
RIGHT TO EDUCATION UNDER THE INDIAN CONSTITUTION: A JOURNEY FROM ASPIRATION TO REALIZATION

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“To put the nation on the track of prosperity, give the people the torch of education”

- George Bernad Shaw

INTRODUCTION

Education is universally acknowledged as one of the most effective instruments for social transformation. It functions as a vehicle for imparting knowledge, instilling values, and developing skills that allow individuals to contribute productively to their communities. By nurturing critical thinking, questioning rigid traditions, and promoting equality, education serves as a catalyst for reducing social disparities and advancing progress. It enables individuals to challenge regressive practices and embrace progressive ideas. Across history, education has played a decisive role in reform movements, shaping perspectives on issues such as gender equality, social justice, and economic inequality.¹

The role of education is crucial not only in the growth of an individual but also in the overall development of a nation. It strengthens human dignity and influences a person's outlook towards society. Recognizing this, the Constitution of India—through the 86th Constitutional Amendment Act, 2002—introduced Article 21A, which declares education a fundamental right.² This provision ensures free and compulsory education to all children between the ages of six and fourteen. Furthermore, the Constitution safeguards educational rights through Articles 29(2), 41, 45, and 46. On the international platform, education is also recognized as a human right under conventions such as the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).³

¹ Amartya Sen, *Development as Freedom* (Oxford University Press, 1999), p. 152.

² The Constitution (Eighty-Sixth Amendment) Act, 2002 inserting Article 21A.

³ *International Covenant on Economic, Social and Cultural Rights*, 1966, Art. 13.

India has long been celebrated as a center of learning, attracting scholars and students from across the world. Yet, despite this intellectual legacy, the country has grappled with high levels of illiteracy, largely due to adverse socio-economic conditions and ineffective implementation of educational policies. The marginalized and economically weaker sections have suffered the most, being deprived of access to education and, consequently, a life of dignity.⁴

Although the Indian Constitution conferred the right to education upon children, the journey towards realizing this goal has been uneven. Following independence, the state assumed responsibility for providing education to some extent. However, with the introduction of globalization, privatization, and liberalization in the 1990s, significant changes occurred that altered the structure and character of India's educational system.⁵

Journey of the Indian Constitution towards the Fulfilment of its Obligation of Enforcing the Right to Education (1950–2001)

The importance of educating the masses was well recognized by the national leadership even before the framing of the Constitution. The Constituent Assembly held extensive debates on whether the right to education should be incorporated as a justiciable right under Part III or as a directive under Part IV of the Constitution.⁶

Ultimately, the right to education did not find a place in the list of Fundamental Rights in Part III at the time of the Constitution's commencement in 1950. Instead, it was included under the Directive Principles of State Policy (DPSPs) in Part IV, thereby imposing only a moral duty on the State without making it enforceable in a court of law.⁷ This placement effectively shielded the State from legal accountability in cases where it failed to provide education to its citizens.

Education remained one of the most debated issues in the Constituent Assembly. Discussions not only revolved around whether education should be framed as a right but also on its placement within the division of legislative powers. Maulana Abul Kalam Azad, India's first

⁴ Dreze, Jean & Sen, Amartya, *India: Development and Participation* (Oxford University Press, 2002), pp. 103–105.

⁵ *Unni Krishnan J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645.

⁶ B. Shiva Rao, *The Framing of India's Constitution: A Study* (Indian Institute of Public Administration, 1967), Vol. II, p. 535.

⁷ Constitution of India, Art. 45 (original): "The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years."

Union Education Minister, opposed assigning education exclusively to the States, stressing the need for uniformity in standards at the national level.⁸ Pandit Jawaharlal Nehru supported this view, highlighting that the Centre required adequate authority to maintain certain national standards in education. Eventually, the Assembly agreed to keep school education within the State List to ensure education in regional languages, while matters concerning higher, technical, and scientific education were assigned to the Union List to preserve national uniformity.⁹

The deliberate inclusion of the right to education in Part IV as a Directive Principle was a conscious choice by the framers. The Directive Principles, as clarified under Article 37 of the Constitution, are non-justiciable but remain fundamental to governance. The drafters feared that incorporating education as a Fundamental Right might lead to a flood of litigation and place an unmanageable financial burden on the newly independent State.¹⁰

Article 36 of the Draft Constitution occupied a unique position. Unlike other provisions in the Directive Principles of State Policy (DPSPs), it began with the phrase “*every citizen is entitled to*” instead of the standard formulation “*the State shall endeavour to provide*”.¹¹ This unusual wording was objected to by Pandit Lakshmi Kanta Maitra, a prominent member of the Constituent Assembly, who argued that such a phrase disrupted the structural consistency of the DPSPs.¹² He pointed out that its language resembled that of Fundamental Rights, thereby creating a hybrid form that blurred the distinction between enforceable rights and directive principles. Accepting this concern, Dr. B.R. Ambedkar endorsed the amendment, leading to the deletion of the words “*every citizen is entitled to*”.¹³

Similarly, Article 41 of the Constitution, which guarantees the right to education “within the limits of the State’s economic capacity and development,” was originally Article 33 of the

⁸ Constituent Assembly Debates, Vol. IX, 1948–49, Speeches of Maulana Abul Kalam Azad.

⁹ Constituent Assembly Debates, Vol. IX, 1948–49, Statements of Pandit Jawaharlal Nehru.

¹⁰ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, 1966), pp. 75–77.

¹¹ Draft Constitution of India, 1948, Article 36. (In the Draft Constitution of India, 1948, Article 36 (which later became Article 45 in the final Constitution of 1950) dealt with free and compulsory education. Wording in the Draft Constitution (Article 36): “Every citizen is entitled to free primary education, and it shall be the duty of the State to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.” Final Form in the Constitution (1950, Article 45 until the 86th Amendment, 2002): “The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.”

¹² Constituent Assembly Debates (CAD), Vol. VII, 19 November 1948, Speech of Pandit Lakshmi Kanta Maitra.

¹³ CAD, Vol. VII, 19 November 1948, Statement of Dr. B.R. Ambedkar.

Draft Constitution.¹⁴ Unlike Article 36, no amendment was proposed in this provision. However, its wording—beginning with “*the State shall, within the limits of its economic capacity and development, endeavour to...*”—made it clear that the right to education was subject to economic contingencies and therefore not justiciable in a court of law.¹⁵

This drafting history demonstrates that the framers consciously refrained from placing the right to education within the category of enforceable rights, despite acknowledging its critical importance for national progress. The Sub-Committee on Fundamental Rights had initially recommended that primary education be made an enforceable right.¹⁶ However, this proposal met with strong opposition from eminent members. Sir Alladi Krishnaswamy Ayyar opposed the inclusion of the right to education as a justiciable right, a position that found support from Sardar K.M. Panikkar.¹⁷ Eventually, upon the suggestion of Sir Govind Ballabh Pant, the Advisory Committee resolved to place the right to education under the Directive Principles of State Policy, thereby making it non-enforceable.¹⁸

Committees and Commissions: An Overview of Social Commitments

Over the years, the Government of India has constituted several committees and commissions to review and reform the education system, with particular emphasis on improving literacy and expanding opportunities for marginalized communities. Each of these bodies consistently highlighted the importance of making education inclusive and socially equitable.

Among the most significant was the **Education Commission (1964–66)**, widely known as the **Kothari Commission**, which undertook a comprehensive assessment of the national education system. Its recommendations laid the foundation for the **National Policy on Education (NPE), 1968**, which, for the first time, formally recognized the vision of providing free and compulsory education to all children.¹⁹

¹⁴ Draft Constitution of India, 1948, Art. 33 (later adopted as Art. 41 of the Constitution of India, 1950).

¹⁵ Constitution of India, Art. 41.

¹⁶ Report of the Sub-Committee on Fundamental Rights, Constituent Assembly, 1947.

¹⁷ CAD, Vol. VII, 22 November 1948, Speech of Sir Alladi Krishnaswamy Ayyar; see also Speech of Sardar K.M. Panikkar.

¹⁸ CAD, Vol. VII, 22 November 1948, Remarks of Sir Govind Ballabh Pant.

¹⁹ Government of India, *Report of the Education Commission (1964–66): Education and National Development* (Kothari Commission Report, Ministry of Education, 1966).

The **National Policy on Education, 1986**, carried this vision forward by presenting a broad framework for the development of education until the end of the twentieth century.²⁰ To operationalize its goals, a **Plan of Action (1986)** was introduced, which sought to remove structural barriers and promote greater access. It emphasized the abolition of tuition fees in government schools at the primary and secondary levels, the reservation of seats for Scheduled Castes (SCs) and Scheduled Tribes (STs) in higher education institutions such as IITs and IIMs, the relaxation of admission criteria in premier institutions, the provision of special coaching programmes, and the promotion of linguistic development among disadvantaged groups. In addition to these measures, targeted schemes were introduced for minorities, including the **Area Intensive Programme for Educationally Backward Minorities** and financial assistance for the modernization of Madrasas.²¹

This trajectory continued with the **Programme of Action, 1992**, which supplemented the 1986 policy. It laid particular emphasis on proactive interventions for women, Scheduled Castes, Scheduled Tribes, minorities, and persons with disabilities, thereby reinforcing the commitment of the Indian state to democratize access to education. Collectively, these policy initiatives and reform measures demonstrate the government's sustained effort to reduce disparities and to align education with the broader goals of social justice and national development.

Education as a Social Movement and Judicial Interventions

In India, the endeavour to provide education for all has gradually evolved into a broad-based social movement, supported by multiple policy missions and state initiatives. Among these, the Sarva Shiksha Abhiyan (SSA), launched in 2001, marked a significant milestone in the pursuit of the constitutional goal of Universalisation of Elementary Education (UEE). Conceived as a time-bound and integrated programme in collaboration with State governments, the SSA sought to provide free, useful, and quality elementary education to every child in the 6–14 age group by 2010.²² The mission also emphasised community participation, while addressing the

²⁰ Government of India, *National Policy on Education, 1986* (Ministry of Human Resource Development, 1986).

²¹ Government of India, *Programme of Action, 1992* (Ministry of Human Resource Development, 1992), pp. 72–74.

²² Government of India, *Sarva Shiksha Abhiyan: Framework for Implementation* (Ministry of Human Resource Development, 2001).

persistent challenges of gender disparity and social inequality in education.

Parallel to these policy efforts, the judiciary emerged as a crucial actor in shaping the contours of the right to education. The 1990s witnessed the growth of the Public Interest Litigation (PIL) movement, wherein courts responded proactively to the grievances of disadvantaged groups. Landmark cases such as **Mohini Jain v. State of Karnataka**²³ and **Unnikrishnan J.P. v. State of Andhra Pradesh**²⁴ fundamentally altered the legal status of education in India. Additionally, decisions in **Bandhua Mukti Morcha v. Union of India**²⁵, which primarily concerned bonded labour, and **M.C. Mehta v. State of Tamil Nadu**²⁶, which dealt with child labour in hazardous industries, indirectly reinforced the recognition of education as a necessary precondition for human dignity and social justice.

All these judgments were delivered prior to the enactment of the 86th Constitutional Amendment, 2002, which later inserted Article 21A into the Constitution. Before this amendment, the judiciary justified the right to education as an intrinsic component of the guarantees under Articles 14 and 21. In **Mohini Jain**, the Supreme Court held that the State bore an obligation to establish or facilitate educational institutions so that citizens could fully realise their right to education. It further ruled that if private institutions were permitted to demand exorbitant capitation fees for admission, such practices amounted to a direct violation of the right to education and offended the principle of equality under Article 14.²⁷

The very next year, the Supreme Court in **Unnikrishnan J.P.** reprimanded the State for its apathy towards the mandate of Article 45, which directed the provision of free and compulsory education to children. The Court went further, affirming that any child deprived of this right could seek judicial redress through a writ of mandamus against the appropriate authority.²⁸ Although both cases initially arose in the context of higher education, their cumulative effect was to establish that free and compulsory primary education is a fundamental right flowing from Article 21. A notable dimension of the **Unnikrishnan** judgment was its reliance not only on Directive Principles such as Articles 41, 45, and 46, but also on international obligations, particularly the International Covenant on Economic, Social and Cultural Rights (ICESCR),

²³ *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666.

²⁴ *Unnikrishnan J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645.

²⁵ *Bandhua Mukti Morcha v. Union of India*, (1997) 10 SCC 549

²⁶ *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 SCC 756.

²⁷ *Mohini Jain*, (1992) 3 SCC 666 at 678.

²⁸ *Unnikrishnan J.P.*, (1993) 1 SCC 645 at 675

thereby situating the right to education within both constitutional and global human rights frameworks.²⁹

The Right to Education: Constitutional Transformation through the 86th Amendment

The Constitution of India places a duty upon the State to ensure the provision of education to its citizens. The right to education has been read into Article 21, which guarantees the right to life and personal liberty, on the ground that education is an essential component of living with dignity.³⁰ A significant development in this regard came with the 42nd Constitutional Amendment of 1976, through which the subject of “education” was shifted to the Concurrent List under the Seventh Schedule.³¹ This shift empowered both the Union and the State governments to legislate on matters relating to education. Furthermore, Entry 66 of the Union List authorises the Centre to exercise control over the coordination and determination of standards in institutions of higher learning, scientific research, and technical education.³² Before this amendment, education was a matter solely within the jurisdiction of the States. By transferring it to the Concurrent List, the 1976 Amendment marked a transformative step in strengthening the constitutional framework for education in India.³³

The jurisprudence was further shaped in *Bandhua Mukti Morcha v. Union of India*, where Justice P.N. Bhagwati observed that the right to live with dignity under Article 21 must necessarily encompass educational opportunities, drawing support from the broader framework of the DPSPs, particularly Articles 41 and 45.³⁴

The debate surrounding the right to free and compulsory education in India was first brought into sharp focus in *Mohini Jain v. State of Karnataka* (1992), popularly referred to as the “capitation fee case.” In this landmark judgment, the Supreme Court held that the right to education flows directly from the right to life guaranteed under Article 21, reasoning that life and personal dignity cannot be sustained without access to education. The Court emphasized

²⁹ International Covenant on Economic, Social and Cultural Rights, 1966, adopted by the United Nations General Assembly Resolution 2200A (XXI), 16 December 1966.

³⁰ *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666; *Unnikrishnan J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645 (reading the right to education into Article 21 of the Constitution).

³¹ The Constitution (Forty-Second Amendment) Act, 1976, s. 57 (transferring education to the Concurrent List).

³² Constitution of India, Seventh Schedule, Union List, Entry 66.

³³ Granville Austin, *Working a Democratic Constitution: A History of the Indian Experience* (Oxford University Press, 2003) 241–243 (discussing the impact of the 42nd Amendment on education).

³⁴ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

that education could not be treated as a commercial commodity and affirmed that every citizen possesses a constitutional entitlement to education.³⁵

Building upon this precedent, a five-judge bench of the Supreme Court in *Unnikrishnan J.P. v. State of Andhra Pradesh* (1993) revisited the issue. By a 3:2 majority, the Court reiterated that the right to education forms an integral part of the right to life under Article 21, but it simultaneously refined the scope laid down in *Mohini Jain*. It was held that the State is under an obligation to provide free education to all children up to the age of 14 years, after which the extent of its duty becomes contingent upon the financial resources available.³⁶ Importantly, the Court linked this interpretation with the Directive Principles of State Policy (DPSPs), especially Article 45, which had originally mandated universal primary education within ten years of the Constitution's commencement. Noting that more than four decades had elapsed without fulfillment of this directive, the Court transformed Article 45 from a non-enforceable directive into an enforceable fundamental right.

Similarly, in *M.C. Mehta v. State of Tamil Nadu*, which concerned the plight of child labourers, the Supreme Court directed the State to ensure free and compulsory education for all children below the age of 14 years.³⁷ The *Unnikrishnan* ruling also imposed a duty on private and aided educational institutions to provide professional education at subsidized rates, thereby underscoring that education cannot be monopolized by economic privilege but must remain accessible to all.

The Law Commission of India, acting *suo motu*, took cognizance of the issue and emphasized the urgent necessity of enacting central legislation to give effect to the right to education without awaiting a constitutional amendment. In furtherance of this objective, the Commission even drafted the *Free and Compulsory Education for Children Bill, 1998*.³⁸ In its report, the Commission highlighted that Article 45 of the Constitution expressly mandates “free and compulsory education for all children until they complete the age of 14 years.” It observed that the term “compulsory” necessarily carries with it an element of obligation—whether on the State to provide free education, on parents to ensure their children attend school, on society at large to secure education for all children, or on institutions and organizations tasked with

³⁵ *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666.

³⁶ *Unnikrishnan J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645.

³⁷ *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 SCC 756.

³⁸ Law Commission of India, *165th Report on Free and Compulsory Education for Children Bill, 1998* (1998).

furthering this goal. Consequently, it rejected the notion that compulsion in the field of elementary education is inadvisable.

The Commission further noted that Universalisation of Elementary Education (UEE) could not be achieved solely through persuasion, as experience had shown that voluntary measures alone had failed to yield the desired results. Instead, the constitutional mandate of “free and compulsory education” required the adoption of all permissible means and measures, which could include abolishing tuition fees, providing free textbooks, uniforms, or mid-day meals, and other supportive incentives.³⁹ At the same time, the Commission acknowledged that poverty remained the principal obstacle preventing children from poor households from attending school. It pointed out that no parent with the financial means would willingly deny education to their child or prefer to send them to work; indeed, it is the aspiration of every parent to see their child educated rather than engaged in labour, whether as a domestic servant or in industrial settings. Nevertheless, the Commission recognized that in addition to persuasion and incentives, a limited degree of compulsion might be necessary in certain cases to achieve the constitutional vision of Universal Elementary Education, which is fundamental to the functioning of a democratic society.⁴⁰

The effort to elevate the right to education into the fold of fundamental rights was initially undertaken through the Constitution (Eighty-third Amendment) Bill, 1997. However, owing to a change in the central government, the Bill lapsed and was subsequently reintroduced as the Constitution (Ninety-third Amendment) Bill, 2001.⁴¹ This Bill culminated in the Constitution (Eighty-sixth Amendment) Act, 2002, which brought about three significant changes to the constitutional framework on education. First, it inserted Article 21A into Part III of the Constitution, thereby guaranteeing free and compulsory education to all children between the ages of six and fourteen as a justiciable fundamental right.⁴² Second, Article 45 was revised to place an obligation on the State to provide early childhood care and education to all children until they reach the age of six years.⁴³ Third, Article 51A was amended by inserting clause (k), imposing a duty upon parents and guardians to provide educational opportunities to their

³⁹ Law Commission of India, *165th Report on Free and Compulsory Education for Children Bill, 1998* (1998), para. 3.5–3.8.

⁴⁰ *Ibid.*, para. 3.12.

⁴¹ *Constitution (Eighty-third Amendment) Bill, 1997*.

⁴² The Constitution of India, Article 21A (inserted by the Constitution (Eighty-sixth Amendment) Act, 2002).

⁴³ *Ibid.*, Article 45 (as substituted by the Constitution (Eighty-sixth Amendment) Act, 2002).

children in the age group of six to fourteen years.⁴⁴ The Bill was passed by the Lok Sabha on 28 November 2001, by the Rajya Sabha on 14 May 2002, and received presidential assent in December 2002.

Following this constitutional recognition, the Parliament enacted the *Right of Children to Free and Compulsory Education Act, 2009* (hereinafter “RTE Act”), which came into force on 1 April 2010.⁴⁵ The Act operationalises Article 21A by ensuring that every child in the age group of six to fourteen years has access to free and compulsory education.

The constitutionality of the RTE Act was challenged in *Society for Unaided Private Schools of Rajasthan v. Union of India*, where the Supreme Court upheld the validity of the Act, including its provision mandating 25 percent reservation for children from economically weaker sections in private unaided schools.⁴⁶ The Court, however, carved out an exemption for minority institutions, recognizing their protection under Article 30(1) of the Constitution. This position was reaffirmed in *Pramati Educational and Cultural Trust v. Union of India*, where the Court categorically held that minority institutions, whether aided or unaided, are not bound by the obligations imposed under the RTE Act.⁴⁷ In doing so, the Court maintained a constitutional balance between the fundamental right to education under Article 21A and the special protection accorded to minorities under Article 30.

Conclusion

The recognition of the Right to Education in India marks a decisive shift from aspirational Directive Principles to enforceable Fundamental Rights. Beginning with the judicial expansion of Article 21 in *Mohini Jain* and *Unnikrishnan*, and culminating in the Eighty-sixth Constitutional Amendment and the RTE Act, 2009, the Indian legal framework has firmly placed education at the core of human dignity and democratic citizenship. Judicial pronouncements such as *Society for Unaided Private Schools* and *Pramati* highlight the delicate balance between universal access to education and the constitutional protection of minority rights under Article 30.

⁴⁴ Ibid., Article 51A(k).

⁴⁵ *Right of Children to Free and Compulsory Education Act, 2009*, No. 35 of 2009.

⁴⁶ *Society for Unaided Private Schools of Rajasthan v. Union of India*, (2012) 6 SCC 1.

⁴⁷ *Pramati Educational and Cultural Trust v. Union of India*, (2014) 8 SCC 1.

However, the realization of this right remains uneven due to infrastructural deficits, insufficient teacher training, socio-economic barriers, and the digital divide. Policy reforms must therefore focus on strengthening public school infrastructure, ensuring teacher accountability, enhancing early childhood education, and integrating technology to bridge rural-urban inequalities. Additionally, community participation and social awareness campaigns are crucial to address the cultural and economic impediments to universal schooling.

From an international perspective, India's constitutional framework aligns with global commitments such as Article 26 of the Universal Declaration of Human Rights (UDHR), which recognizes education as a basic entitlement, and Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which emphasizes free and compulsory primary education. Furthermore, India's Right to Education law is a key instrument in advancing Sustainable Development Goal 4 (SDG-4) of the United Nations' 2030 Agenda, which aims to "ensure inclusive and equitable quality education and promote lifelong learning opportunities for all."

Thus, the Right to Education in India stands not only as a constitutional guarantee but also as a moral and international obligation. Ensuring its effective realization requires sustained political will, adequate financial investment, innovative pedagogical strategies, and a commitment to equality and inclusion. Only then can education truly serve as the foundation of social justice, empowerment, and transformative growth in a democratic society.

References

- 1) Amartya Sen, *Development as Freedom* (Oxford University Press, 1999).
- 2) B. Shiva Rao, *The Framing of India's Constitution: A Study* (Indian Institute of Public Administration, 1967).
- 3) Constituent Assembly Debates, Vol. IX, 1948–49.
- 4) Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, 1966).
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- 6) Malik and Ravel, *Law and Social Transformation in India*, Allahabad Law Agency.
- 7) P Ishwara Bhat, *Law and Social Transformation*, Eastern Book Company.