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# **RIGHT TO EDUCATION: ASSESSING THE INTERSECTION OF CONSTITUTIONAL LAW AND ACCESS TO QUALITY EDUCATION**

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## **ABSTRACT**

The Right to Education (RTE) has emerged as one of the most significant socio-economic rights under the Indian constitutional framework. Recognised as a fundamental right under Article 21A of the Constitution through the Constitution (Eighty-Sixth Amendment) Act, 2002, the right seeks to guarantee free and compulsory education to all children between the ages of six and fourteen years. The enactment of the Right of Children to Free and Compulsory Education Act, 2009, further operationalised this constitutional mandate by establishing standards for access, enrolment, and educational infrastructure. Despite substantial progress in improving enrolment rates, concerns relating to educational quality, teacher shortages, infrastructural deficiencies, and socio-economic disparities continue to impede the realisation of meaningful education. This article examines the constitutional evolution of the Right to Education, analyses key judicial pronouncements, and evaluates the effectiveness of legislative measures in ensuring quality education. It further explores the challenges faced in implementing the constitutional promise of education and proposes reforms aimed at strengthening educational access, equity, and quality. The study concludes that while constitutional recognition has expanded educational opportunities, sustained policy interventions and institutional accountability are essential for achieving the broader objective of educational justice.

**Keywords:** Right to Education, Article 21A, Constitutional Law, Fundamental Rights, Quality Education, RTE Act, 2009.

## 1. Introduction

*'Education is the most powerful weapon which you can use to change the world'*

*- Nelson Mandela*

Education is an essential prerequisite for the realisation of individual dignity, equality, and social justice. Recognising its significance, the Indian Constitution envisages education as a means of empowering citizens and promoting democratic values. Initially, the Constitution placed the responsibility of providing free and compulsory education upon the State through Article 45 of the Directive Principles of State Policy. However, the non-justiciable nature of these provisions limited their practical enforceability. The constitutional status of education underwent a significant transformation through judicial interpretation and constitutional amendment. In *Mohini Jain v. State of Karnataka* (1992) and *Unni Krishnan v. State of Andhra Pradesh* (1993), the Supreme Court recognized education as an integral component of the Right to Life under Article 21. Building upon these developments, the Constitution (Eighty-Sixth Amendment) Act, 2002 inserted Article 21A, guaranteeing free and compulsory education to all children between six and fourteen years of age as a fundamental right. To operationalize this constitutional mandate, Parliament enacted the Right of Children to Free and Compulsory Education Act, 2009. Despite these constitutional and legislative advancements, challenges relating to educational access, quality, infrastructure, and social inequality continue to affect the effective realization of the right. This article critically examines the constitutional evolution of the Right to Education in India, analyses the role of the judiciary in shaping its scope, and evaluates the extent to which constitutional guarantees have succeeded in ensuring accessible and quality education for all.

## 2. Objectives of the Study

- a) To examine the constitutional evolution of the Right to Education in India and its recognition as a Fundamental Right under Article 21A of the Constitution.
- b) To analyse the constitutional and statutory framework governing educational rights, particularly the role of the Right of Children to Free and Compulsory Education Act, 2009.
- c) To evaluate the contribution of the Indian judiciary in interpreting and expanding the

scope of the Right to Education through landmark judicial decisions.

- d) To assess the extent to which constitutional and legislative measures have succeeded in ensuring access to quality education for all children.
- e) To examine the gap between educational access and educational quality in the implementation of Article 21A and the RTE Act.
- f) To identify the major constitutional, administrative, and socio-economic challenges affecting the realization of quality education in India.
- g) To analyse the effectiveness of government policies, welfare schemes, and educational initiatives in promoting equitable and quality education.
- h) To suggest measures for strengthening the constitutional framework and achieving a balance between universal access and quality education.

### **3. Historical Evolution of the Right to Education in India**

The Right to Education in India has evolved through constitutional developments, judicial interpretation, and legislative reforms. Originally, education was not recognized as a fundamental right under the Constitution. Article 45 of the Directive Principles of State Policy directed the State to provide free and compulsory education to all children up to the age of fourteen years. However, being non-justiciable, the provision lacked legal enforceability and remained largely dependent on governmental commitment.

The roots of educational development in India can be traced to the colonial period. The Wood's Despatch of 1854 laid the foundation for a structured education system, while nationalist leaders emphasized education as a tool for social transformation and national development<sup>1</sup>. Mahatma Gandhi's concept of Basic Education (Nai Talim) advocated education that combined intellectual, moral, and vocational training<sup>2</sup>. The Sargent Report of 1944 further recommended universal, free, and compulsory education for children between six and fourteen years of age<sup>3</sup>.

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<sup>1</sup> Wood's Despatch, 1854, Report by Sir Charles Wood, Secretary of State for India.

<sup>2</sup> Gandhi, M.K., Basic Education (Nai Talim), Navjivan Publishing House, 1951

<sup>3</sup> Sargent Report, 1944, Central Advisory Board of Education, Government of India

These developments influenced the educational vision of the Constitution-makers<sup>4</sup>.

During the framing of the Constitution, education was recognized as essential for achieving equality, democracy, and social justice. However, due to financial and administrative constraints faced by the newly independent nation, the Constituent Assembly placed educational obligations within the Directive Principles rather than among Fundamental Rights. Consequently, Article 45 imposed a moral obligation on the State to provide free and compulsory education but did not create an enforceable legal right.

A significant transformation occurred through judicial intervention. In *Mohini Jain v. State of Karnataka*<sup>5</sup>(1992), the Supreme Court held that the right to education forms an integral part of the Right to Life under Article 21. This principle was further clarified in *Unni Krishnan v. State of Andhra Pradesh*<sup>6</sup>, where the Court recognized free and compulsory education for children up to the age of fourteen years as a fundamental right. These judgments expanded the scope of Article 21 and established the constitutional foundation for educational rights.

The judicial recognition of education ultimately led to the Constitution (Eighty-Sixth Amendment) Act, 2002. The amendment inserted Article 21A into the Constitution, guaranteeing free and compulsory education to all children between six and fourteen years of age. Simultaneously, Article 45 was amended to focus on early childhood care and education for children below six years, while Article 51A(k) imposed a fundamental duty on parents and guardians to provide educational opportunities to their children. This amendment marked a historic shift by transforming education from a Directive Principle into an enforceable fundamental right.

To implement Article 21A, Parliament enacted the Right of Children to Free and Compulsory Education Act, 2009, which came into force on 1 April 2010<sup>7</sup>. The Act provides a statutory framework for ensuring universal elementary education and prescribes standards relating to school infrastructure, teacher qualifications, pupil-teacher ratios, and child-friendly learning environments. It also prohibits capitation fees, screening procedures, and corporal punishment. One of its notable provisions is the reservation of 25 percent seats in private unaided schools

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<sup>4</sup> Sen, Amartya, *Development as Freedom*, Oxford University Press, 1999, pp. 146–147

<sup>5</sup> 1992 AIR 1858; 1992 SCC (3) 666

<sup>6</sup> (1993) 1 SCC 645.

<sup>7</sup> Constitution of India, Article 21A, inserted by the Constitution (Eighty-sixth Amendment) Act, 2002.

for children belonging to economically weaker and disadvantaged sections of society.

Despite these constitutional and legislative advancements, challenges relating to educational quality, infrastructure, teacher shortages, and socio-economic inequalities continue to affect the effective realization of the Right to Education. Nevertheless, the evolution of educational rights in India reflects a gradual transition from a policy objective to a constitutionally guaranteed and legally enforceable right, reinforcing the constitutional values of equality, dignity, and social justice.

#### **4. Directive Principles Advancing Educational Equity and Social Justice**

The framers of the Indian Constitution recognised education as a crucial instrument for achieving social justice, equality, and national development. However, owing to the economic and administrative challenges faced by the newly independent nation, education was not included among the Fundamental Rights. Instead, Article 45 was incorporated under the Directive Principles of State Policy, directing the State to provide free and compulsory education to all children up to the age of fourteen years within ten years of the Constitution's commencement. Although Article 45 remains the primary Directive Principle concerning education, several other provisions within Part IV of the Constitution contribute significantly to the promotion of educational access, equality, and social welfare. These Directive Principles of State Policy, despite being non-justiciable, have played an important role in shaping educational policies and advancing the constitutional vision of social justice. One such provision is Article 41, which provides that the State shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disability. This provision recognises education as an essential component of socio-economic welfare and underscores the State's responsibility to facilitate human development and dignity<sup>8</sup>.

Similarly, Article 46 directs the State to promote with special care the educational and economic interests of weaker sections of society, particularly the Scheduled Castes and Scheduled Tribes, and to protect them from social injustice and exploitation. This provision forms the constitutional foundation for various affirmative measures in education, including reservations, scholarships, financial assistance, and welfare schemes designed to improve

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<sup>8</sup> Thorat, S., & Newman, K.S. (2007). "Caste and Economic Discrimination: Causes, Consequences and Remedies," *Economic and Political Weekly*, Vol. 42, No. 41, pp. 4121-4124.

educational opportunities for historically disadvantaged communities.

Although Articles 41 and 46 are not enforceable through courts, they have exercised considerable influence on legislative policies, judicial reasoning, and governmental initiatives. These provisions have frequently been relied upon to justify measures aimed at expanding educational access, reducing inequalities, and promoting inclusive development. Collectively, they reinforce the constitutional commitment to ensuring that education serves as a means of empowerment, social mobility, and substantive equality. The failure to achieve the objectives of Article 45 prompted increased judicial scrutiny and policy reforms. Through a series of landmark decisions, the Supreme Court gradually recognised education as an essential component of the Right to Life under Article 21. These developments ultimately paved the way for the Constitution (Eighty-Sixth Amendment) Act, 2002, which inserted Article 21A and transformed the Right to Education into an enforceable fundamental right<sup>9</sup>.

## 5. Fundamental Rights and the 86<sup>th</sup> Constitutional Amendment

The sustained advocacy by civil society organisations, educationists, and policymakers ultimately culminated in a landmark constitutional reform, the Constitution (Eighty-Sixth Amendment) Act, 2002<sup>10</sup>. This amendment marked a significant turning point in India's constitutional history by transforming education from a non-justiciable Directive Principle into an enforceable Fundamental Right. In doing so, it imposed a constitutional obligation upon the State to ensure access to education as a matter of right rather than mere policy discretion.

The Amendment introduced three significant constitutional changes.

First, it inserted Article 21A into Part III of the Constitution, which provides:

*"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."*

Through this provision, free and compulsory elementary education was formally recognised as a Fundamental Right for all children between the ages of six and fourteen years. Article 21A gave constitutional status to principles that had previously been developed through judicial

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<sup>9</sup> Austin, Granville, *The Indian Constitution: Cornerstone of a Nation*, Oxford University Press, 1966, pp. 50–52.

<sup>10</sup> The Constitution (Eighty-sixth Amendment) Act, 2002; See also: Austin, Granville, *Working a Democratic Constitution: The Indian Experience*, Oxford University Press, 1999, pp. 448-452. 146 Constitution of India, Article 21.

interpretation and converted a long-standing constitutional aspiration into a legally enforceable guarantee.

Secondly, the Amendment substituted Article 45 and shifted its focus from elementary education to early childhood care and education<sup>11</sup>. The revised provision states:

*"The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."*

This change reflected a growing recognition of the importance of early childhood development and acknowledged that meaningful education begins long before a child enters formal schooling. It also demonstrated a broader and more holistic understanding of educational rights within the constitutional framework.

Thirdly, the Amendment inserted Article 51A(k) under the chapter on Fundamental Duties, which provides that it shall be the duty of every parent or guardian to provide opportunities for education to his or her child or ward between the ages of six and fourteen years.

By introducing this provision, the Constitution emphasised that the realization of educational rights is a shared responsibility involving both the State and the family. While the State bears the primary obligation of providing educational facilities, parents and guardians also have an important role in ensuring that children avail themselves of educational opportunities.

The 86th Constitutional Amendment therefore represents one of the most significant developments in the constitutional history of India. By integrating Article 21A, the revised Article 45, and Article 51A(k), the Constitution adopted a comprehensive approach to educational rights encompassing early childhood care, compulsory elementary education, and parental responsibility. More importantly, the Amendment reaffirmed the constitutional values of equality, dignity, social justice, and human development by recognising education as an indispensable prerequisite for meaningful citizenship. It also laid the constitutional foundation for the enactment of the Right of Children to Free and Compulsory Education Act, 2009, which operationalised the mandate of Article 21A and strengthened the legal framework for ensuring universal access to elementary education.

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<sup>11</sup> Constitution of India, Article 45, as amended by the Constitution (Eighty-sixth Amendment) Act, 2002.

## 6. Key Features of Article 21A

Article 21A of the Constitution provides that the State shall offer free and compulsory education to all children between the ages of six and fourteen years in such manner as may be determined by law. Introduced through the Constitution (Eighty-Sixth Amendment) Act, 2002<sup>12</sup>, the provision transformed the Right to Education into a constitutionally enforceable Fundamental Right. The first significant feature of Article 21A is its age-specific guarantee, which extends to children between six and fourteen years of age. This framework reflects the principle recognized by the Supreme Court in *Unni Krishnan, J.P. v. State of Andhra Pradesh*<sup>13</sup>, wherein the Court acknowledged free education up to the age of fourteen as an essential component of the right to life.

Secondly, Article 21A guarantees education that is both free and compulsory. The term “free” ensures that no child is denied elementary education due to financial constraints, while “compulsory” places a positive obligation upon the State to facilitate enrolment, attendance, and completion of elementary education<sup>14</sup>.

Thirdly, the provision authorizes implementation through legislation. Pursuant to this mandate, Parliament enacted the Right of Children to Free and Compulsory Education Act, 2009, which establishes standards relating to school infrastructure, teacher qualifications, admission procedures, and other mechanisms necessary for the effective realization of the constitutional right. Thus, Article 21A represents a significant constitutional commitment towards universal elementary education and serves as the foundation of India's educational rights framework.

## 7. Other Constitutional Provisions Supporting the Right to Education

Although Article 21A guarantees the Right to Education as a Fundamental Right, its implementation is strengthened by several related constitutional provisions. Article 41 directs the State to make effective provisions for education within its economic capacity, while Article 45 mandates early childhood care and education for children below six years of age. Article 46 requires the State to promote the educational interests of Scheduled Castes, Scheduled Tribes,

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<sup>12</sup> Constitution of India, Article 21A, inserted by the Constitution (Eighty-sixth Amendment) Act, 2002

<sup>13</sup> (1993) 1 SCC 645.

<sup>14</sup> Jayna Kothari, “The Right to Education: Towards a More Inclusive Approach,” Indian Journal of Human Rights, Vol. 8, 2008, pp. 75-80

and other weaker sections of society, thereby advancing educational equity and social justice.

Further, Article 51A(k), inserted by the Constitution (Eighty-Sixth Amendment) Act, 2002, places a Fundamental Duty upon parents and guardians to provide educational opportunities to children between the ages of six and fourteen years. Together, these provisions complement Article 21A and establish a comprehensive constitutional framework that promotes educational access, inclusion, equality, and human development<sup>15</sup>.

### **Article 41: Right to Education as a Socio-Economic Goal**

Article 41 of the Constitution directs the State to make effective provisions for securing the right to education, subject to its economic capacity and development. As a Directive Principle of State Policy, it is not judicially enforceable; however, it reflects the constitutional commitment to promoting education as an essential component of social welfare and human development. The provision recognizes practical limitations in implementation while emphasizing the State's continuing obligation to progressively expand educational opportunities and move towards universal access to education.

Judicial interpretation has significantly strengthened the importance of Article 41 by reading it alongside Article 21 of the Constitution. In *Mohini Jain v. State of Karnataka*<sup>16</sup> and *Unni Krishnan, J.P. v. State of Andhra Pradesh*<sup>17</sup>, the Supreme Court relied upon the Directive Principles to hold that the right to education is an integral component of the right to life and human dignity. Although Article 41 is not independently enforceable, the Court has treated it as an important constitutional guide in interpreting the scope and content of Fundamental Rights, thereby reinforcing the State's obligation to promote educational access and development.

### **Article 45: Early Childhood Care and Education**

Article 45<sup>18</sup> originally directed the State to provide free and compulsory education to all children up to the age of fourteen years within ten years of the commencement of the Constitution. However, this constitutional objective remained substantially unrealized for

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<sup>15</sup> The Right of Children to Free and Compulsory Education Act, 2009 (Act No. 35 of 2009); See also: Jayna Kothari,

<sup>16</sup> (1992) 3 SCC 666.

<sup>17</sup> (1993) 1 SCC 645.

<sup>18</sup> Constitution of India, Article 45 (as amended by the Constitution [Eighty-sixth Amendment] Act, 2002)

several decades. The Constitution (Eighty-Sixth Amendment) Act, 2002 brought a significant change by introducing Article 21A as a Fundamental Right and simultaneously redefining the scope of Article 45. The amended provision now requires the State to endeavour to provide early childhood care and education for all children until they attain the age of six years, thereby recognizing the importance of early childhood development as the foundation for lifelong learning and educational advancement.

### **Article 46: Educational Advancement of Weaker Sections**

Article 46 directs the State to promote the educational and economic interests of weaker sections of society, particularly Scheduled Castes (SCs) and Scheduled Tribes (STs), and to protect them from social injustice and exploitation. The provision reflects the constitutional commitment to substantive equality by recognizing the need for special measures to uplift historically disadvantaged communities. Article 46 serves as the foundation for various affirmative action policies, including reservations, scholarships, educational assistance, and welfare schemes designed to improve access to education. Its influence is also evident in the Right of Children to Free and Compulsory Education Act, 2009, particularly Section 12(1)(c), which provides for the reservation of 25% of seats in private unaided schools for children belonging to economically weaker and disadvantaged sections<sup>19</sup>.

In *Society for Unaided Private Schools of Rajasthan v. Union of India*<sup>20</sup>, the Supreme Court emphasized that the right to education under Article 21A must be interpreted in light of Article 46, reaffirming the constitutional objective of ensuring equitable access to quality education. Thus, Article 46 remains a significant constitutional tool for promoting educational inclusion, social justice, and equal opportunity.

### **Article 51A(k): Fundamental Duty of Parents and Guardians**

Article 51A(k), inserted by the Constitution (Eighty-Sixth Amendment) Act, 2002, imposes a Fundamental Duty upon every parent or guardian to provide educational opportunities to children between the ages of six and fourteen years. This provision complements Article 21A by recognizing that the realization of educational rights requires not only State intervention but

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<sup>19</sup> Rao, S. (2008). "Judicial Activism and the Right to Education," Indian Journal of Constitutional Law, Vol. 2, pp. 53-64.

<sup>20</sup> (2012) 6 SCC 1

also active participation from parents and guardians. Although Article 51A(k) is non-justiciable, it reflects the constitutional principle that education is a shared responsibility between the State, families, and society. The provision seeks to encourage parental involvement in ensuring school enrolment, attendance, and continuity of education. Judicial decisions have also acknowledged the importance of parental responsibility in achieving the objectives of the Right to Education. In *Avinash Mehrotra v. Union of India*<sup>21</sup>, the Supreme Court emphasized the collective responsibility of the State, educational institutions, and parents in ensuring that children receive education in a safe and supportive environment. Thus, Article 51A(k) strengthens the constitutional framework of educational rights by linking the entitlement to education with corresponding civic responsibility<sup>22</sup>.

## 8. Judicial Interpretation and Expansion of Educational Rights after Article 21A

The Constitution (Eighty-Sixth Amendment) Act, 2002 marked a significant milestone in India's constitutional journey by introducing Article 21A and recognizing free and compulsory education for children between six and fourteen years of age as a Fundamental Right. However, the constitutional recognition of this right did not diminish the role of the judiciary. On the contrary, courts continued to play a crucial role in interpreting the scope, content, and implementation of the Right to Education.

A landmark decision in the post-amendment era was *Society for Unaided Private Schools of Rajasthan v. Union of India*<sup>23</sup>, wherein the Supreme Court upheld the constitutional validity of Section 12(1)(c) of the Right of Children to Free and Compulsory Education Act, 2009. The provision mandates that private unaided schools reserve 25 per cent of their seats for children belonging to economically weaker sections and disadvantaged groups. The Court observed that education serves a larger public purpose and that private educational institutions also share a constitutional responsibility in advancing social justice and inclusive education. The judgment reinforced the principle that the realization of Article 21A requires collective participation from both public and private educational institutions.

The judicial discourse on educational rights was further developed in *T.M.A. Pai Foundation v. State of Karnataka*<sup>24</sup>, wherein the Supreme Court recognized the right to establish and

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<sup>21</sup> (2009) 6 SCC 398.

<sup>22</sup> Constitution of India, Article 51-A(k), inserted by the Constitution (Eighty-sixth Amendment) Act, 2002

<sup>23</sup> (2012) 6 SCC 1.

<sup>24</sup> (2002) 8 SCC 481.

administer educational institutions as a facet of the freedoms guaranteed under Articles 19(1)(g) and 30(1) of the Constitution. While affirming the autonomy of private and minority educational institutions, the Court also acknowledged the State's regulatory authority to prevent commercialization, ensure transparency, and maintain educational standards. The decision highlighted the need to balance institutional autonomy with constitutional objectives, emphasizing that educational institutions must contribute not only to expanding access to education but also to maintaining its quality and integrity.

The Supreme Court further expanded the scope of educational rights in *Avinash Mehrotra v. Union of India*<sup>25</sup> (2009). The Court held that the right to education cannot be separated from a child's right to safety and dignity. It ruled that unsafe school conditions violate Articles 21 and 21A of the Constitution and emphasized the need for adequate infrastructure, functional sanitation facilities, clean drinking water, and compliance with safety standards. The judgment highlighted that meaningful education requires not merely access to schools but also a secure and conducive learning environment<sup>26</sup>.

Similarly, in *National Federation of the Blind v. Union Public Service Commission*<sup>27</sup>, the Supreme Court affirmed the rights of persons with disabilities by holding that visual impairment cannot be a valid ground for denying educational and professional opportunities. The decision underscored the constitutional principles of equality, dignity, and non-discrimination, and contributed significantly to the development of inclusive education in India<sup>28</sup>.

The Supreme Court has consistently emphasized the close relationship between the right to education and child protection under Articles 21, 24, and 39(e) and (f) of the Constitution. In *M.C. Mehta v. State of Tamil Nadu*<sup>29</sup>, the Court recognized education as one of the most effective means of eliminating child labour and directed the State to ensure compulsory education for children rescued from hazardous occupations. The Court observed that the absence of educational opportunities often compels children from economically and socially disadvantaged backgrounds to engage in exploitative labour, thereby undermining their rights

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<sup>25</sup> (2009) 6 SCC 398.

<sup>26</sup> *National Federation of the Blind v. Union Public Service Commission*, AIR 1993 SC 1916

<sup>27</sup> (1993) 2 SCC 411.

<sup>28</sup> Sreenivasa Rao, M., "Right to Education of Disabled Children in India: A Judicial Approach," *Journal of Law and Social Policy*, Vol. 6, 2004, pp. 113-120.

<sup>29</sup> (1996) 6 SCC 756.

to dignity, development, and protection. The judgment highlighted that the eradication of child labour cannot be achieved solely through prohibitory legislation but requires the establishment of an effective educational framework that guarantees enrolment, retention, and rehabilitation of affected children. Through this decision, the Court reinforced the constitutional principle that access to education is indispensable for safeguarding children's rights and promoting their holistic development<sup>30</sup>.

## **9. Right of Children to Free and Compulsory Education Act, 2009**

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) was enacted to implement Article 21A of the Constitution and provide a statutory framework for the realization of the Right to Education. Coming into force on 1 April 2010, the Act transformed the constitutional guarantee of free and compulsory education into an enforceable legal right for all children between the ages of six and fourteen years.

The Act mandates that every child within this age group is entitled to free and compulsory elementary education in a neighbourhood school. It prohibits practices such as capitation fees, admission screening procedures, and corporal punishment, thereby protecting the dignity and rights of children within educational institutions. To ensure quality education, the Act prescribes minimum standards relating to school infrastructure, teacher qualifications, and pupil-teacher ratios.

A notable feature of the Act is Section 12(1)(c), which requires private unaided schools to reserve 25% of seats for children belonging to economically weaker and disadvantaged sections of society. The Act also establishes School Management Committees (SMCs) to promote community participation, transparency, and accountability in school administration.

Despite its progressive framework, the implementation of the RTE Act continues to face challenges, including inadequate infrastructure, shortage of qualified teachers, administrative inefficiencies, and limited awareness among disadvantaged communities. Nevertheless, the Act remains a significant legislative measure in advancing educational access, equality, and social justice in India.

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<sup>30</sup> Kumar, Krishna, *Politics of Education in Colonial India*, Routledge, 2021, pp. 204-206

## **10. Constitutional Challenges in Ensuring Access to Quality Education**

The recognition of education as a Fundamental Right under Article 21A and the enactment of the Right of Children to Free and Compulsory Education Act, 2009 have significantly improved access to elementary education in India. However, the constitutional objective extends beyond enrolment and seeks to ensure quality, inclusive, and equitable education for all children. Despite considerable progress, several challenges continue to hinder the effective realization of this right.

### **Infrastructure Deficiencies**

Many schools, particularly in rural and underdeveloped areas, continue to suffer from inadequate classrooms, sanitation facilities, drinking water, libraries, and other essential amenities. Such deficiencies adversely affect both learning outcomes and student retention.

### **Teacher Shortages**

The shortage of qualified teachers remains a major concern. Vacant teaching positions, high pupil-teacher ratios, and inadequate professional training often compromise the quality of education and limit effective learning.

### **Digital Divide**

Unequal access to digital devices, internet connectivity, and online learning platforms has created significant educational disparities. The COVID-19 pandemic particularly highlighted the challenges faced by students from rural and economically weaker backgrounds.

### **Rural Urban Disparities**

Educational opportunities and resources remain unevenly distributed between rural and urban areas. While urban schools generally have better infrastructure and teaching facilities, many rural schools continue to face resource constraints and staffing shortages<sup>31</sup>.

### **Inclusion of Marginalized Communities**

Children belonging to Scheduled Castes, Scheduled Tribes, minority communities,

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<sup>31</sup> Bhat, P. Ishwara, *Law and Social Transformation*, Eastern Book Company, 2009, pp. 120-122.

economically weaker sections, and persons with disabilities continue to encounter barriers in accessing quality education. Social and economic disadvantages often result in lower educational attainment and higher dropout rates.

These challenges demonstrate that while access to education has expanded considerably, ensuring quality education remains the central constitutional challenge in realizing the true objectives of Article 21A.

## 11. Findings of the Study

- a) The Right to Education evolved from a non-justiciable Directive Principle under Article 45 to a constitutionally enforceable Fundamental Right through the insertion of Article 21A by the Constitution (Eighty-Sixth Amendment) Act, 2002.
- b) Judicial activism in *Mohini Jain v. State of Karnataka* and *Unni Krishnan v. State of Andhra Pradesh* played a decisive role in recognising education as an integral component of the right to life and human dignity under Article 21.
- c) The Right of Children to Free and Compulsory Education Act, 2009 provided a statutory framework for implementing Article 21A and established minimum standards relating to school infrastructure, teacher qualifications, and educational access.
- d) Judicial decisions such as *Society for Unaided Private Schools of Rajasthan v. Union of India* and *Avinash Mehrotra v. Union of India* expanded the scope of educational rights by emphasizing inclusiveness, safety, equality, and quality in education.
- e) Government initiatives such as Samagra Shiksha, PM POSHAN, scholarship schemes, and digital learning programmes have contributed significantly to improving educational access and enrolment across the country.
- f) Infrastructural deficiencies, including inadequate classrooms, sanitation facilities, digital resources, and learning materials, continue to affect the effective implementation of the Right to Education.
- g) The digital divide has emerged as a significant contemporary challenge, particularly affecting students from rural areas and economically weaker sections, thereby limiting

equal access to educational opportunities.

- h) The age limitation under Article 21A restricts the constitutional guarantee to children between six and fourteen years, leaving early childhood education and secondary education outside the direct scope of the Fundamental Right.
- i) Educational loan schemes, scholarship programmes, and financial assistance initiatives have improved opportunities for higher education, but awareness and accessibility remain uneven among disadvantaged communities.

## **12. Recommendations for Strengthening Educational Rights: Balancing Access and Quality**

The constitutional recognition of education as a Fundamental Right under Article 21A and the enactment of the Right of Children to Free and Compulsory Education Act, 2009 have significantly expanded access to education in India. Increased enrolment rates and improved school availability demonstrate the success of constitutional and legislative interventions in making education more accessible. However, the central challenge today is no longer merely access to schools but the quality of education being delivered. The constitutional promise of the Right to Education cannot be fulfilled through enrolment alone; it requires meaningful learning outcomes, inclusive opportunities, and equitable educational experiences. Therefore, future reforms must focus on balancing access with quality.

### **Improving Learning Outcomes**

Educational policies should prioritize learning outcomes alongside enrolment and retention. Greater emphasis must be placed on foundational literacy and numeracy, critical thinking, problem-solving skills, and holistic development. Curriculum and teaching methodologies should be aligned with the objectives of the National Education Policy (NEP) 2020, ensuring that education equips students with both academic knowledge and practical competencies.

### **Strengthening Accountability and Governance**

The effective implementation of educational rights requires strong monitoring and accountability mechanisms. Independent oversight bodies at the State and district levels should be established to evaluate compliance with constitutional and statutory obligations. Grievance

redressal mechanisms under the RTE Act should be made more accessible and child-friendly, ensuring that violations of educational rights are addressed promptly and effectively.

### **Increasing Public Investment in Education**

Adequate financial investment remains essential for improving educational quality. Public expenditure on education should be increased to at least six per cent of GDP, as recommended by the Kothari Commission. Enhanced funding can support infrastructure development, teacher recruitment, digital learning initiatives, scholarships, and welfare programmes, particularly in underserved regions.

### **Improving School Infrastructure and Teacher Quality**

Quality education depends significantly on the availability of adequate infrastructure and qualified teachers. Schools should be equipped with sufficient classrooms, libraries, laboratories, sanitation facilities, electricity, internet connectivity, and safe drinking water. Simultaneously, teacher vacancies must be filled through transparent recruitment processes, and regular training programmes should be conducted to enhance teaching effectiveness and professional competence.

### **Integrating Technology into Education**

Technology can play a transformative role in improving educational quality and accessibility. Government initiatives such as PM eVIDYA and DIKSHA should be expanded to ensure wider access to digital learning resources. Investments in smart classrooms, digital infrastructure, and teacher training in digital pedagogy can help bridge the digital divide and create more inclusive learning environments.

### **Promoting Inclusive Education**

Special measures must continue to support children belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes, minority communities, economically weaker sections, and persons with disabilities. Effective implementation of reservation policies, scholarships, remedial programmes, and support services is necessary to ensure that educational opportunities are distributed equitably and that no child is excluded from quality education.

### **Strengthening Government Schemes and Financial Assistance**

Government initiatives such as Samagra Shiksha, PM POSHAN, Pre-Matric and Post-Matric Scholarship Schemes, and the National Means-cum-Merit Scholarship Scheme have played an important role in improving educational access. These programmes should be strengthened through adequate funding, effective monitoring, and wider awareness among beneficiaries. Their continued success is essential for reducing educational inequalities and promoting social inclusion.

### **Expanding Educational Loans and Higher Education Support**

Access to higher education often remains constrained by financial limitations. Educational loan schemes and interest subsidy programmes should be expanded and simplified to ensure that deserving students are not denied educational opportunities due to economic hardship. Financial assistance mechanisms should particularly target students from economically weaker sections and rural backgrounds.

### **Enhancing Community Participation**

School Management Committees (SMCs) should be empowered to actively participate in school governance, monitoring, and decision-making. Greater involvement of parents, local communities, and civil society organizations can improve accountability and strengthen the relationship between educational institutions and the communities they serve.

### **Focusing on Quality Alongside Access**

While constitutional and legislative measures have largely succeeded in expanding access to elementary education, the next phase of educational reform must focus on improving quality. Mere admission to schools does not fulfil the constitutional objective of educational empowerment. The true realization of Article 21A requires that every child receives meaningful, inclusive, and quality education supported by adequate infrastructure, qualified teachers, technological resources, and effective institutional mechanisms.

Ultimately, the success of the Right to Education should not be measured solely by enrolment statistics but by the extent to which education enhances dignity, equality, social mobility, and human development. A balanced approach that combines universal access with educational

quality is essential for fulfilling the constitutional vision of justice and social transformation.

### **13. Conclusion**

The constitutional recognition of the Right to Education represents one of the most significant developments in India's commitment to social justice and human development. Through Article 21A, the Constitution has established education as a legal entitlement rather than a mere policy objective, thereby strengthening the State's obligation to ensure educational opportunities for all children. However, the study demonstrates that the constitutional discourse on education can no longer be confined to questions of access alone. While considerable progress has been made in increasing enrolment and expanding educational coverage, the constitutional promise of education remains incomplete if access is not accompanied by quality. The right guaranteed under Article 21A must therefore be understood as encompassing not merely entry into a classroom, but access to meaningful learning, qualified teachers, adequate infrastructure, inclusive environments, and equitable educational outcomes. The interaction between constitutional principles and educational realities reveals that the true challenge lies in bridging the gap between formal access and substantive educational opportunity. A constitutional commitment to equality, dignity, and social justice requires that every child receive an education capable of enhancing individual potential and promoting social mobility. Consequently, the future development of educational rights in India must focus on balancing access with quality, ensuring that constitutional guarantees translate into genuine educational empowerment. Ultimately, the success of the Right to Education will not be measured by enrolment figures alone but by the extent to which the educational system delivers quality learning experiences consistent with the constitutional values of equality, dignity, and justice. Only then can the transformative vision underlying Article 21A be fully realised.