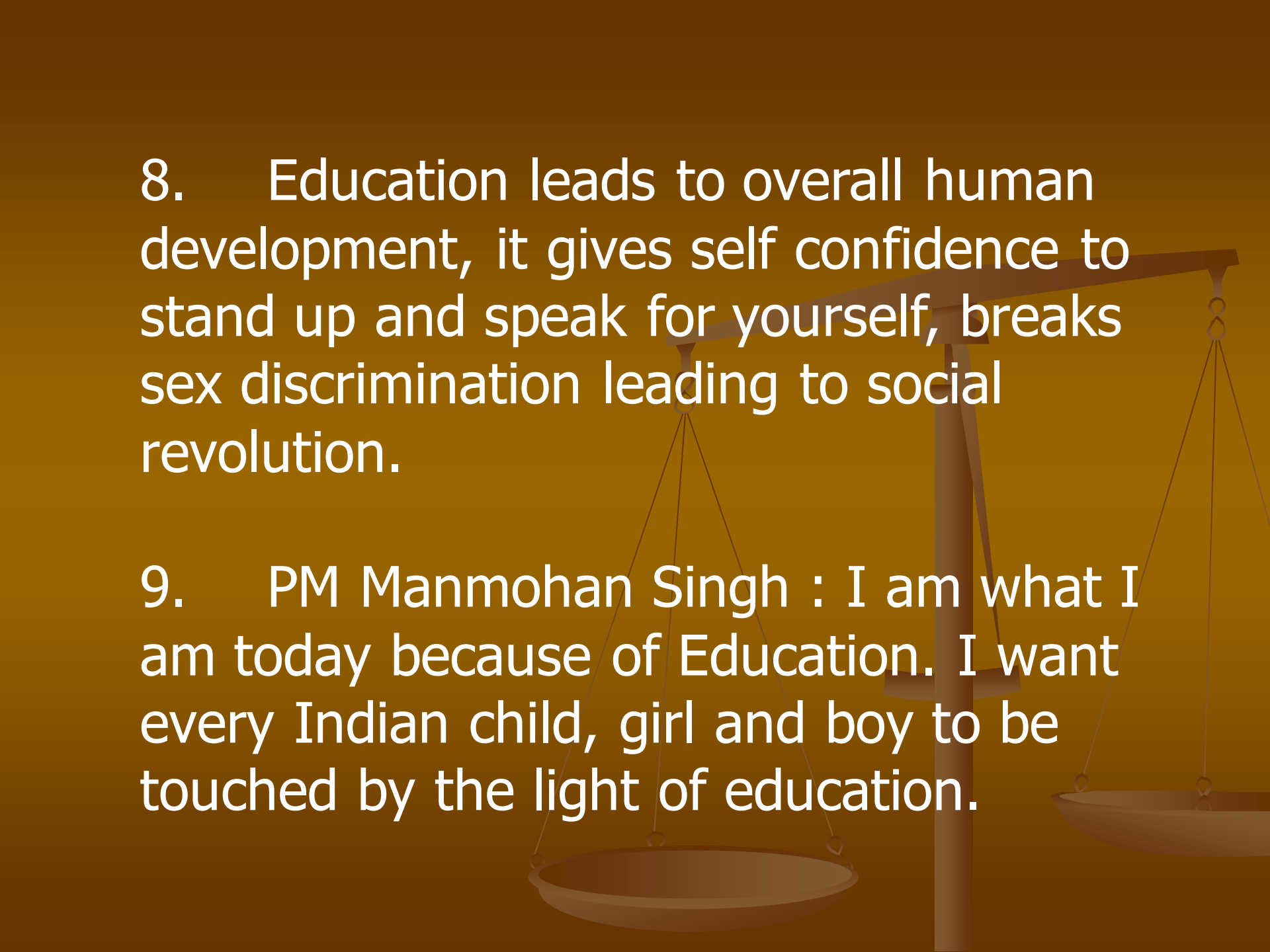
4. Literacy especially literacy amongst women have a close nexus to control of population.

5. The places where there is high illiteracy rate would show a wide spread system of child labour.



6. The Universal Declaration of Human Rights, 1948 states, "Education shall be directed to full development of the human personality and to the strengthening of respect for human rights and fundamental freedom. It shall promote understanding, tolerance and friendship among all nations, racial or religion groups and shall further the activities of the United Nations for the maintenance of peace". The right to education is therefore now part of international obligation of India.

7. Universalisation of Education strengthens democracy, reduces fundamentalism, gender discrimination and disparity in a society.



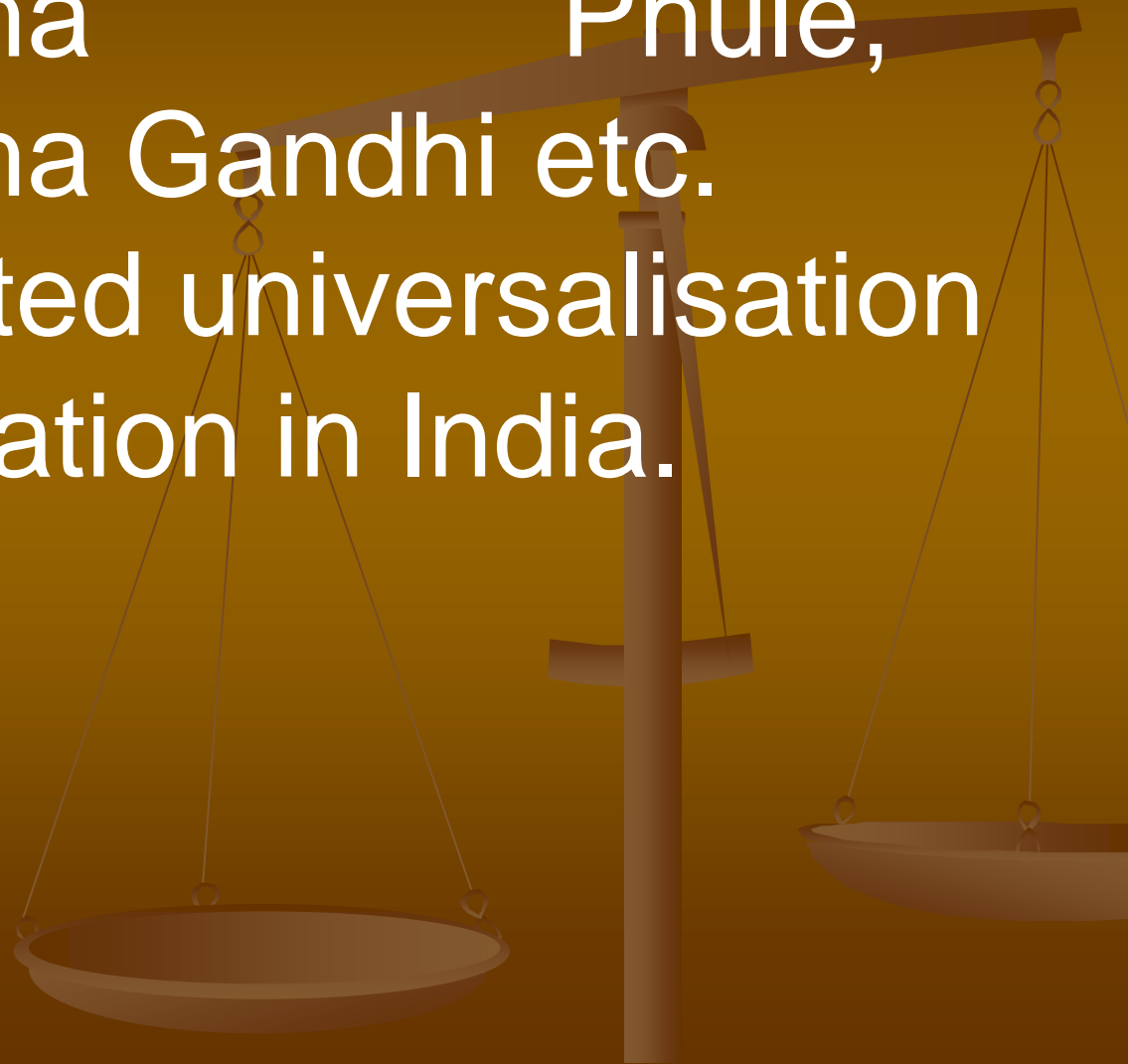
8. Education leads to overall human development, it gives self confidence to stand up and speak for yourself, breaks sex discrimination leading to social revolution.

9. PM Manmohan Singh : I am what I am today because of Education. I want every Indian child, girl and boy to be touched by the light of education.

II. POLITICAL, SOCIAL AND LEGAL HISTORY OF RIGHT TO EDUCATION IN INDIA

- A) Pre Independence Period :
 - i) Caste System – Education only to few
 - ii) British Rule – Created education to create beurocracy for administering British India.

iii) Freedom Struggle –
Mahatma Phule,
Mahatma Gandhi etc.
advocated universalisation
of education in India.



B) Post Independence Period

i) Period prior to 86th

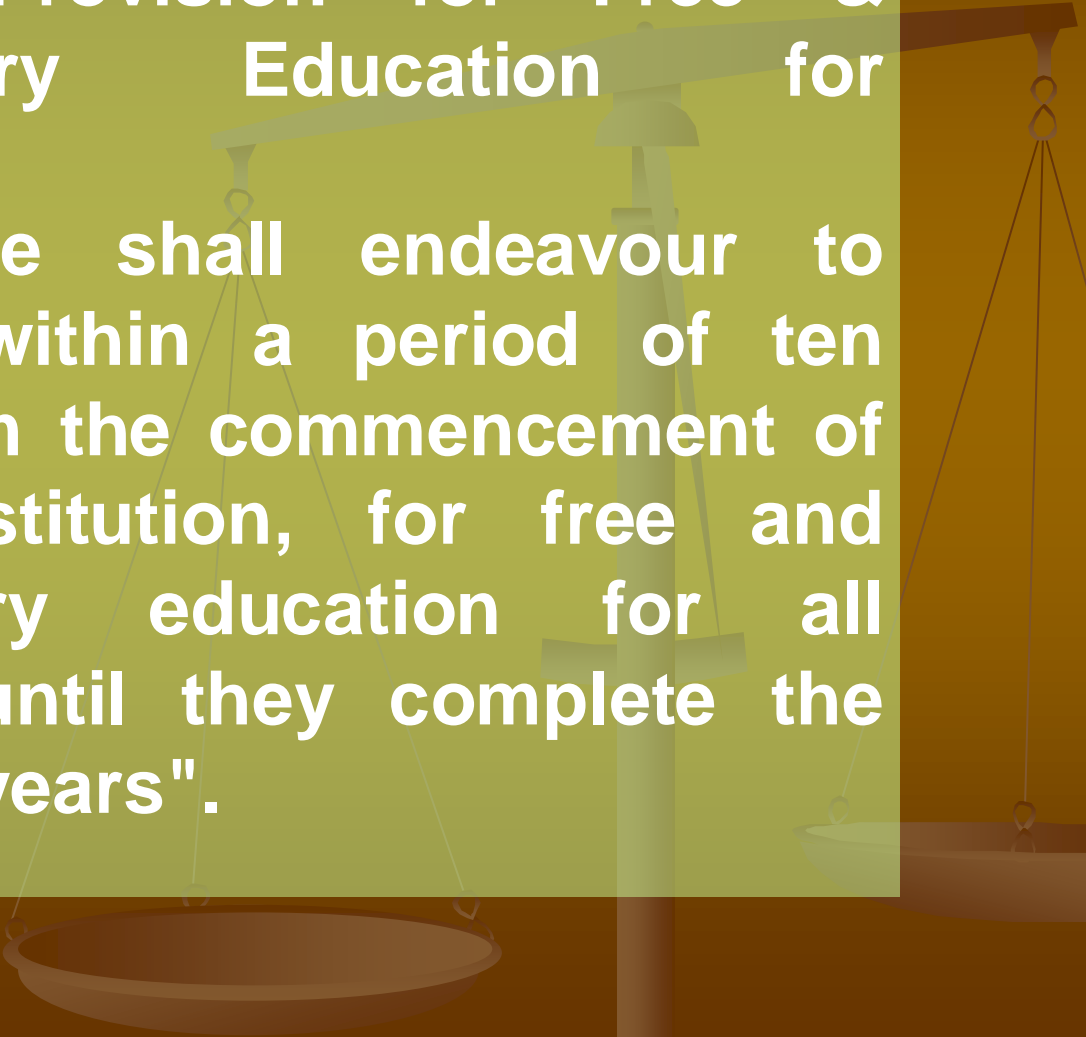
Constitutional Amendment making
Right to Education a fundamental
right.





a) Preamble to the
Constitution

- Democracy, Justice, Freedom and Equality

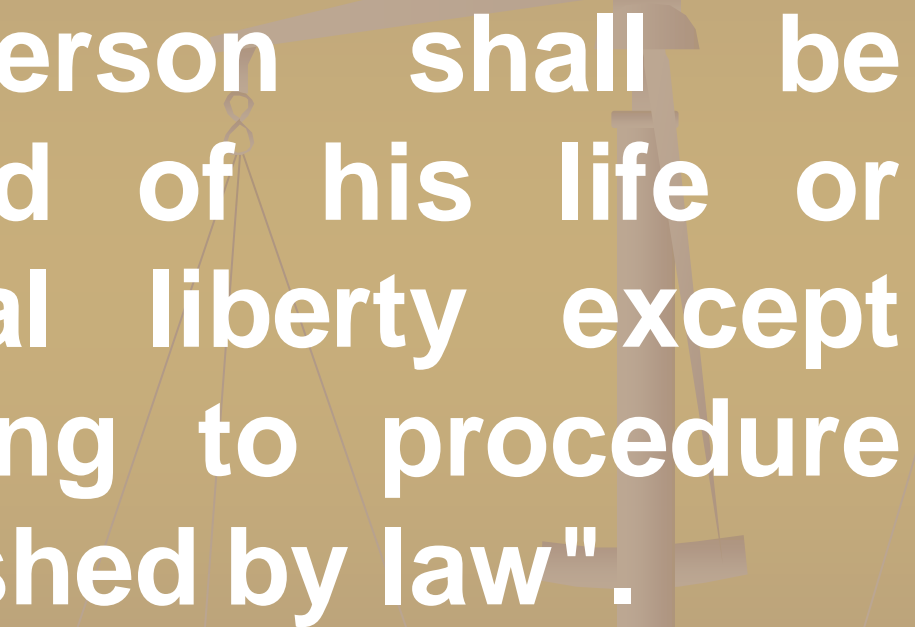


b) Article 45 of Constitution of India - Provision for Free & Compulsory Education for Children.

"The state shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of 14 years".

c) Article 21 - Protection of Life and Personal Liberty

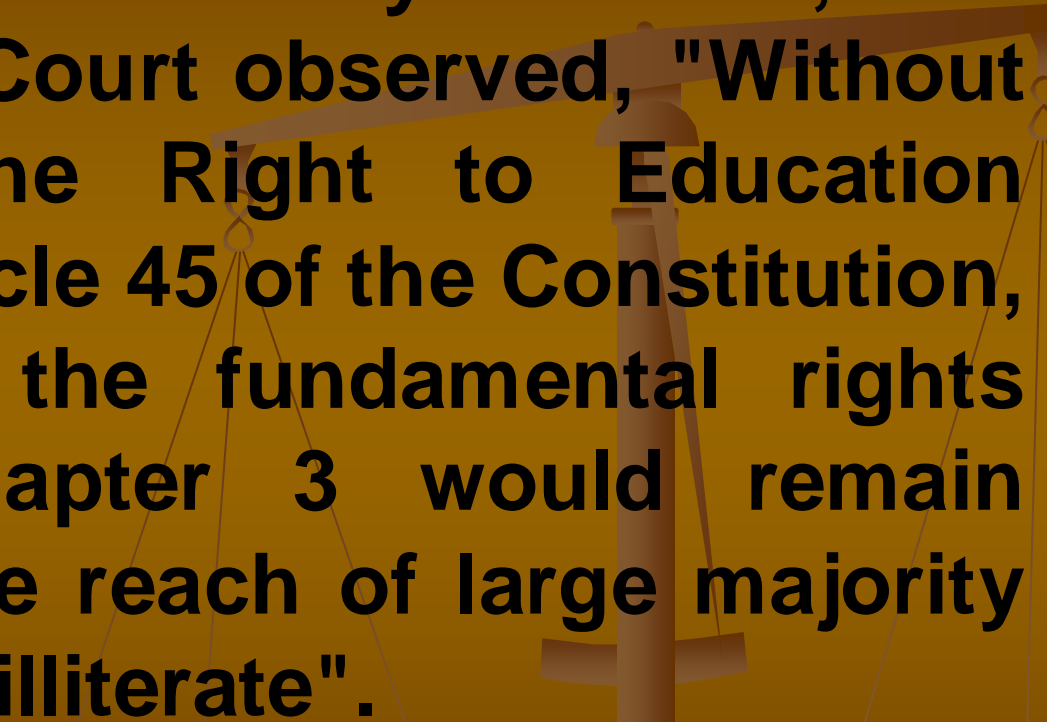
"No person shall be deprived of his life or personal liberty except according to procedure established by law".



d) Directive Principles and Fundamental Rights.



e) In Mohini Jain V/s. State of Karnataka in the year 1992, the Supreme Court observed, "Without making the Right to Education under Article 45 of the Constitution, a reality, the fundamental rights under Chapter 3 would remain beyond the reach of large majority which are illiterate".



f) In Unnikrishnan V/s. State of Andhra Pradesh, (1993) Justice P. Jeevanreddy observed;

“The citizens have a fundamental right to education. The said right flows from Article 21. The right of education which is implicit in the right of personal liberty guaranteed by Article 21 must be construed in the light of directive principles in Part 4 of the Constitution. The democracy is one where education is universal, where people understand what is good for them and the nation and people know how to govern themselves. The right of education in the context of Article 45 and Article 21 means :

A) Every child / citizen of this country has a right to free education until he completes the age of 14 years.

B) After a child / citizen completes 14 years his right to education is circumscribed by the limits of the economic capacity of the State and its development. The time limit is found only in Article 45".

g) Constitutional 86th Amendment 2002 adding Article 21A, Substituting Article 45 & amending Article 51A, making Right to Education a fundamental right and the road ahead.

Right to Education –

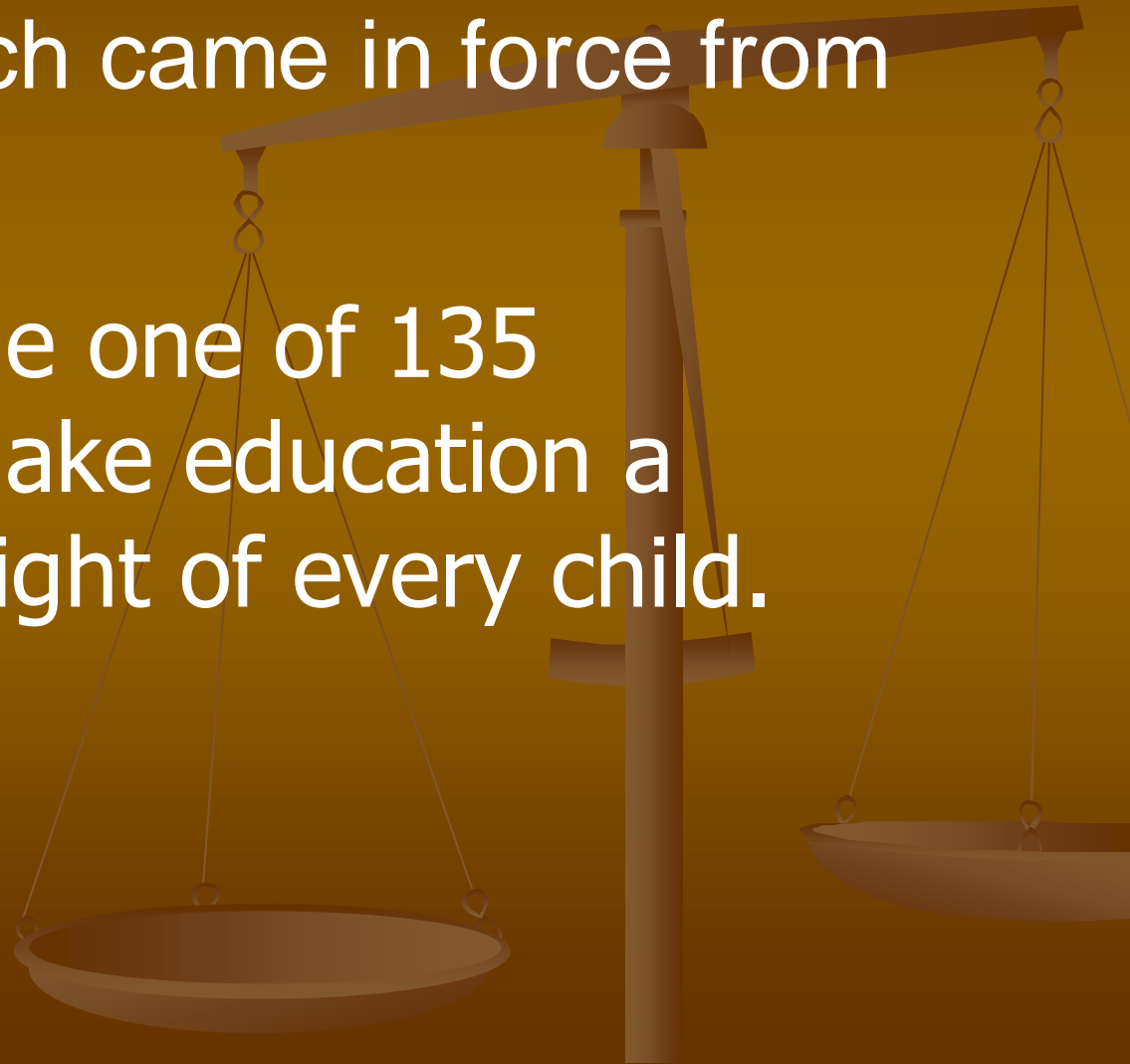
“21A. The State shall provide free and compulsory education all children of the age of six to fourteen years in such manner as the State may, by law, determine.”

Amendment of Article 51A – In article 51A of the Constitution, after clause (J), the following clause shall be added, namely;

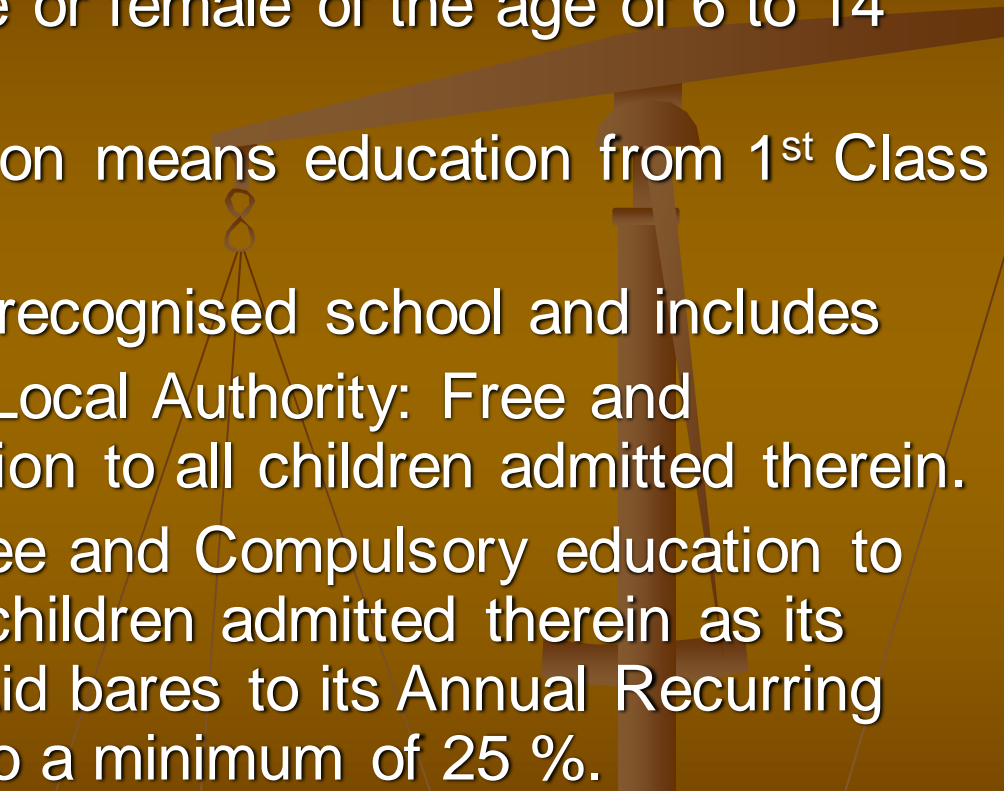
“(k) who is parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years”.

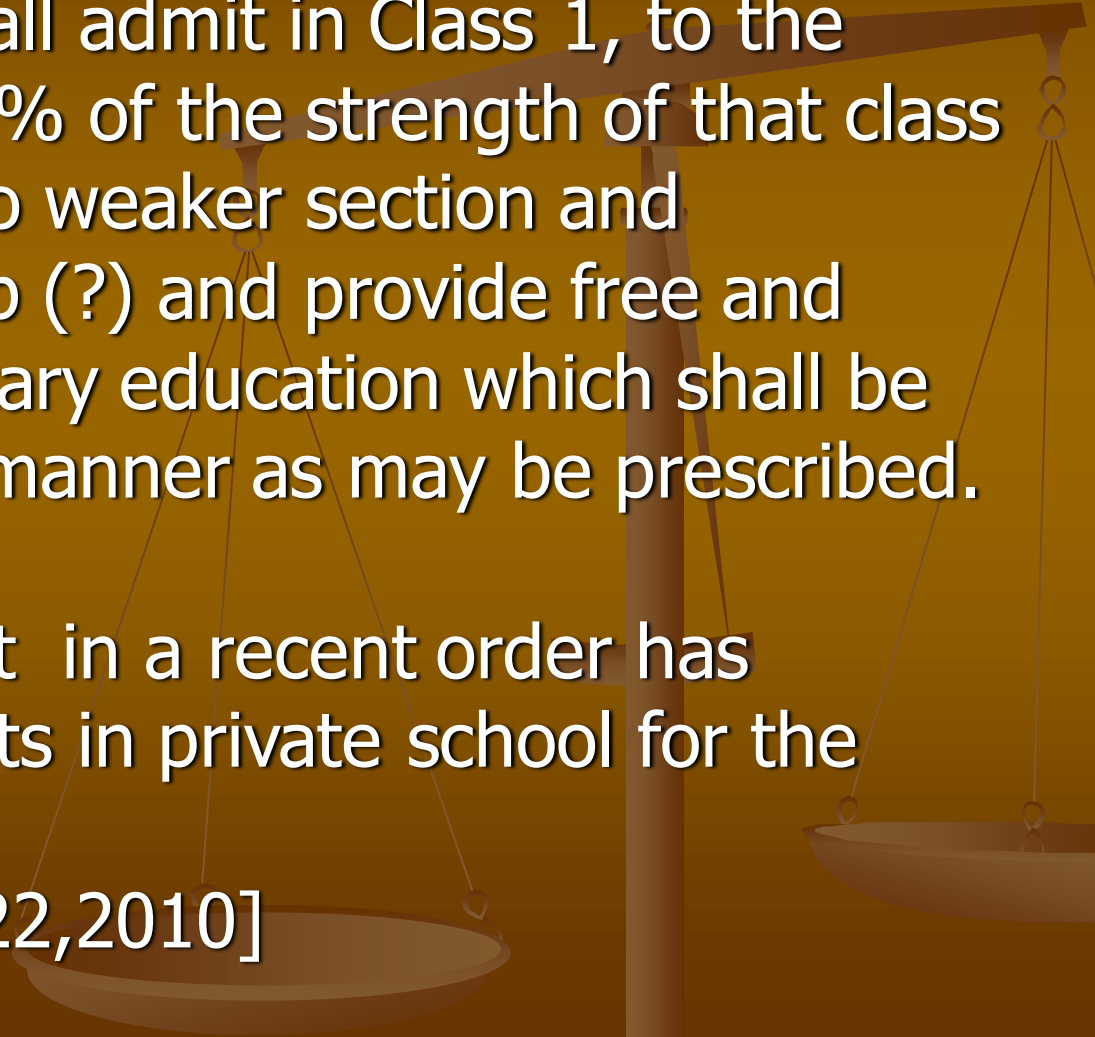
h) Passing of Right to Education Act, 2010 which came in force from April 1, 2010.

i) India became one of 135 countries to make education a fundamental right of every child.



III. Salient Features of Right to Education Act, 2010

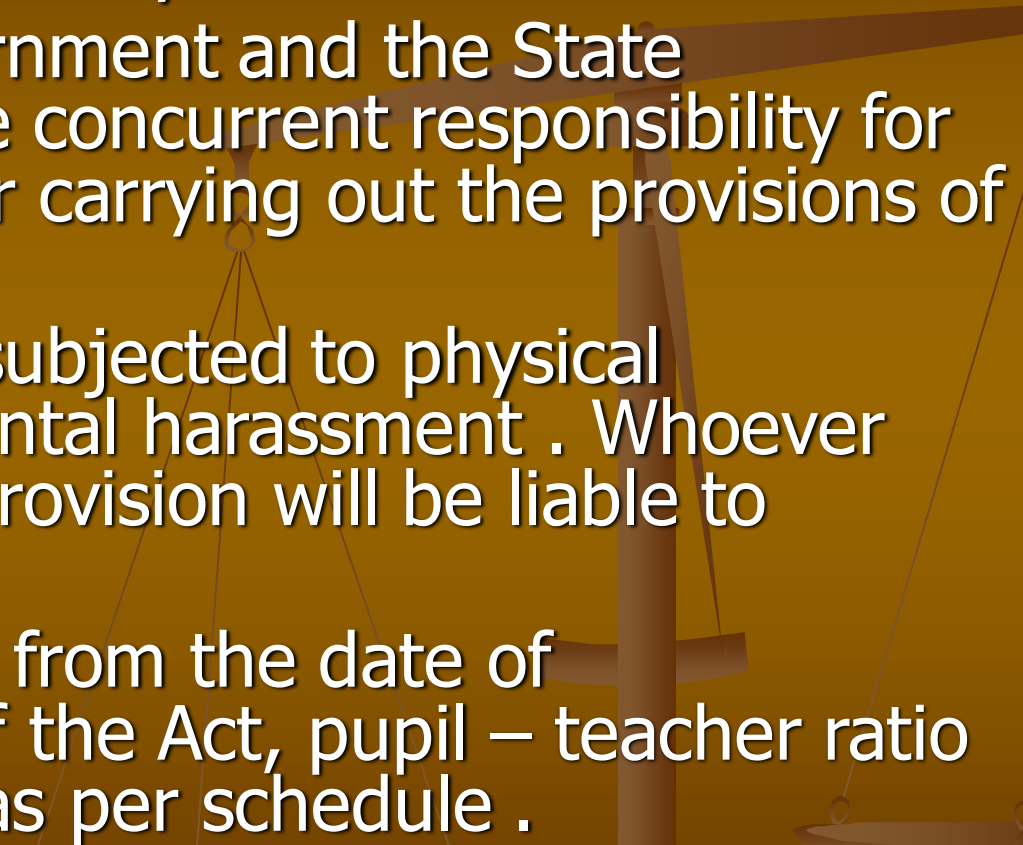
1. Child means a male or female of the age of 6 to 14 years.
 2. Elementary Education means education from 1st Class to 8th Class.
 3. School means any recognised school and includes
 - Government and Local Authority: Free and Compulsory education to all children admitted therein.
 - Aided Private : Free and Compulsory education to such proportion of children admitted therein as its Annual Recurring Aid bares to its Annual Recurring Expenses subject to a minimum of 25 %.
- 



-Specified Category like Kendriya Vidyalaya, Navoday Vidyalay, Sainik School etc & Unaided Private Schools : Shall admit in Class 1, to the extent of at least 25% of the strength of that class children belonging to weaker section and disadvantaged group (?) and provide free and compulsory elementary education which shall be reimbursed in such manner as may be prescribed.

- Supreme Court in a recent order has insisted on 25% seats in private school for the poor.

[Source : TOI, Dec 22,2010]

- 
4. Every child shall have a right to free and compulsory education in a neighborhood school? Till completion of elementary education :- Free for Children Compulsory for State.
 5. The Central Government and the State Governments have concurrent responsibility for providing funds for carrying out the provisions of the Act.
 6. No child shall be subjected to physical punishment or mental harassment . Whoever contravenes this provision will be liable to disciplinary action.
 7. Within six months from the date of commencement of the Act, pupil – teacher ratio to be maintained as per schedule .

8. No teacher shall be deployed for any non-educational purpose other than population census, disaster relief duties and duties relating to elections.

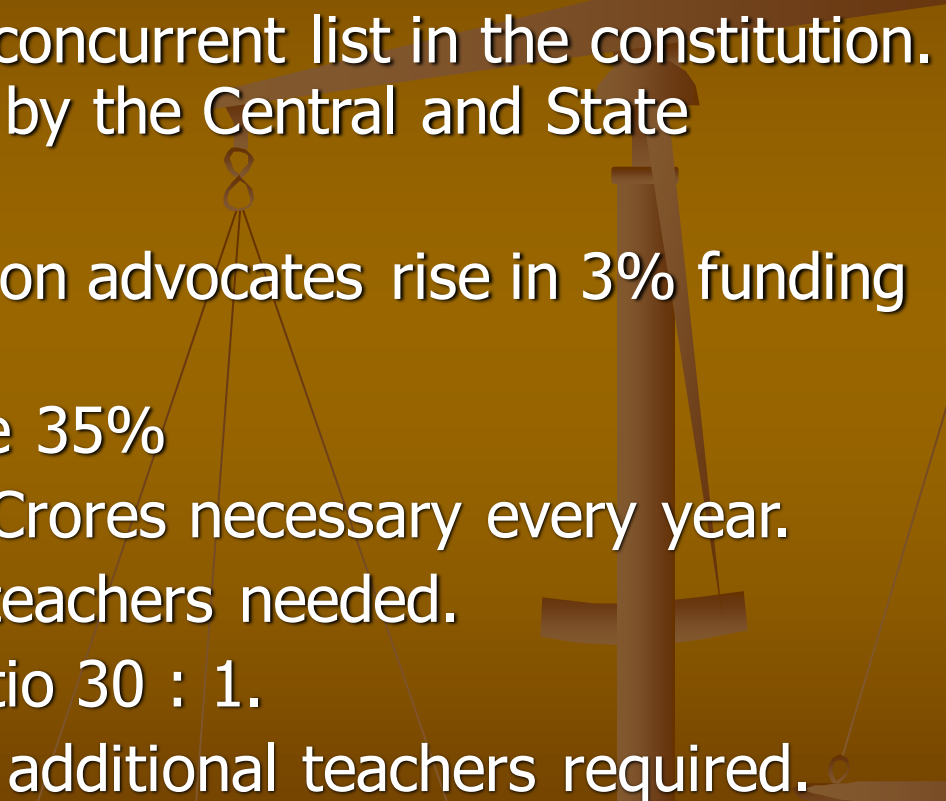
9. No teacher shall engage himself or herself in private tuition.

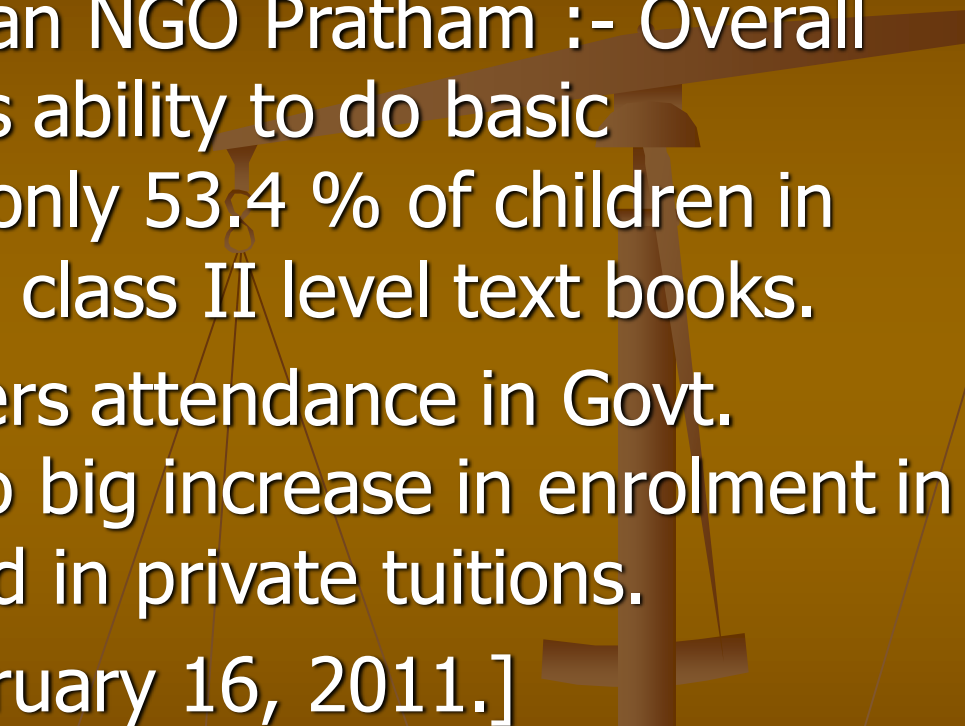
10. No child shall be required to pass any board examination till completion of elementary education.

11. Mandates improvement in quality of Education, adequate professional degree to school teachers within five years, school infrastructure in three years.

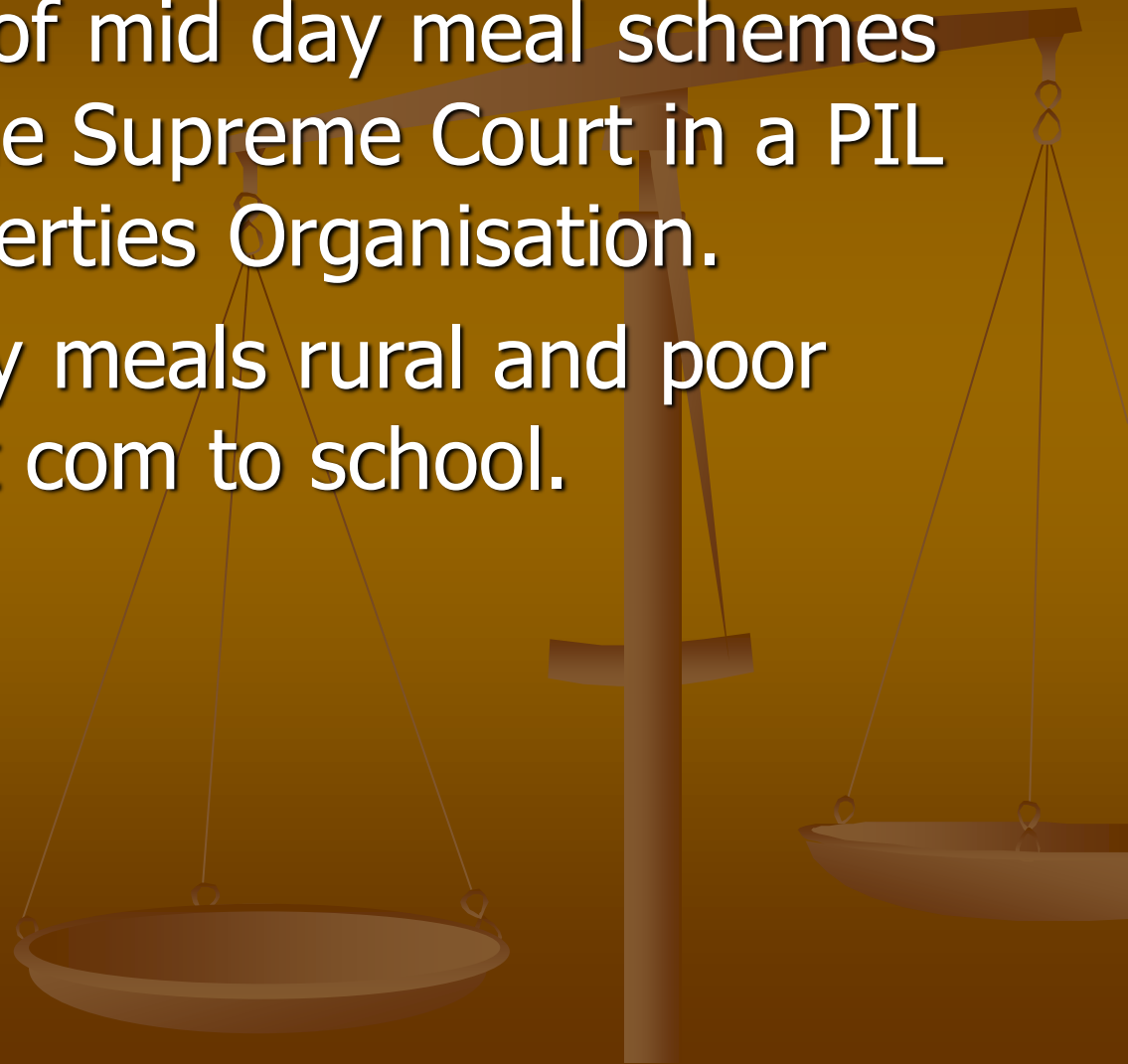
12. All screening of pre primary children, interview of parents, donation or capitation fees banned, made an offence.

Critical Analysis of Right to Education Act, 2010

1. Education is in the concurrent list in the constitution. Problem of funding by the Central and State Governments.
 - Kothari Commission advocates rise in 3% funding by Central Govt.
 - Centre 65% State 35%
 - Rs. 35 Thousand Crores necessary every year.
 2. Infrastructure and teachers needed.
 - Teacher - Pupil ratio 30 : 1.
 - More than 5 Lakh additional teachers required.
- 

- 
- Recent survey by an NGO Pratham :- Overall decline in students ability to do basic mathematics and only 53.4 % of children in Class V could read class II level text books.
 - - Decline in teachers attendance in Govt. Schools, leading to big increase in enrolment in private schools and in private tuitions.
- [Source : TOI February 16, 2011.]

3. No mention of mid day meal schemes mandated by the Supreme Court in a PIL filed by Civil Liberties Organisation. Without mid day meals rural and poor children will not com to school.

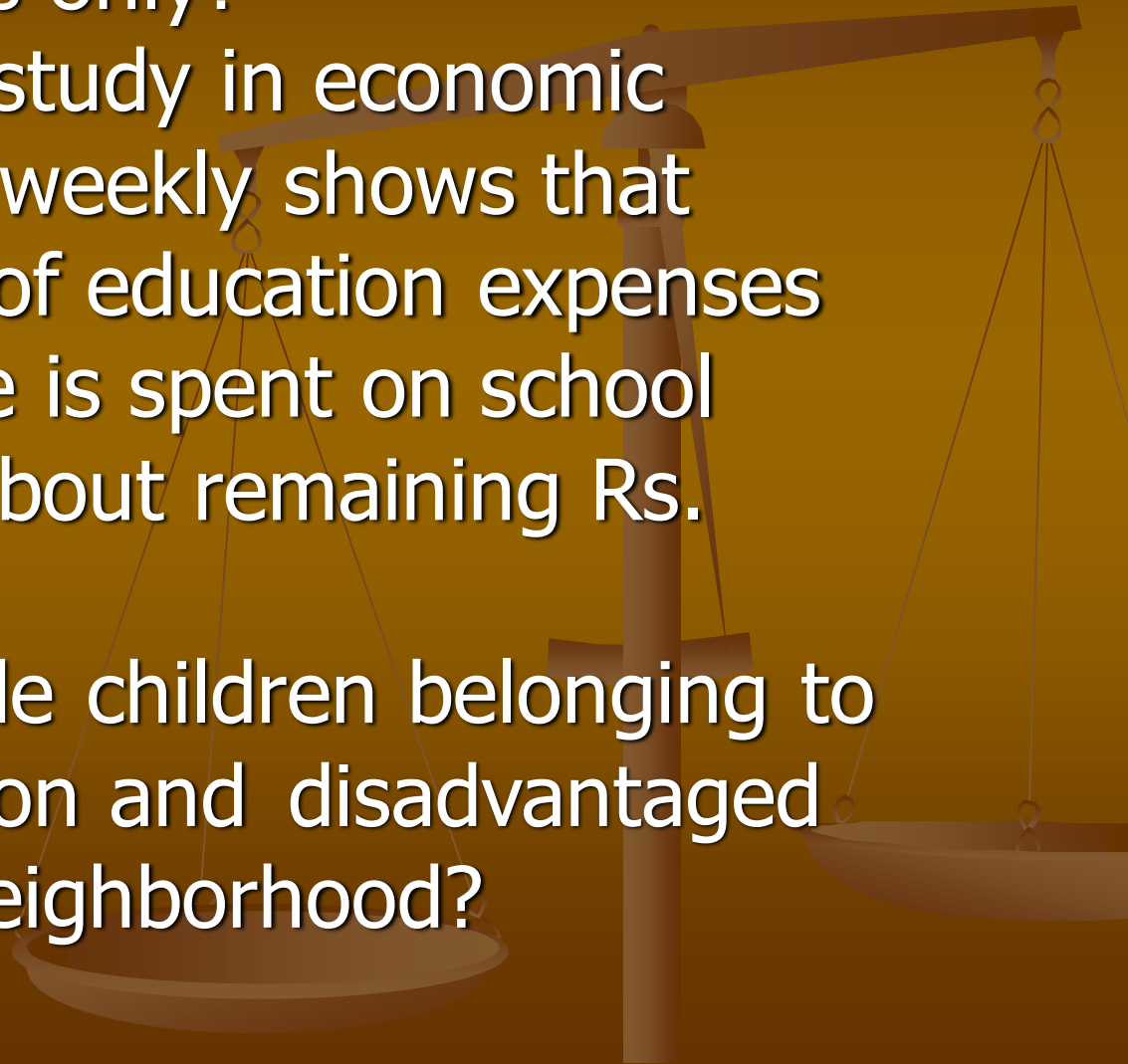


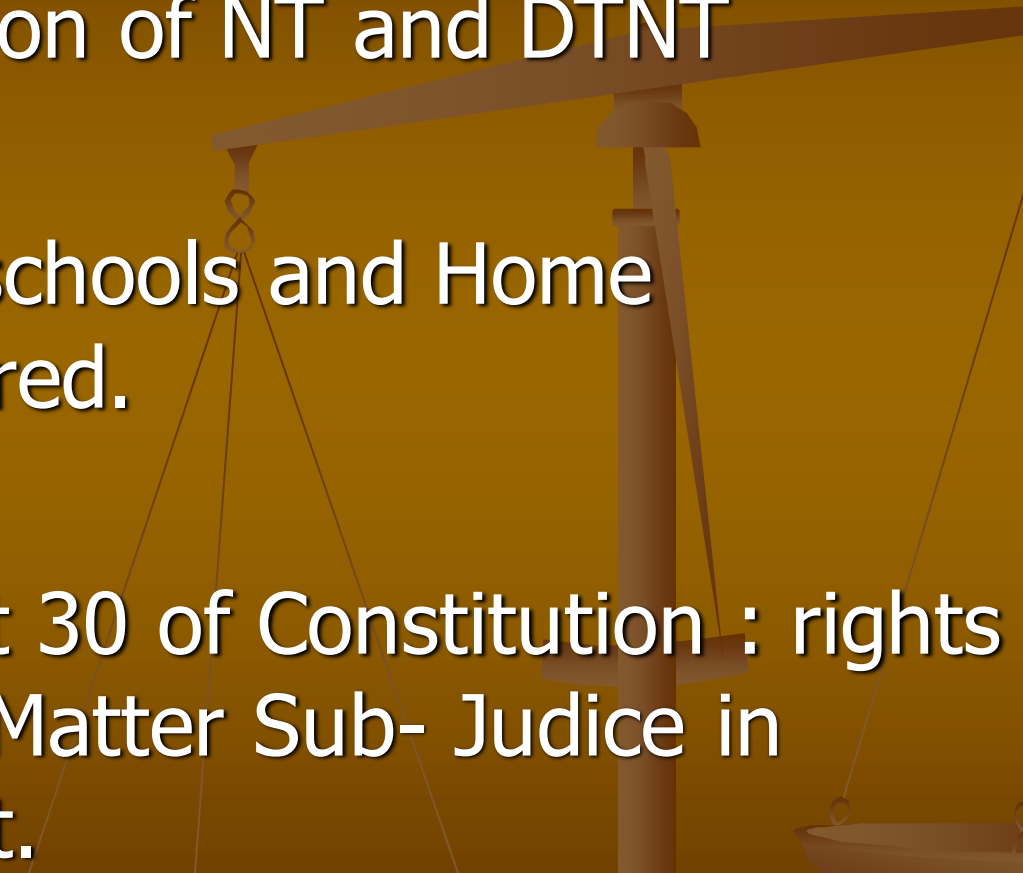
4. Meaning of Free Education?

Does Free Education mean exemption from school fees only?

If that be so, a study in economic and political weekly shows that out of Rs. 5 of education expenses only 20 paise is spent on school fees. What about remaining Rs. 4.80?

5. How to decide children belonging to weaker section and disadvantaged group in a neighborhood?

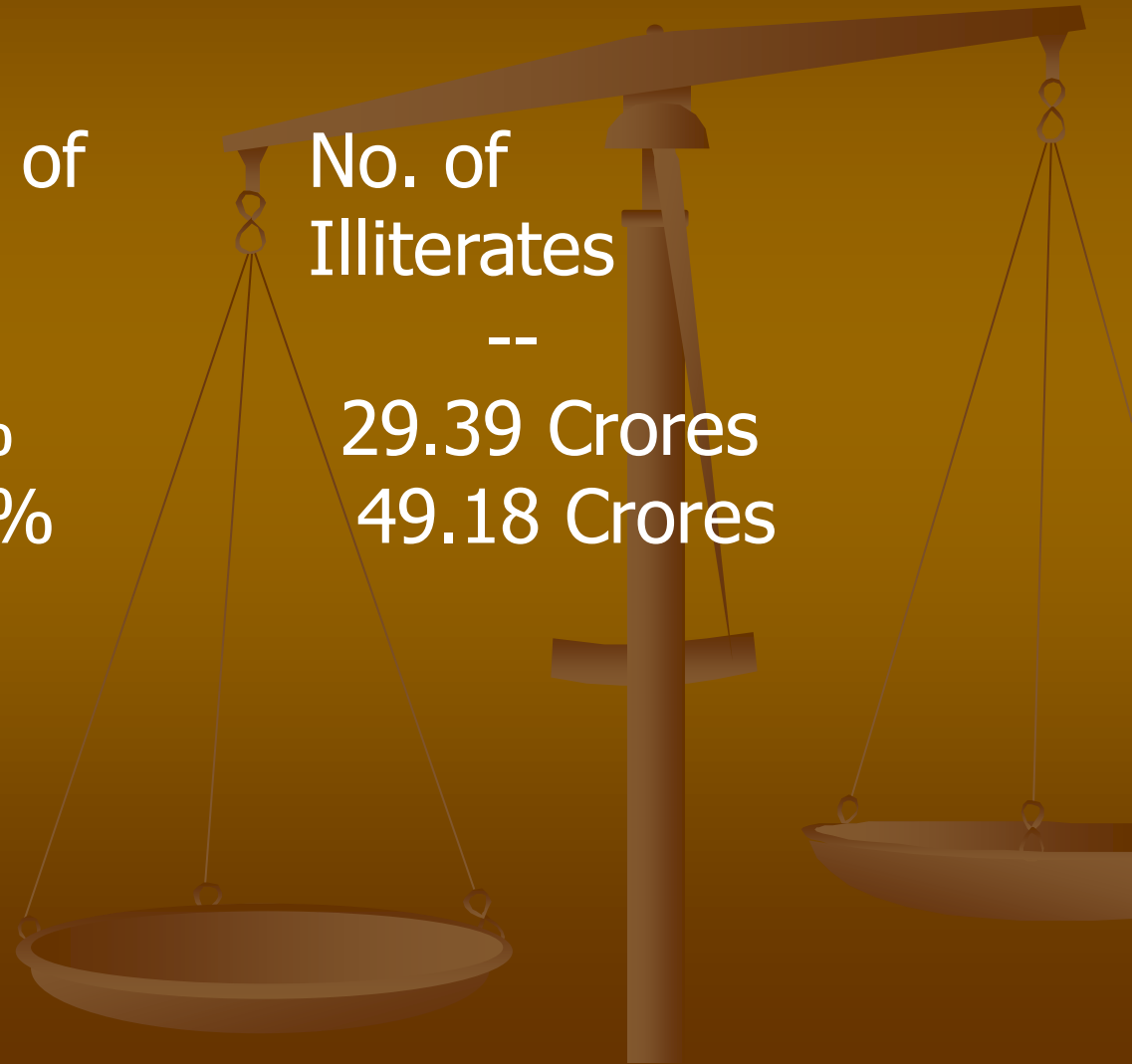


- 
6. No clear mention of NT and DTNT
 7. Experimental schools and Home schooling ignored.
 8. Violation of Art 30 of Constitution : rights of minorities? Matter Sub- Judice in Supreme Court.

SOME STATISTICS

I

Year	Percentage of Literacy	No. of Illiterates
1881	6.3%	--
1951	16.6%	29.39 Crores
1991	52.21%	49.18 Crores



II.

Out of Two Hundred Million children in the age group of 6 to 14 barely half manage to get even eight years of elementary education.

III.

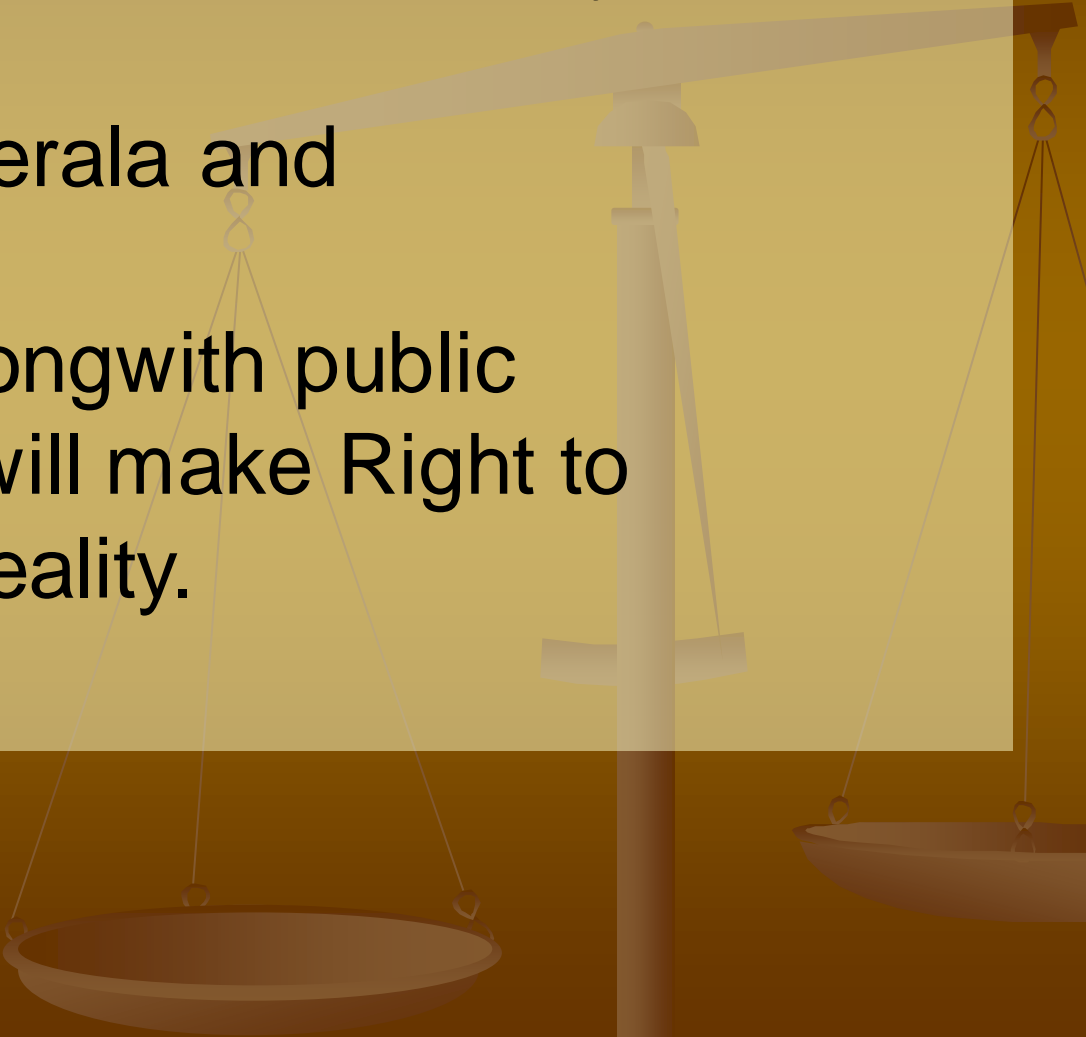
Almost 16 Crore children in the age group of 0 to 6 - ??????

IV.

Literacy rate in India lower than many Asian, African and even Islamic countries.

SUGGESTIONS & CONCLUSIONS :

1. Ceiling of Age 6 and 14 needs to be removed.
2. Meaningful, Quality and Cheerful Education
3. Financial Resources
4. Mid-day Meals

- 
5. Use of Technology
 6. Role of NGOs and Community Participation
Example of Kerala and Nagaland
 7. Legislation alongwith public participation will make Right to Education a reality.

10. Instead of direct funding give education vouchers to parents.

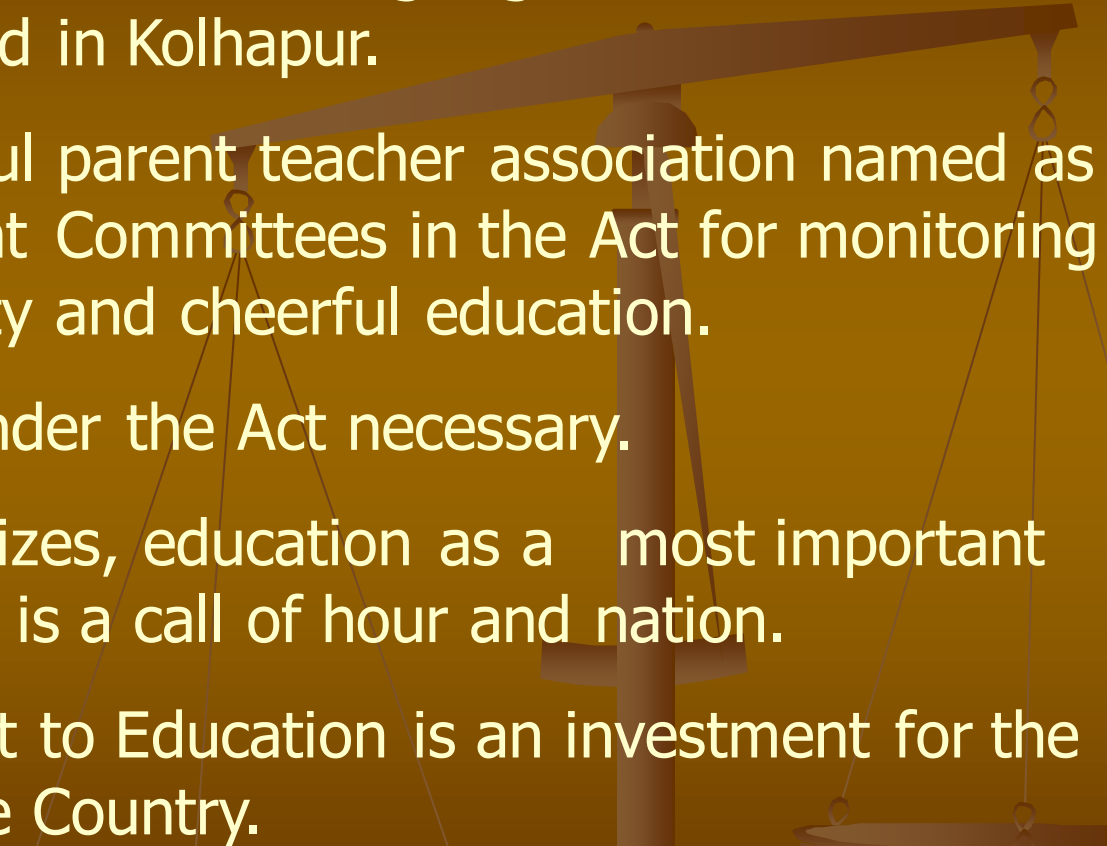
Education Vouchers will give parents a choice of schools.

Education Vouchers will increase competition among schools for quality education.

Teachers salaries would be paid by parents – Public Private partnership.

Sarva Shiksh Abhiyan (SSA) launched in 2001 would require minimum payment of Rs. 1700 per child per annum.

This experiment is done in US and Sweden and done in Delhi in 1 neighborhood by Centre for Civil Society with good results.

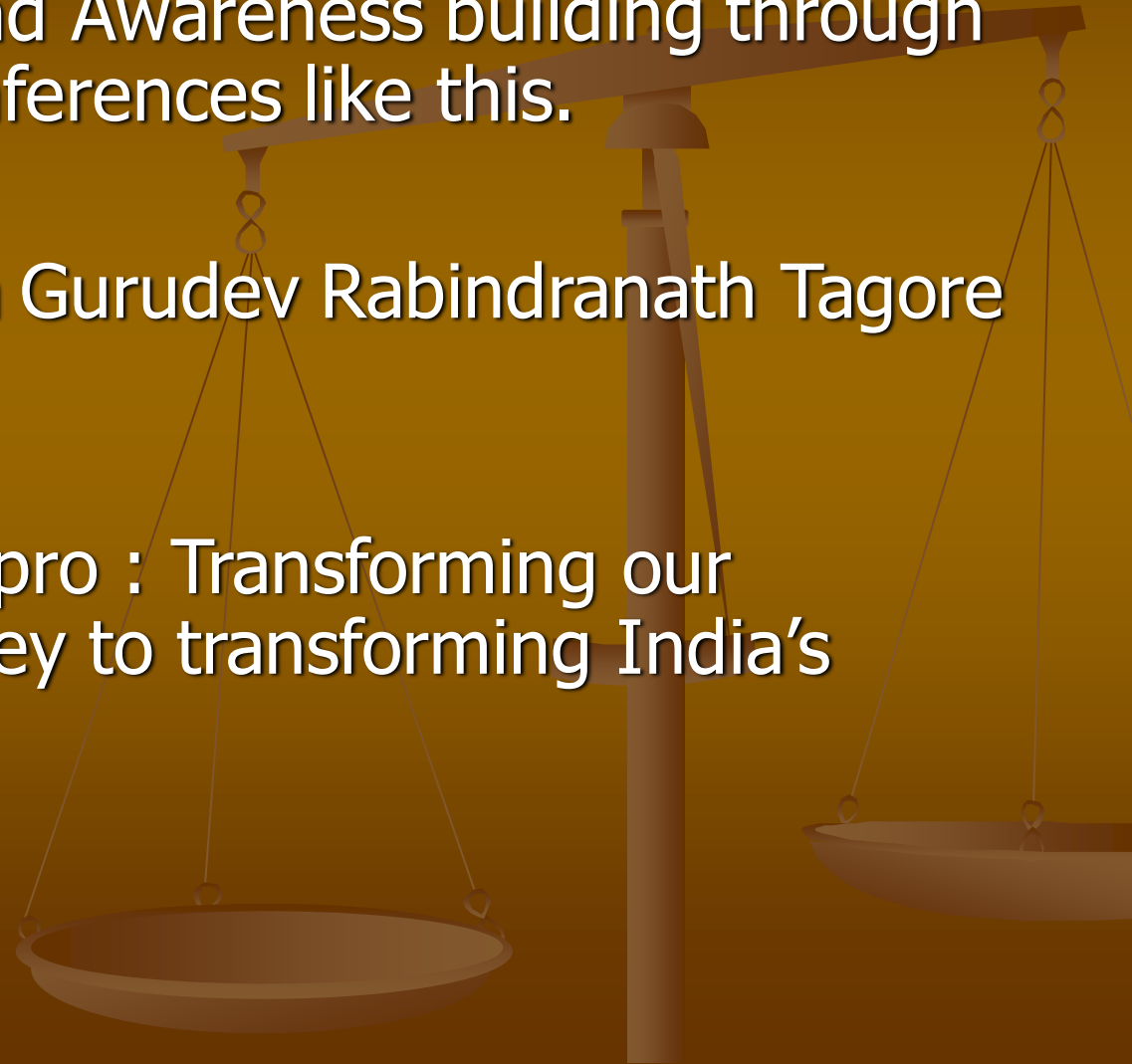
- 
11. Encourage senior citizens, retired teachers, house wives to support teaching.
 12. Encourage experimental schooling e.g. Aksharnandan in Pune, Srujan Anand in Kolhapur.
 13. Strong and Powerful parent teacher association named as School Management Committees in the Act for monitoring meaningful, quality and cheerful education.
 14. Framing of rules under the Act necessary.
 15. Politics that recognizes, education as a most important right of the citizen, is a call of hour and nation.
 16. Investment in Right to Education is an investment for the development of the Country.

Epilogue

Public Pressure and Awareness building through Seminars and Conferences like this.

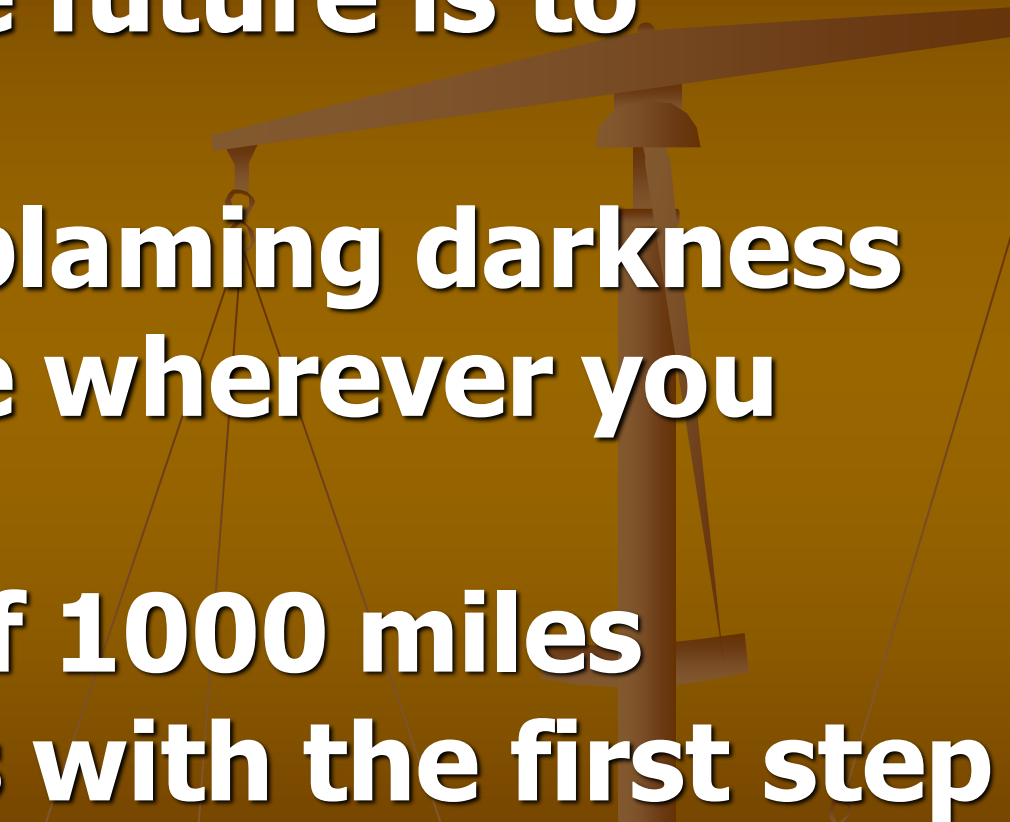
Dialogue between Gurudev Rabindranath Tagore and Gandhiji

Azim Premji of Wipro : Transforming our education is the key to transforming India's destiny.



- M.C. Chagla (Ex. Chief Justice of 1st Independent Bombay High Court) as Education Minister 1964 :

“Our founding fathers did not intend that we just set up hovels, put students there, give untrained teachers, give them bad textbooks, no playgrounds, and say, we have complied with Article 45 and primary education is expanding They meant that real education should be given to our children between the age of 6 and 14”

- 
- **Peter Drucker – The best way to predict the future is to create it**
 - **Instead of blaming darkness light a candle wherever you can**
 - **A journey of 1000 miles always starts with the first step**



A New Beginning

Winston Churchill:

Courage is what it takes to stand up and speak. Courage is also what it takes to sit down and listen.

THANK YOU.

