

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 7 | Issue 6

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2024

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# Judicial Intervention on Education Policies

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## ABSTRACT

*Education is a key tool that offers knowledge, skill, technique, information and enables people to know their rights and duties to their family, society, and the nation. Ancient period in India it included everything from the sacred Vedas to archery, astronomy, and medicine etc. The entrance of the British Raj is a revolutionary period of educational system in India. Western education was largely intended to develop a class of English-speaking workers. In India lack of education leads to socio-economic problems. Hence the government and the judiciary played a vital role in developing the education as a right throughout the India. But sometimes the overreach of judiciary has impacted in the society in a positive and negative aspects. This article analyses some cases related to education policies and their impacts.*

**Keywords:** *Education, policies, judicial intervention, socio-economic rights, reservation.*

## I. INTRODUCTION

Education is a key tool that offers knowledge, skill, technique, information and enables people to know their rights and duties to their family, society, and the nation. Education is one of the most fundamental human rights. For the eradication of poverty and for the social progress education to the society is important. Millions of people lack access to education, which is a fundamental human right. The United Nations and UNESCO have also acknowledged its role in establishing international legal duties. Members of these international organizations are formulating and playing the crucial role to develop the society through education. This is also recognized by the main international instrument, the Universal Declaration of Human Rights (UDHR) as a basic human right to right to education in Article 26 “*Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit*”. Under Article 13, the International Covenant on Economic, Social, and Cultural Rights affirms the Universal Declaration of Human Rights' general right to education.

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## **II. HISTORY OF EDUCATION IN INDIA**

In India during the earlier period the education was not confined as text books. It included everything from the sacred Vedas to archery, astronomy, and medicine etc. Buddhism and Jainism had a tremendous influence on India's educational history. Monastic centres arose as educational hubs, providing instruction in spirituality, philosophy, and literature. During this time, prominent universities such as Nalanda and Taxila were founded, bolstering India's image as a hub for advanced study. The medieval age presented problems to education in India, with invasions and political upheavals disrupting established educational institutions. However, the presence of Islamic intellectuals brought to the merger of Persian and Arabic teachings, which enriched India's educational scene. The Mughal period saw the establishment of madrasas and the preservation of old knowledge systems.

### **(A) Pre- Independence period**

The entrance of the British Raj in the 18th century was a watershed moment in the Indian educational system. Thomas Macaulay, a British politician, proclaimed the need for English education for Indian indigenous in 1835 with the infamous "Minute on Indian Education." Western education was largely intended to develop a class of English-speaking workers. Schools and universities began to concentrate on English, science, and mathematics. While the colonial education system created the groundwork for modern educational institutions, it also deprived India of its rich cultural history.

### **(B) Post -Independence period**

In 1947, India achieved independence and began to create a robust educational system. Illiteracy was a serious issue in post-Independence India. As a result, the federal and state governments shared responsibility, with the primary aims of universal elementary education, eradicating illiteracy, and upgrading education. The Right to Education (RTE) Act of 2009 was a significant milestone, since it established free education for children aged 6 to 14 and sought to bridge socioeconomic barriers by supporting inclusive education for all.

### **(C) Constitution Framework on education**

Initially, the constitutional framers included measures for education in Part IV of the Indian Constitution, which covers the Directive Principles of State Policy. Article 41 states that, subject to the limits of its economic capabilities and development, the state must make provisions to provide the right to education. Article 45 required the state to provide free and compulsory education for all children under the age of 14 within ten years of the Constitution's inception.

Article 45 has been changed. According to Article 46, the state must prioritize the educational and economic interests of the disadvantaged parts of the population.

However, the Directive Principles of State Policy are not justiciable and hence cannot be enforced in court. They are just directions or ideas that the government must keep in mind when developing policies and passing legislation. As a result, the right to education was not considered a basic right because it was not clearly mentioned as such in Part III of the Indian Constitution. In 1990, Acharya Ramamurti chaired a Review Committee to analyze and review the execution of the National Education Policy of 1986. This Committee offered several key suggestions. One of its primary recommendations was that the right to education be considered for inclusion among the fundamental rights. However, the state did not take any actual action in this area.

### **III. JUDICIARY ROLE IN RIGHT TO EDUCATION**

The judiciary played an important role in establishing education as a fundamental right. Several judicial pronouncements have resulted in the right to education becoming a fundamental right. In *Anand Vardhan Chandel v University of Delhi & Ors.*<sup>3</sup> The petitioner claimed that his fundamental right to study had been violated because he was barred from contesting the Delhi University Students Union elections. He contended that engaging in Students Union events was part of one's right to an education. The Delhi High Court ruled that Article 21 of the Constitution guaranteed the right to education, which the Petitioner had been denied. In this case, Article 21 of the Constitution, which deals with the Right to Life and Personal Liberty, recognized the right to education for the first time as a basic right.

In *Bapuji Educational Association v State*,<sup>4</sup> The petitioners challenged the constitutionality of the Karnataka Educational Institutions (Prohibition of Capitation Fees) Act 1984. The Karnataka High Court upheld the impugned Act, stating that an individual's freedom to obtain and/or impart education is one of the most sacred and valuable rights guaranteed under Article 21. Both of the aforementioned instances were determined by High Courts and hence did not establish nationally binding precedents.

The Supreme Court in the case of *Mohini Jain v State of Karnataka*<sup>5</sup> The ruling was a landmark point in the development of the Right to Education as a justiciable basic right. In this case, petitioner Mohini Jain challenged the legitimacy of imposing capitation fees on individuals who

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<sup>3</sup> AIR 1978 Del 308

<sup>4</sup> ILR 1985 Kar 80

<sup>5</sup> AIR 1992 SC 1858

sought admission to private medical colleges but were not admitted to government seats. The petitioner asserted that the Constitution guaranteed a basic right to education and that capitation payments were arbitrary, unfair, and unjust. The Supreme Court ruled that there is a constitutional right to education, which stems directly from Article 21's provision of the right to live with dignity. Capitation fees were determined to be unconstitutional.

Furthermore, in *Unni Krishnan v State of Andhra Pradesh*,<sup>6</sup> the legitimacy of capitation payments was questioned again. In this case, the question was how far the right to education under Article 21 would extend. The petitioner argued that since the right to education pertains to primary school, it should also apply to professional education. The Constitutional Bench of the Supreme Court reviewed *Mohini Jain's* decision. In *Unni Krishnan's* case, the Supreme Court ruled that the fundamental right to life and personal liberty protected by Article 21 of the Constitution includes the right to education. However, the Supreme Court stated that the right to education granted by Article 21 is not absolute, as a citizen is only entitled to free education until he reaches the age of 14. Beyond the age of 14, a citizen's right to education is subject to the restrictions of the State's economic capacity and development, as outlined in Articles 41 and 45.

In a Public Interest Litigation titled *Bandua Mukti Morcha v Union of India*<sup>7</sup>, the Supreme Court was petitioned to direct the State of Uttar Pradesh to adopt adequate actions and measures to prevent child labour, which was prevalent in Uttar Pradesh, notably in the carpet business. The Supreme Court urged the state of Uttar Pradesh to end the use of child labour in the carpet industry, as well as to ensure that all children under the age of 14 who work in factories, mines, and other industries receive compulsory schooling. The court stated that the right to education is implicit in and flows from Article 21, and that by practicing child labour, children were deprived of their meaningful right to life enshrined in Article 21, which includes access to food, medical aid, housing, and education.

#### **(A) Judiciary role in policy framework**

Even though through various cases the education right was protected, on the other hand when the judiciary enters into the policy frame work of the government like in the reservation, fees etc., Since 1951, the policy of reserving seats for socially and educationally deprived persons, known as Scheduled Castes and Scheduled Tribes, has resulted in the highest number of cases filed in court. Few cases were discussed here. To distinguish between Executive and Judiciary

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

<sup>7</sup> (1997) 10 SCC 549

opinions on a policy decision, consider the Supreme Court's decision in the Communal G.O. of Madras. The Court ruled that the classification based on religion and caste violated the Constitution and violated citizens' fundamental rights.

While rejecting the State's submission that the reservation was required to give effect to Directive Principles of State Policy as envisaged in Part IV of the Constitution, the court ruled that the Directive Principles of State Policy must conform to and operate in tandem with the chapter on Fundamental Rights.<sup>8</sup> As the state increased the proportion of reserve in order to fulfill its constitutional commitments, the courts became further embroiled in these policy decisions. Even if Article 15(4) refers to socially and educationally disadvantaged sections of citizens. Caste was identified as a marker of such backwardness.

The courts intervened, stating that caste cannot be the primary or main factor in determining the social backwardness of groups or classes of persons, while admitting that deplorably poor citizens are automatically socially backward. The basis for determining social and educational backwardness was caste-based. The court then went on to determine what a fair proportion of reservation should be, observing that any reservation greater than 50% would be unfair and unconstitutional.

As the controversy resurfaced in court, it became imperative to distinguish between caste and class and establish objective rules for determining social and educational backwardness. This court's approach was reflected in a later case, in which the majority decision upheld the validity of the Government of Mysore's orders governing admissions to engineering and medical colleges, observing that classifying backward classes based on economic conditions and occupations is not wrong and does not violate Article 15(4) of the Constitution.

Caste was deemed a relevant aspect, but it cannot be the sole or determining factor.<sup>9</sup> The pendulum swung the other way when the court used caste to determine social and educational backwardness. It stated unequivocally that there are various castes in this country that are socially and educationally backward. Ignoring their presence means ignoring the truths of life.<sup>10</sup> If a caste's membership determines social and educational backwardness, it is evident that every member of the caste is socially and educationally backward.

The presumption is not well-founded.<sup>11</sup> In light of the courts' vacillations on both the caste and means tests, one state issued an order stating that cultivations of land with holdings less than

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<sup>8</sup> State of Madras v. Champakam Dorairajan, 1931 SCR 523.

<sup>9</sup> R. Chitrealekha v. State of Mysore, AIR 1964 SC 1823.

<sup>10</sup> A. Periakaruppan v. State of Tamil Nadu, AIR 1971 SC 2303.

<sup>11</sup> . State of Andhra Pradesh v. U.S.V. Balam, AIR 1972 SC 1375.

the statutory minimum must be recognized as socially and educationally backward and eligible for reserved seats. The court overturned it.<sup>12</sup>

Similarly, reservation in favour of rural areas was ruled unconstitutional on the grounds that poverty in rural areas cannot be used to justify quota for rural areas.<sup>13</sup> Reservations for Scheduled Castes and Scheduled Tribes have been largely upheld on the grounds that political democracy was merely a means to an end in order to establish a social democracy based on the principle of "one man, one value," which would necessitate the complete abolition of social and economic inequality.<sup>14</sup> To end, as late as 1985, a Constitution Bench of the Supreme Court issued five different opinions that did not help to improve the situation.<sup>15</sup>

Every state has its unique set of local challenges that must be addressed satisfactorily. Every state makes policy decisions, and the courts eventually meddle with those decisions. To correct the regional imbalance in the allotment of seats for admission to the medical college, the state of Jammu and Kashmir created an 80% reserve without defining the districts affected by the imbalance. The court deemed the reservation illegal under Article 14.<sup>16</sup> Similarly, the State of Tamil Nadu, after failing to give preference based on location in the State, devised an innovative technique of establishing units for admission to the State's medical colleges. The units included numerous undergraduate colleges. The intended applicants were asked not to apply for any of the units, but rather to apply for the unit that was closest to their place of residence, as far as practicable.

The unit wise preference was challenged as violating Articles 14 and 15, claiming that the State's behaviour was discriminatory in nature. The court agreed with the challenge, and the order was overturned.<sup>17</sup> Occasionally, converts to Hinduism claimed reserved seats for Scheduled Castes and Scheduled Tribes, but the court dismissed their claim on the grounds that a convert must be recognized by the other members of the caste and allowed into their fold.<sup>18</sup> It is not intended to cover all cases, but the specimen referred to herein demonstrates the divergence in views even in the matter of policy decisions between the Executive and the Judiciary, and it is well known that the judiciary takes time to render its decisions, and the entire policy is nullified after years, leaving a number of victims to suffer as a result of this uninformed

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<sup>12</sup> Janaki Prasad Perimoo v. State of Jammu & Kashmir, AIR 1973 SC 930.

<sup>13</sup> State of Uttar Pradesh v. Pradeep Tandon, AIR 1975 SC 563

<sup>14</sup> Akhil Bharatiya Soshit Karmachari Sangh v. Union of India, AIR 1981 SC 298.

<sup>15</sup> K. C. Vasantha Kumar v. St of Karnataka

<sup>16</sup> Nishi Maghu v. State of Jammu & Kashmir, AIR 1980 SC 1973.

<sup>17</sup> A. Periakaruppan v. State of Tamil Nadu, AIR 1971 SC 2303.

<sup>18</sup> Principal, Guntur Medical College v. Mohan Rao, AIR 1976 SC 1904

judicial intervention.

In all circumstances of judicial intervention, presuming that it is legal and reasonable, relief could never be granted to individuals who came to the court seeking relief and were assisted by the court. A common entrance test was taken in Kerala a few years ago for admissions to medical colleges, and once the results were announced, multiple writ petitions were brought in the Kerala High Court alleging nepotism and endemic malpractices.

The Kerala High Court was convinced, but it was unable to grant the petitioners relief other than to state that it would issue certain directives to prevent malpractices in the future. The case came before the Supreme Court, and the entire test, its results, and admissions based on them were overturned. Others who were admitted and whose admissions were proved to be invalid lost the year, while others who would have been eligible for admission but did not receive it could not be given the benefit of a year. There was loss and it is a national loss without an equal national gain.

Likewise in the capitation fees cases also the court had intervened in the policy and held that the capitation could not be imposed later on the opinion of court was changed in subsequent case. Here the institutions are facing the financial loss in between this period. On the other hand the high court in various cases had taken a stand that the intervention in education policy matter was not good and not needed

### **(B) Impact of Judicial Decision**

Judicial intervention in education policy in India has both positive and negative impacts. Through the *TMA Pai foundation v. St of Karnataka*, the courts have safeguarded the rights of minorities. And further the court has also ensured the implementation of Right to education which ensures free and compulsory education<sup>19</sup>. Admission and fees were regulated through transparency. The courts have also addressed the sanitation and infrastructure of school etc., These decisions have impacted the literacy level of the country. But when the court interferes in the policies framed by the government the separation of powers is affected. This interference can slow down the implementation of welfare schemes. The three organs of the government should coordinate together to improve the education policy, and where it should not be politicized.

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<sup>19</sup> *Society for Unaided Private Schools of Rajasthan v. Union of India*, 2012