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# Right to Education and Legal Frameworks

## Ensuring Literacy

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### ABSTRACT

*Education is an indispensable human right and a critical catalyst for socio-economic development and democratic governance. India's legal framework has progressively elevated the importance of educational access, transitioning it from a policy aspiration to a legally enforceable guarantee underscoring the nation's resolve to advance equal opportunity and social inclusion. This chapter critically examines the constitutional provisions, landmark judicial interpretations, and legislative frameworks most notably the "Right of Children to Free and Compulsory Education Act, 2009" that collectively underpin India's educational landscape. It further analyses prevailing policy initiatives, including the transformative "National Education Policy 2020", and situates India's domestic legal regime within international human rights commitments. The discussion highlights persistent challenges such as infrastructural deficits, social exclusion, and limited legal coverage, underscoring the need for comprehensive reforms. Ultimately, the chapter advocates for strengthened legal mandates, expanded age coverage, and inclusive implementation strategies to realize universal literacy as both a constitutional guarantee and a developmental imperative.*

**Keywords:** constitutional guarantee, directive principle. Fundamental right, National Education Policy 2020, universal literacy.

## I. INTRODUCTION

Education is not merely a developmental tool but a transformative force essential for building an equitable society. It empowers individuals, strengthens democratic institutions, and enhances economic productivity<sup>2</sup>. Education is fundamental to building a fair and just society, helping reduce poverty, promoting gender equality, and enhancing opportunities for all individuals.

Recognizing this, India's legal framework has evolved from aspirational provisions to enforceable rights, culminating the elevation of education to the status of enforceability<sup>3</sup>. This chapter explores development of the right to education in India through constitutional

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<sup>2</sup> Mohini Jain v. State of Karnataka, (1992) SC 1858.

<sup>3</sup> J. N. Pandey, Constitutional Law of India (58th ed., Central Law Agency 2023).

provisions and legal enactments, focusing on the legislative, judicial, and policy frameworks that ensure literacy for all. It also analyses challenges in implementation and offers recommendations for expanding access to education in a rapidly changing socio-economic landscape.

## II. CONSTITUTIONAL RECOGNITION OF THE RIGHT TO EDUCATION

Initially, the legal system emphasized educational access as a policy objective rather than a claimable right. One of its provisions, namely "*Article 45*", stated that free and compulsory education should be made available to all children up to the age of fourteen within a span of ten years<sup>4</sup>. However, as this directive was not legally enforceable, it remained largely aspirational.

A decisive shift occurred with the enactment of the "**86th Constitutional Amendment Act, 2002**". This legislative reform introduced "*Article 21A*", which guarantees free and compulsory education to all children above six and under fourteen as a matter of enforceable right. Alongside this, "*Article 45*" was revised to emphasize the importance of early childhood care and education, and "*Article 51A(k)*" was added to assign a responsibility to parents or guardians to ensure their children receive education<sup>5</sup>. This marked a transition from a purely welfare-based outlook to a rights-based framework, positioning elementary education as a legal entitlement for every child.

This amendment underscored the principle that access to education is an essential ingredient for social justice and enabling the exercise of other fundamental rights, like the rights to life and equality<sup>6</sup>.

## III. JUDICIAL INTERPRETATION AND EXPANSION

India's highest court has played a transformative role in expanding the interpretation of fundamental protections related to individual well-being and empowerment. In a seminal ruling namely "*Mohini Jain v. State of Karnataka (1992)*"<sup>7</sup>, the judiciary asserted that meaningful access to knowledge is an intrinsic component of a dignified life. The judgment highlighted that without educational opportunities; the exercise of broader liberties becomes ineffective. This decision marked a significant judicial step in reinforcing that enabling learning is not merely aspirational but essential to realizing the essence of personal freedom.

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<sup>4</sup> D.D. Basu, Introduction to the Constitution of India, 25th ed. (LexisNexis, 2020).

<sup>5</sup> Ibid.

<sup>6</sup> Supra note 4.

<sup>7</sup> Supra note 2.

In a notable 1993 verdict namely, “*Unnikrishnan J.P. v. State of Andhra Pradesh*”<sup>8</sup>, the apex judicial forum reinforced the imperative that young individuals, particularly those under fourteen, must not be denied access to education without financial burden. The bench underscored the responsibility of public institutions to ensure that learning opportunities remain inclusive and of adequate standard, regardless of a learner’s economic or social standing. This interpretation significantly influenced subsequent policy developments aimed at making education a guaranteed and enforceable entitlement.

The consistent interpretation by the judiciary eventually influenced the introduction of the “Right of Children to Free and Compulsory Education Act, 2009”, which operationalized the guarantee enshrined in “Article 21A”. The apex court, acknowledging the transformative potential of learning in promoting societal equity, later affirmed a crucial provision of this law.

In other notable case namely “*Society for Unaided Private Schools v. Union of India* (2012)”, it upheld the clause requiring independent educational institutions to allocate 25% of entry-level seats to children from underprivileged backgrounds. This move reinforced the principle that inclusive education serves as a vehicle for broader social cohesion.

#### IV. LEGISLATIVE FRAMEWORK: THE RIGHT TO EDUCATION ACT, 2009

“**Right of Children to Free and Compulsory Education Act, 2009**” (“RTE Act”) was enacted to give effect to the constitutional guarantee of education for children above six and below fourteen years of age. Enforced from 2010 onwards, this legislation mandates that both public and accredited private schools offer free education to all children within this age bracket. It also prohibits admission tests, capitation fees, and physical punishment to promote inclusivity and prevent discrimination in school enrolment and conduct.

A pivotal clause, **Section 12(1)(c)**, obliges unaided private schools to allocate 25% of entry-level seats to children from economically weaker and disadvantaged backgrounds. This measure seeks to provide equitable access to high-quality education across socio-economic divides. The constitutionality of this provision was upheld in case namely “*Society for Unaided Private Schools v. Union of India*”<sup>9</sup>, affirming that education must be universally accessible and not treated as a commercial product.

The RTE Act also prescribes specific standards for school infrastructure, teacher qualifications, pupil-teacher ratios, and instructional days, thereby ensuring that the focus is

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<sup>8</sup> Unnikrishnan, J.P. v. State of Andhra Pradesh, (1993) 1 SCC 645.

<sup>9</sup> Society for Unaided Private Schools of Rajasthan v. Union of India, (2012) 6 SCC 1.

not merely on access, but also on the quality of education delivered. Although the Act has made commendable progress in improving enrolment, consistent issues of quality, equity, and enforcement remain.

## V. POLICY DEVELOPMENTS AND EDUCATIONAL INITIATIVES

India has implemented several educational programs preceding the RTE Act to enhance educational access. The "**Sarva Shiksha Abhiyan (SSA)**", initiated in 2001, with aim to achieve education accessible to all children at the primary level. It prioritized decentralization, infrastructure development, and active community engagement to reach out to rural and underserved populations<sup>10</sup>.

The "**Mid-Day Meal Scheme**", launched in tandem, contributed to increased school attendance by offering nutritional meals, thereby alleviating hunger and encouraging regular school participation among underprivileged children.

The introduction of "**National Education Policy 2020**" has significantly reoriented the education strategy at the national level. It proposes a comprehensive framework spanning from early childhood education (ages 3 - 6) to secondary education. The policy outlines structural and curricular reforms, enhanced teacher training, learner-centred pedagogy, and revamped assessment methods. Emphasizing inclusion, the policy addresses the educational needs of children with disabilities and other marginalized sections, aiming to make the education system more accessible and outcome-oriented.

## VI. INTERNATIONAL LEGAL COMMITMENTS AND INFLUENCE

The legal provisions concerning education reflect several international instruments. The "**Universal Declaration of Human Rights (UDHR) of 1948**", in Article 26, affirms education as an inalienable right accessible to everyone<sup>11</sup>.

"**International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966**", in Article 13, mandates that State parties progressively realize the right to free and compulsory education<sup>12</sup>.

India has also endorsed the "**Convention on the Rights of the Child (CRC), 1989**", which obliges states to eliminate discrimination in educational access and promote inclusive, child-

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<sup>10</sup> J. Mohanty, *Modern Trends in Indian Education: Current Issues and Strategies* (Deep & Deep Publications, 2007).

<sup>11</sup> Universal Declaration of Human Rights, 1948, Art. 26.

<sup>12</sup> International Covenant on Economic, Social and Cultural Rights, 1966, Art. 13.

friendly learning environments<sup>13</sup>.

Although these international treaties are not directly enforceable in Indian courts, they have significantly influenced India's educational policies and judicial interpretations.

## VII. CHALLENGES AND IMPLEMENTATION BARRIERS

Despite robust constitutional and statutory provisions, significant challenges undermine the realization of universal education in India.

- i. **Infrastructural Deficiencies:** Many schools, especially in rural, tribal, and economically disadvantaged areas, lack basic amenities including dedicated restrooms for girls, reliable electricity, potable water, and secure classroom environments
- ii. **Quality Concerns:** Issues such as teacher absenteeism, inadequate pedagogical training, rote learning practices, and large class sizes adversely affect educational quality and student learning outcomes.
- iii. **Social Exclusion and Discrimination:** Marginalized groups such as female students, socially and economically challenged communities, and children facing disabilities still face persistent obstacles that lead to increased school dropout rates and reduced learning outcomes.
- iv. **Age Coverage Limitations:** The existing law guarantees free and compulsory schooling only for children within a specific age range, omitting important phases like initial learning years and higher levels of education that are crucial for overall growth.
- v. **Digital Divide:** The COVID-19 pandemic underscored disparities in access to digital resources, impeding remote learning for economically disadvantaged and rural children, thus exacerbating educational inequities.
- vi. **Lack of Uniform Implementation:** Educational reforms and legal mandates are inconsistently implemented across states, leading to disparities in learning levels, infrastructure, and resource allocation. States like Kerala have made notable progress, whereas others lag behind due to administrative inefficiencies and inadequate budgetary support<sup>14</sup>.

## VIII. REINFORCING LEGAL AND POLICY FRAMEWORKS

To bridge these gaps, a multipronged approach is imperative:

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<sup>13</sup> Convention on the Rights of the Child, 1989, Arts. 28,29.

<sup>14</sup> R. C. Agarwal, Constitutional Development and National Movement of India (S. Chand Publishing 2005).

- i. **Extending Legal Guarantees:** Legal changes should extend the entitlement to education to include children from ages 3 to 18, as outlined in NEP 2020, to guarantee uninterrupted and comprehensive learning opportunities.
- ii. **Enhanced Public Investment:** Substantial increases in education spending, aiming toward the internationally recommended benchmark of 6% of GDP, are critical for infrastructural development, teacher capacity building, and technological inclusion.
- iii. **Inclusive Pedagogy and Curriculum Reform:** Curriculum design should reflect linguistic diversity, gender sensitivity, and cultural relevance while integrating life skills, vocational training, and digital literacy to prepare students for contemporary challenges.
- iv. **Community Participation and Accountability:** Strengthening decentralized school governance through empowered School Management Committees and transparent grievance redressal systems can improve responsiveness and monitoring.
- v. **Technology as an Enabler, not a Barrier:** Bridging the digital divide requires targeted investments in internet connectivity and device accessibility, coupled with pedagogical innovations that complement traditional teaching methods.
- vi. **Legal Literacy and Awareness:** Awareness campaigns and legal literacy initiatives must inform parents, communities, and children of their educational rights to facilitate effective demand and accountability. Ensuring the role of civil society in monitoring implementation is essential to strengthen democratic oversight.

## IX. CONCLUSION

The constitutional and legislative affirmation of the right to education has fundamentally reshaped India's educational landscape, affirming education as a legal entitlement and a societal imperative. The Right to Education Act, judicial pronouncements, and progressive policy frameworks have collectively enhanced access, inclusion, and quality.

Nonetheless, persistent infrastructural gaps, social inequities, and limited age coverage challenge the achievement of universal literacy. Addressing these requires sustained legal reforms, increased public expenditure, inclusive pedagogy, and equitable technological integration. As India aspires to build an equitable, knowledge-driven society, realizing the right to access education for all children is not merely a constitutional mandate but a moral and developmental imperative essential to the nation's future.

Education must be seen not only as a goal but as the means to achieve other rights and

freedoms. A well-educated population enhances democratic participation, economic productivity, and social harmony. Realizing this vision requires unwavering political will, coordinated institutional efforts, and a legally sound, socially responsive framework rooted in justice, equity, and the fundamental dignity of every child.

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