
RIGHT TO EDUCATION AS A FUNDAMENTAL RIGHT UNDER THE INDIAN CONSTITUTION: A CRITICAL STUDY

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ABSTRACT

Education is a vital means of gaining knowledge and it acts as a foundation for both social and economic advancement. Right to Education plays an important role in Indian democracy. The Indian Constitution recognizes education as a fundamental right under Article 21A. This article examines the role of the Right to Education in Indian democracy and how it occupies a predominant place among the fundamental rights guaranteed under part III of the Indian Constitution. It also analyses the Constitution (Eighty-sixth Amendment) Act, 2002 and its implementation. This study particularly focuses on constitutional framework of the Right to Education under Article 21A of the Indian Constitution. The judicial interpretation of Right to Education, along with the enactment of the Right of Children to Free and Compulsory Education Act, 2009 ensures access to education for citizens. By examining legislative provisions and relevant case laws, the article highlights the challenges in achieving universal and quality education. It concludes that effective implementation of Right to Education is essential for promoting equality, social justice, and the overall development of children in India.

Keywords: Right to Education, Article 21A, Indian Constitution, Fundamental Rights, RTE Act 2009, Educational Rights.

Introduction:

Education plays a vital role in enabling individuals to achieve success in an increasingly competitive world. Nelson Mandela once said, Education is the greatest weapon that you can utilize to transform the world. India has long been a centre of learning and knowledge. It has drawn scholars and students from different parts of the world. Along with texts such as the Ramayana, the Mahabharata, and the Manu smriti, India is also associated with the development of Algebra, Calculus and Pythagorean theorem. Several international conventions recognize right to education as a human right. The Universal Declaration of Human Rights was the earliest international document to formally acknowledge education as a fundamental human right.¹ Additionally the international covenant on Economic and Social Cultural Rights recognizes the right of everyone to education. It widely discusses about primary, secondary, higher and fundamental education.² This convention was recognized by nearly 173 nations. India ratified the convention on 10th April, 1979. Also, the United Nations Convention on the Rights of the Child discusses about Right to Education.³ The preamble of the constitution of India promises to secure to all citizens of India “justice, social, economic and political” and “liberty of thought, expression, belief, faith and worship”. It also provides equality of status and of opportunity” and assures dignity of the individual. Originally the constitution of India does not have the provision regarding education under part III of the constitution, But the Constitutional makers of India were aware of the value of the right to education so that they include the provision under directive principles of state policy as, 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 under article 45 of the constitution of India. Later this provision was modified by subsequent amendments.

Milestones of Right to Education in India before Article 21A:

Even after many initiatives taken to promote social and economic progress since independence a substantial portion of the population remains without access to proper education. It is a serious concern that our country accounts for nearly half of the world’s illiterate population, so that the government assigns the highest importance to education,

¹Universal Declaration of Human Rights art. 26.

²International Covenant on Economic, Social and Cultural Rights art. 13, Dec. 16,1996, 993 U.N.T.S. 3.

³Convention on the Rights of the Child, Nov. 20,1989, 1577 U.N.T.S. 3.

holding it not only as a basic human right but also as a vital means of creating a more just and enlightened society. In 1981 the Supreme Court of India affirmed that the right to life guaranteed under Article 21 of the Constitution of India encompasses the wider right to live with human dignity the court emphasized that Article 21 cannot be limited to mere animal existence instead it must be understood to include the right to basic necessities of life as well as the ability to perform those functions and activities that personality, building upon this interpretation, the Court subsequently recognized several socio-economic rights within the scope of the right to live with dignity, including the rights to food, education, healthcare, and shelter.⁴ The government of India set up a committee under the chairmanship of eminent educationist Acharya Ramamurti in 1990 to review the National Policy on Education (NPE), 1989. Its main recommendations covered the establishment of common school system, improvement of teacher education, development of higher education, expansion of vocational streams, strengthening of technical and management studies, promotion of value-based learning, support for early childhood care and education, decentralization of administration, introduction of a national testing framework, and advancement of women's education.⁵ The question arose for the first time before the two bench of the Supreme court in the case of Mohini Jain v. State of Karnataka⁶ in the following factual background: In order to eradicate the collection of capitation fees in admissions to educational institutions, the Karnataka legislature enacted a law intended to regulate the tuition fees charged by private medical colleges within the State. Pursuant to this enactment, the Government issued a notification prescribing an annual tuition fee of Rs.2,000 for candidates admitted under the category of 'government seats. However, students belonging to the State but not admitted under government seats were required to pay Rs.25,000 per year, while Indian students from outside the State were charged Rs.60,000 per annum. Upon a writ petition being filed by a student from outside the State, the Supreme Court set aside the notification on the ground that it violated Article 14 of the Constitution. The Court held that right to education as such has not been guaranteed as fundamental right under part III of the constitution but reading the provisions of Article 21, 38, 39(a) and (f), 41 and 45 cumulatively it becomes clear that the framers of the Constitution made it obligatory for the State to provide education for its citizens. In 1993 the Supreme Court of India held that right to education is implicit under right to life which is guaranteed under Article 21 of the constitution and that the State cannot deprive the citizen of his right to education

⁴ Francis Coralie Mullin v. The Administrator, Union Territory of Delhi (1981) AIR 746.

⁵Ramamurti Committee, Review of the National Policy on Education 1986 (1990).

⁶(1992) AIR 1858.

except in accordance with the procedure prescribed by law.⁷ The judgments emphasized the need for the legislature to enact a specific provision.

Right to Education as a Fundamental Right:

The issue concerning provision of free and compulsory education to all children up to the age of 14 years, a cherished goal set in the constitution of India, was taken up by the Law commission of India for consideration suo motu. The report of this commission analysed various causes of denial of education in our country and also highlighted the importance of ensuring free and compulsory education with the draft bill for central legislation and emphasises the need for this immediate central legislation to give effect to the right to education without waiting for the constitutional amendment to go through in the parliament.⁸ The Government of India had set up a group of experts chaired by Dr. Tapas Majumdar to assess the financial resources required for providing free and compulsory education to all children up to the age of fourteen years, as envisioned under Article 45 of the constitution of India. The committee submitted its report in 1999 providing detailed financial and strategic estimates for achieving the goal of Universal Elementary Education (UEE). The expert group has stressed the need for stepping up investments in the elementary education sector with full community participation through the institutional framework of panchayat Raj and village education committees. Involvement of the community in the management of the school together with stepping up of public investments for essential for national development.⁹ The first major step which was taken by Supreme Court of India in 1993 held that Right to education at all level is a fundamental Right under Article 21 of the Constitution and charging capitation fee for admission is illegal and denial of Right to education and also education in India is never been a commodity.¹⁰ The judgment in Mohini Jain specifically overruled in Unnikrishnan v. State of Andhra Pradesh¹¹ in 1993 and held that Right to Education for children age of 6 to 14 years, After 14 years its depends on State's economy and development. In 1996 the Supreme Court stated that Article 45 had attained the status of Fundamental Right following the constitutional bench's decision in Unnikrishnan v. State of Andhra Pradesh.¹² Finally the parliament enacted the Constitution (Eighty-sixth Amendment) Act 2002. This Amendment inserted a new

⁷Unni Krishnan, J.P. v. State of Andhra Pradesh, (1993) AIR 2178.

⁸Law Commission of India, Report No. 165, Free and Compulsory Education for Children (1998).

⁹Tapas Majumdar Committee, Assessment made by the group of experts, (1999).

¹⁰Mohini Jain, (1992) AIR 1852.

¹¹Unni Krishnan J.P. (1993) AIR 2178.

¹²M.C. Mehta v. State of Tamil Nadu, AIR 1997 SC 699.

provision of Article 21A in the Constitution of India to provide free and compulsory education of all citizens and inserted a new fundamental duty under part IV A of the constitution. The Article 21A states that “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 The Article 51A(k) states that “every 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.”¹⁴ This amendment also modified the provision of Article 45 as “The state shall endeavour to provide early childhood care and education for all children until they complete the age of six years.”¹⁵

Right of Children to Free and Compulsory Education Act, 2009:

To give effect to 86th constitutional amendment 2002, the Right of Children to Free and compulsory Education Act 2009 was enacted under Article 21A. It has totally 7 chapters and 38 sections. The RTE Act requires that every child, regardless of family income, gender, caste or creed must have access to quality education. The Act plays an important role in promoting economic security, reducing social inequalities, and supporting the overall development of children. This Act aims to provide free and compulsory education to every child between the age of six to fourteen years in a neighbourhood school till the completion of elementary education.¹⁶ The Act clarifies that compulsory education places a duty on the government to secure the admission, regular attendance and completion of elementary education for children aged six to fourteen. The term free signifies that no fee or expense should be charged to the child that could hinder him or her for finishing this education.

The Act also states that no child should be detained until class 8. It introduced the Continuous Comprehensive Evaluation (CCE) system to ensure learning outcomes that are appropriate for each grade level in schools. The Act further provides for the establishment of a School Management Committee (SMC) in every school to encourage participatory democracy and proper governance in elementary education. These committees are empowered to oversee the functioning of the school and to prepare plans for its development. This Act is justiciable and includes a grievance redressal mechanism, enabling individuals to seek remedies when its provisions are not properly implemented. The Right to Education Act

¹³INDIA CONST. art.21A.

¹⁴INDIA CONST. art.51A(k).

¹⁵INDIA CONST. art.45.

¹⁶The Right of Children Free and Compulsory Education Act, No. 35 of 2009, § 3.

requires all private schools to reserve 25 per cent of their seats for children belonging to socially disadvantaged and economically weaker sections.¹⁷ This measure is aimed at promoting social inclusion and contributing to the creation of a more just and equitable society. All schools, including private unaided, aided, and special category schools, must set aside 25% of their seats at the entry level for children from Economically Weaker Sections (EWS) and disadvantaged groups. It also aims to promote social integration among children from different social and economic backgrounds. Any financial burden faced by schools due to this provision is reimbursed by the central government.

Role of Judiciary in expanding Right to Education:

The judiciary plays a crucial role in expanding the right to education through various judgments delivered by it. A few notable cases are discussed below.

*Society for Unaided Private Schools of Rajasthan v. Union of India*¹⁸: The Supreme court of India upheld the constitutional validity of the Right to free and compulsory education Act 2009, the majority held that Article 19(6) of the Constitution of India allows the State to impose reasonable restrictions on the freedom to practice any occupation, trade, or business guaranteed under Article 19(1)(g) of the Constitution of India. Accordingly, the requirement that private unaided schools reserve 25% of their seats for children from economically weaker sections was considered a valid and reasonable restriction. However, the Court created an exception by ruling that the application of Section 12(1)(c) of the Act to private unaided minority institutions would infringe upon their minority status. Consequently, the provisions of the RTE Act were held inapplicable to such minority schools.

*Pramati Educational and Cultural Trust v. Union of India*¹⁹: The Court held that the provisions of the RTE Act are not applicable to minority educational institutions, thereby safeguarding their rights guaranteed under Article 30 of the Constitution of India.

*Environmental and Consumer Protection Foundation v. Delhi Administration*²⁰: To ensure effective implementation of Article 21A of the Constitution, it is essential that schools are

¹⁷The Right of Children Free and Compulsory Education Act, No. 35 of 2009, § 12.

¹⁸W.P (C) No.95 of 2010.

¹⁹AIR 2014 SC 2114.

²⁰(2012) INSC 584.

provided with qualified teachers and adequate basic infrastructure.

*Avinash Mehrotra v. Union of India*²¹: The Court held that the Right to education requires that a child study in a quality school, and a quality school certainly should pose no threat to a child's safety and hold that educating a child requires more than a teacher and a blackboard, or a classroom and a book.

*State of Tamil Nadu v. K. Shyam Sunder*²²: The Court reaffirmed that the right of child should not be limited to free and compulsory education, it must also include access to quality education without discrimination based on economic, social, or cultural background.

*Modern Dental College and Research Centre v. State of Madhya Pradesh*²³: The Court acknowledged the State's responsibility to maintain fairness, transparency, and merit in the admission process to private unaided medical and dental colleges. It held that the regulatory steps taken by the State such as conducting Common Entrance Tests (CETs) and determining fees through a committee amount to reasonable restrictions under Article 19(6) of the Constitution and do not violate the fundamental rights of private institutions guaranteed under Article 19(1)(g).

Conclusion:

Education is one of the most important rights in a democratic country like India. Although the framers of the Constitution of India did not originally include the right to education among the Fundamental Rights, and therefore it was not enforceable in the beginning, the judiciary played a significant role in ensuring that this right reached to every citizen. The Constitution (Eighty-sixth Amendment) Act, 2002 later guaranteed the right to education as an enforceable right by inserting Article 21A of the Constitution of India. In recent times, several state governments in India have begun implementing numerous schemes to promote education among children. According to 2011 census report, the literacy rate in India stands at 74.04 percent, with 82.14 percent among males and 65.46 percent among females, and among the states and union territories, Kerala continues to hold the highest literacy at 93.91 percent, followed by Lakshadweep with 92.28 percent and Mizoram with

²¹Writ Petition (Civil) No. 483 of 2004.

²²AIR 2011 SC 3470

²³AIR 2016 SC 2601

91.58 percent.²⁴ In the 21st century job market, abilities such as critical thinking, creativity, adaptability, digital literacy, problem-solving, communication, and collaboration are highly valued, as they are necessary for functioning effectively in a rapidly evolving global economy. A major transformation in the future of education in India is the incorporation of technology into the teaching and learning process. The widespread use of smartphones and the availability of high-speed internet have enabled digital platforms to emerge as an effective means of broadening access to education. This transition was further accelerated during the COVID-19 pandemic, when online classes and e-learning became common. In the years ahead, technology is expected to be integrated more smoothly into classroom environments, playing an important role in providing immersive and personalized learning experiences.

²⁴Literacy, National Portal of India, <https://knowindia.gov.in/profile/literacy.php> (last visited Mar.,14, 2026)