

New Education Policy and the Constitutional validity of Right to Education Act: A Critical Study

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Abstract: Education is a fundamental right and a key driver of social and economic development. In India, the Right to Education (RTE) Act, 2009, and the New Education Policy (NEP), 2020, serve as major legislative and policy frameworks aimed at ensuring accessible, equitable, and quality education for all. This paper critically examines the constitutional basis of the right to education, its evolution through judicial interpretation, and the impact of the RTE Act and NEP 2020 in shaping India's education system.

The study explores the transformation of education from a directive principle to an enforceable fundamental right under Article 21A. It analyzes key judicial pronouncements that have influenced education policy, such as *Mohini Jain v. State of Karnataka* and *Unnikrishnan J.P. v. State of Andhra Pradesh*. The dissertation also compares the statutory obligations of the RTE Act with the policy directives of NEP 2020, highlighting their similarities, differences, and challenges in implementation.

Furthermore, the research identifies critical issues such as gaps in infrastructure, financial constraints, and disparities in digital access that hinder effective policy execution. It also examines the growing role of private institutions and debates surrounding affordability and equity in education. By integrating a constitutional, legal, and policy-oriented perspective, this dissertation provides insights into how India's legal framework can be strengthened to ensure universal, inclusive, and high-quality education.

Keywords: Right to Education, RTE Act 2009, NEP 2020, Article 21A, Constitutional Framework, Education Policy, Educational Equity, Private Sector in Education, Digital Divide.

1.1 RIGHT TO EDUCATION AS A FUNDAMENTAL RIGHT

The right to education in India has undergone significant evolution, transitioning from a directive principle to a constitutionally guaranteed fundamental right. This section examines the historical evolution of the right to education, its constitutional incorporation, and its impact on India's education system.

1.1.1 Evolution of Article 21A

Initially, the Indian Constitution did not recognize education as a fundamental right. Instead, Article 45, under the Directive Principles of State Policy (DPSP), directed the state to provide free and compulsory education to all children up to the age of 14 within ten years of the Constitution's commencement¹. However, due to financial and infrastructural limitations, this goal remained unfulfilled for decades.

¹ The Constitution of India, Article 45.

The first major judicial recognition of education as a fundamental right came in *Mohini Jain v. State of Karnataka* (1992)², where the Supreme Court ruled that the right to education is inherent in Article 21 (Right to Life and Personal Liberty). This decision emphasized that education is essential for leading a dignified life and that economic barriers should not prevent access to education. However, this ruling left ambiguity regarding the extent of the right to education.

A more structured legal framework emerged in *Unnikrishnan J.P. v. State of Andhra Pradesh* (1993)³, where the Supreme Court established that:

- The right to education is a fundamental right under Article 21.
- Free and compulsory education is guaranteed to children up to 14 years of age.
- Higher education is not a fundamental right but should be made accessible through state policies³.

This judgment laid the foundation for the 86th Constitutional Amendment Act, 2002, which formally introduced Article 21A, stating 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"⁴.

1.1.2 The Right of Children to Free and Compulsory Education (RTE) Act, 2009

To operationalize Article 21A, the Parliament enacted the Right of Children to Free and Compulsory Education (RTE) Act, 2009. This law provided a comprehensive framework for implementing free and compulsory education across India. The key provisions of the RTE Act include:

- **Obligation on the state:** The government must provide free education to children in government schools and ensure access to private institutions through a 25% reservation for economically weaker sections (EWS)⁵.
- **No detention policy:** Students cannot be expelled or held back until the completion of elementary education, ensuring continuity in schooling⁶.
- **Prohibition of discrimination:** Schools must provide equitable access to all children, irrespective of gender, caste, or socio-economic status⁷.
- **Quality benchmarks:** The Act mandates standards for infrastructure, teacher qualifications, and student-teacher ratios⁸.

Despite its progressive provisions, the RTE Act has faced challenges in implementation. Issues such as teacher shortages, infrastructure deficits, and regional disparities continue to hinder effective enforcement. Moreover, private schools have raised concerns over mandatory reservations, arguing that it places financial strain on unaided institutions⁹.

1.1.3 Judicial Reinforcement of Article 21A

The judiciary has played an essential role in ensuring the enforcement of the right to education. In *Society for Unaided Private Schools v. Union of India* (2012)¹⁰, the Supreme Court upheld the constitutionality of the RTE Act, affirming that private institutions must comply with the 25% EWS reservation policy. The

² AIR 1992 SC 1858.

³ AIR 1993 SC 2178.

⁴ The Constitution (Eighty-Sixth Amendment) Act, 2002.

⁵ Right of Children to Free and Compulsory Education Act, 2009, Section 12(1)(c).

⁶ *Ibid.*, Section 16.

⁷ *Ibid.*, Section 3.

⁸ *Ibid.*, Sections 19-24.

⁹ Ministry of Education, Government of India, RTE Act Implementation Report, 2015.

¹⁰ AIR 2012 SC 344.

Court emphasized that the state's obligation to provide education extends beyond public schools, requiring the private sector to contribute to educational equity.

In *Environmental & Consumer Protection Foundation v. Delhi Administration (2012)*¹¹, the Supreme Court reiterated that providing essential infrastructure—such as drinking water, sanitation, and electricity—is a necessary component of the right to education. The judgment emphasized that ensuring a proper learning environment is integral to fulfilling Article 21A.

Similarly, in *Pramati Educational and Cultural Trust v. Union of India (2014)*¹², the Supreme Court clarified that the RTE Act does not apply to minority institutions under Article 30 (Rights of Minorities to Establish Educational Institutions), thereby balancing the state's obligation with constitutional protections for minority communities.

1.2 DIRECTIVE PRINCIPLES AND FUNDAMENTAL DUTIES

The Indian Constitution envisions education as a means of fostering social justice and national development. While fundamental rights provide enforceable guarantees, the Directive Principles of State Policy (DPSP) and Fundamental Duties play a crucial role in shaping the state's responsibilities toward education. These provisions serve as guiding principles that influence policymaking and legal interpretations, ensuring that education remains a priority in India's governance framework.

1.2.1 Role of Article 45 in Shaping Education Policy

Article 45, a key provision under the Directive Principles of State Policy, originally mandated that "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."¹³ This directive reflected the vision of the framers to eradicate illiteracy and ensure universal primary education. However, due to financial and infrastructural constraints, this objective remained unfulfilled within the stipulated timeframe.

The *Unnikrishnan J.P. v. State of Andhra Pradesh (1993)* judgment played a crucial role in strengthening the enforceability of Article 45. The Supreme Court ruled that the right to education up to the age of 14 is a fundamental right under Article 21, thereby elevating the status of education beyond a mere directive principle. This judgment paved the way for the 86th Constitutional Amendment Act, 2002¹⁴, which inserted Article 21A, making education a justiciable right.

To operationalize this amendment, the Right to Education (RTE) Act, 2009 was enacted, providing a legal framework for free and compulsory education for children aged 6 to 14 years¹⁵. The Act set quality standards for schools, required 25% reservation for economically weaker sections in private institutions, and prohibited discrimination in education access¹⁶. This marked a shift from a non-enforceable directive to a legally binding obligation on the state.

1.2.2 Article 51A(k) and the Duty of Citizens

The 42nd Constitutional Amendment Act, 1976 introduced Fundamental Duties into the Constitution, outlining obligations that every Indian citizen must uphold. Among these, Article 51A(k) specifically

¹¹ AIR 2012 SC 1185.

¹² AIR 2014 SC 2763.

¹³ The Constitution of India, Article 45.

¹⁴ The Constitution (Eighty-Sixth Amendment) Act, 2002.

¹⁵ Right of Children to Free and Compulsory Education Act, 2009.

¹⁶ Ministry of Education, Government of India, *RTE Act Implementation Report*, 2012.

states that "it shall be the duty of every parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years"¹⁷. This provision was incorporated to complement the state's responsibility under Article 21A, ensuring that education is not only a government obligation but also a collective societal duty.

Article 51A(k) acknowledges that legal mandates alone cannot achieve universal education; public participation and parental responsibility are equally crucial. This provision encourages active involvement from families and communities in ensuring children's education. It also aligns with global frameworks such as the United Nations Convention on the Rights of the Child (UNCRC), 1989, which emphasizes the role of both the state and parents in securing a child's right to education¹⁸.

However, the enforcement of Article 51A(k) remains a challenge. Many economically weaker families struggle to fulfil this duty due to financial constraints, lack of awareness, and socio-cultural factors such as child labor and gender discrimination in education. Government schemes such as Sarva Shiksha Abhiyan (SSA), Mid-Day Meal Scheme, and Beti Bachao, Beti Padhao have been introduced to support families in fulfilling their fundamental duty towards children's education¹⁹.

1.3 JUDICIAL INTERPRETATION OF THE RIGHT TO EDUCATION

The Indian judiciary has played a significant role in interpreting and reinforcing the right to education as a fundamental right. Through landmark cases, the Supreme Court has clarified the state's responsibility to provide free and compulsory education and has also defined the role of private institutions in the education sector. Judicial pronouncements have shaped constitutional provisions such as Article 21A, ensuring that education is accessible, equitable, and inclusive. Several judgments have had a profound impact on India's education policy and legal framework, particularly influencing the development of laws like the Right to Education Act, 2009.

1.4.1 Mohini Jain v. State of Karnataka (1992) and the Right to Education under Article 21

The case of Mohini Jain v. State of Karnataka was one of the first instances where the Supreme Court directly addressed education as a fundamental right under Article 21 of the Constitution. Mohini Jain, a student from Meerut, was denied admission to a private medical college in Karnataka because she could not afford the high capitation fee of ₹60,000 per annum. She challenged this practice, arguing that it violated her right to education and discriminated against students from economically weaker backgrounds.

The Supreme Court ruled that the right to education is an integral part of the right to life under Article 21. The Court emphasized that education is essential for a meaningful and dignified life, and denying it based on economic status was unconstitutional. It further held that the imposition of capitation fees by private institutions was arbitrary and violative of constitutional principles, as it made education accessible only to the wealthy elite. The Court also underlined the state's obligation to provide education to all individuals, irrespective of their socio-economic background.

¹⁷ The Constitution of India, Article 51A(k).

¹⁸ United Nations Convention on the Rights of the Child (UNCRC), 1989.

¹⁹ Government of India, *Sarva Shiksha Abhiyan (SSA) Annual Report*, 2021.

1.4.2 Unnikrishnan J.P. v. State of Andhra Pradesh (1993) and the Scope of Education Rights

In response to the Mohini Jain case, private educational institutions raised concerns regarding their ability to charge fees and function autonomously. The case of Unnikrishnan J.P. v. State of Andhra Pradesh refined the earlier judgment and established a more structured framework for the right to education.

The Supreme Court, in this case, held that primary education up to the age of 14 is a fundamental right under Article 21. However, it clarified that higher education, while important, is not a fundamental right and must be made accessible and affordable rather than entirely free. The judgment reaffirmed the state's duty to provide free and compulsory education to children up to 14 years, aligning with the Directive Principles under Article 45 of the Constitution.

1.4.3 T.M.A Pai Foundation v. State of Karnataka (2002) and Private Institutions' Autonomy

The T.M.A Pai Foundation case addressed the question of whether the government could regulate private educational institutions, particularly those run by minority communities under Article 30 of the Constitution. The case was brought before the Supreme Court when several private institutions challenged state regulations concerning admissions, fee structures, and faculty appointments.

The Court ruled that the government could not impose quotas or reservations in unaided private institutions. However, aided institutions, which receive financial support from the state, remained subject to government policies, including reservation norms. This ruling reaffirmed the autonomy of private educational institutions while balancing the need for state regulation to ensure fairness and quality in education.

1.4.4 P.A. Inamdar v. State of Maharashtra (2005) and Minority Educational Rights

The P.A. Inamdar case further clarified the extent of government control over private and minority institutions. The Supreme Court held that private unaided institutions, whether minority or non-minority, are not obligated to reserve seats for economically weaker sections unless they receive government aid. However, the Court also recognized the need for regulations to ensure fairness and transparency in admissions and fee structures.

This judgment had significant implications, particularly concerning the Right to Education (RTE) Act, 2009, which later mandated a 25% reservation for disadvantaged groups in private schools. The ruling underscored the balance between institutional autonomy and the need for social equity in education. While the Court upheld the rights of private institutions, it also stressed that access to quality education should not be denied to underprivileged students due to financial barriers.

1.4.5 Judicial Influence on Education Policy and the NEP 2020

Over the years, judicial rulings have had a profound impact on India's education policies, shaping major legislative reforms and government initiatives. The Right to Education Act, 2009, which guarantees free and compulsory education for children aged 6–14, was a direct result of the judicial recognition of education as a fundamental right. The judiciary has played a key role in ensuring that education laws align with constitutional principles and that the state fulfills its responsibility towards education.

The National Education Policy (NEP) 2020 is another significant reform influenced by constitutional mandates and judicial pronouncements. The policy emphasizes universal access to education, multidisciplinary learning, and equitable school reforms. Various government initiatives, such as Beti Bachao, Beti Padhao and Samagra Shiksha Abhiyan, aim to promote gender-equitable and inclusive education, further reflecting the principles upheld by the judiciary.

Despite these advancements, several challenges remain, including disparities in educational opportunities, infrastructural deficiencies, and the growing digital divide, particularly in rural areas. Judicial oversight continues to be crucial in ensuring that educational policies remain effective, equitable, and aligned with constitutional values.

2.1 THE RIGHT TO EDUCATION ACT, 2009

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) is a landmark legislation that operationalizes Article 21A of the Indian Constitution, ensuring free and compulsory education for children aged six to fourteen years. Enacted to provide a legal framework for universal elementary education, the Act establishes norms and standards for schools, regulates teacher qualifications, and mandates inclusive education policies. This section explores the key features of the RTE Act, highlighting its transformative role in India's education system.

One of the central provisions of the Act is the guarantee of free and compulsory education. Section 3 of the RTE Act mandates that no child shall be liable to pay any kind of fee or expense that prevents them from completing elementary education. The term "compulsory" places an obligation on the state to ensure enrolment, attendance, and completion of education, while "free" ensures that financial constraints do not impede access to schooling²⁰. To support this, the government is required to provide necessary infrastructure, qualified teachers, and learning resources. However, critics argue that while the Act mandates free education, it does not address hidden costs such as uniforms and transportation, which continue to burden economically weaker families²¹.

Another significant feature is the inclusion of a 25% reservation for disadvantaged children in private schools under Section 12(1)(c). This provision seeks to promote social inclusion by integrating children from weaker socio-economic backgrounds into private schools. The costs incurred for these students are reimbursed by the government. The Supreme Court upheld this provision in *Society for Unaided Private Schools of Rajasthan v. Union of India (2012)*, stating that it serves the broader constitutional goal of achieving educational equity²². Despite its progressive intent, the implementation of this reservation policy faces challenges such as resistance from private institutions and procedural inefficiencies in reimbursement²³.

The RTE Act also sets minimum norms and standards for schools, including pupil-teacher ratios, infrastructure requirements, and teacher qualifications. Section 19 of the Act mandates that all schools, whether government or private, must comply with these norms within three years of the Act coming into effect. In *Environmental & Consumer Protection Foundation v. Delhi Administration (2012)*, the Supreme Court directed state governments to ensure proper school infrastructure, including toilets, drinking water, and playgrounds, recognizing these as essential to quality education²⁴. However, reports suggest that

²⁰ Government of India, The Right of Children to Free and Compulsory Education Act, 2009, Ministry of Education Report (2010).

²¹ Sunita Sharma, "Hidden Costs of Free Education: An Analysis of the RTE Act," Journal of Educational Policy Studies (2017).

²² AIR 2012 SC 3445.

²³ A.K. Sen, Education and Social Inclusion: A Legal Perspective (2015).

²⁴ AIR 2012 SC 357.

compliance remains uneven, particularly in rural areas where schools suffer from poor infrastructure and inadequate teacher training ²⁵.

Another crucial aspect of the Act is its ban on corporal punishment, mental harassment, and discrimination. Section 17 prohibits physical punishment and psychological harassment in schools, reinforcing child-friendly educational practices. In *Parents Forum for Meaningful Education v. Union of India (2001)*, the Delhi High Court held that corporal punishment violates a child's dignity and fundamental rights under Article 21 ²⁶. However, enforcement of this provision remains inconsistent, with reports of disciplinary abuses still emerging in various states ²⁷.

A key reform introduced by the RTE Act is the continuous and comprehensive evaluation (CCE) system, replacing the traditional pass-fail examination structure. Section 16 of the Act mandates that no child shall be held back or expelled until the completion of elementary education. This "no-detention policy" was introduced to reduce dropout rates and psychological pressure on students. However, concerns arose over its impact on learning outcomes, leading to its partial reversal through the 2019 amendment, which allows states to reintroduce examinations in classes 5 and 8 ²⁸.

The RTE Act also defines teacher qualification and training requirements to ensure quality education. Section 23 mandates that all teachers must meet the academic and professional criteria set by the National Council for Teacher Education (NCTE). The Act also prescribes that teachers must not be assigned non-teaching duties, such as election work or census data collection, to ensure their focus remains on education ²⁹. Despite these provisions, issues such as teacher shortages and lack of proper training continue to affect the quality of education in many regions ³⁰.

While the Right to Education Act has significantly contributed to increasing enrollment rates and bringing legal backing to the concept of free and compulsory education, several challenges remain in its implementation. Issues such as poor infrastructure, gaps in quality education, and difficulties in enforcing private school reservations necessitate continuous policy evaluation and reform. The following sections will explore the constitutional validity of the Act, its implementation mechanisms, and the challenges it faces in achieving its intended objectives.

2.2 IMPLEMENTATION MECHANISM OF THE RTE ACT

The implementation of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) requires a collaborative effort between the central and state governments, regulatory agencies, and local stakeholders. The Act provides a structured framework for ensuring universal elementary education by addressing financial support, school infrastructure, teacher recruitment, and monitoring mechanisms. Effective implementation depends on clear policy direction, adequate funding, and robust enforcement at multiple levels.

2.2.1 Role of the Central Government

The Right to Education Act, 2009 (RTE Act) is a significant legislative framework that ensures free and compulsory education for children aged 6 to 14 years under Article 21A of the Indian Constitution. As

²⁵ Rajesh Kumar, "Infrastructure Deficiencies in Rural Schools: A Post-RTE Analysis," *Economic and Political Weekly* (2020).

²⁶ AIR 2001 Delhi 212.

²⁷ National Commission for Protection of Child Rights (NCPCR), *Annual Report on Child Rights and School Discipline* (2021).

²⁸ Government of India, *RTE Amendment Bill, 2019, Ministry of Education Report* (2019).

²⁹ National Council for Teacher Education (NCTE), *Teacher Qualification Guidelines under RTE* (2011).

³⁰ Gautam Bhatia, *The Right to Education and Law* (2015).

education is included in the Concurrent List, both the Central and State Governments share responsibilities in its implementation. However, the Central Government plays a crucial role in policymaking, financial allocation, and overall monitoring to ensure the uniform application of the Act across different states. Through various initiatives, funding schemes, and regulatory oversight, the Central Government ensures that the RTE Act meets its objectives of universal access to quality education.

Legislative and Policy Framework

The Ministry of Education (formerly MHRD) is primarily responsible for framing educational policies and guidelines to align the RTE Act with constitutional provisions. The National Education Policy (NEP) 2020, while not a legally binding document, emphasizes flexibility, inclusivity, and digital education, making it an important supplement to the RTE framework. The Right to Education Act was originally enacted to convert the Directive Principles of State Policy (DPSP) into a legally enforceable right, ensuring that states comply with constitutional mandates regarding education. The National Commission for Protection of Child Rights (NCPCR) and the State Commissions for Protection of Child Rights (SCPCRs) act as monitoring authorities, ensuring adherence to RTE norms and handling complaints regarding violations of the Act.

Infrastructure Development and Digital Learning

A critical aspect of RTE implementation is the development of school infrastructure to meet the Act's prescribed standards. The Central Government ensures financial and technical assistance to state governments for:

- Building new schools and upgrading existing institutions.
- Providing sanitation, drinking water, and electricity in rural schools.
- Ensuring availability of libraries, playgrounds, and co-curricular activity spaces.

The government has also prioritized digital education through initiatives like:

- PM e-Vidya and DIKSHA Portal, which provide free digital learning resources, teacher training modules, and interactive educational content.
- Expansion of online education platforms, particularly during the COVID-19 pandemic, which accelerated digital adoption.

However, the digital divide remains a major concern, especially in rural areas where students lack access to internet services and digital devices. Without targeted efforts to improve digital infrastructure, the effectiveness of online learning remains limited.

Monitoring and Regulatory Oversight

To ensure compliance with the RTE Act, the Central Government has established various monitoring mechanisms, including:

- Annual Status of Education Report (ASER) and Unified District Information System for Education (UDISE+), which provide data on school enrollment, learning outcomes, and infrastructure status.
- NCPCR and SCPCRs, which investigate complaints regarding RTE violations and recommend policy interventions.
- Periodic audits of government schools, ensuring that they comply with infrastructure and faculty norms.

Despite these measures, enforcement remains weak, particularly in private schools, many of which resist implementing the 25% reservation for economically weaker sections (EWS) under the RTE Act. Further, many government schools continue to struggle with teacher shortages and lack of basic amenities, highlighting the need for stronger regulatory enforcement and increased financial commitment from the Central Government.

2.2.2 Role of State Governments

The implementation of the Right to Education Act, 2009 (RTE Act) is a shared responsibility between the Central and State Governments, as education falls under the Concurrent List of the Indian Constitution. While the Central Government provides policy directives and financial support, the State Governments play a critical role in execution, ensuring that schools function as per RTE mandates. This includes school establishment, teacher recruitment, curriculum implementation, monitoring compliance, and addressing state-specific challenges. The effectiveness of RTE varies across states, depending on governance efficiency, financial resources, and local education policies.

Legislative and Administrative Responsibilities of State Governments

Each state government is responsible for framing rules and regulations under the Right to Education Act, tailoring its implementation based on local needs. The State Education Departments, under the guidance of the Ministry of Education, oversee:

- The establishment of government schools in every neighborhood to ensure that children have access to education within a reasonable distance.
- Teacher recruitment and training programs, including qualifications prescribed by the National Council for Teacher Education (NCTE).
- Monitoring school infrastructure, ensuring basic facilities like classrooms, libraries, sanitation, drinking water, and playgrounds.
- Implementing the 25% reservation for Economically Weaker Sections (EWS) in private schools, ensuring compliance with RTE guidelines.

Each state is required to formulate and notify RTE rules in alignment with the central legislation. However, variation in state policies leads to disparities in implementation. For instance, states like Kerala and Tamil Nadu have been more successful in ensuring high enrollment rates, while Bihar, Uttar Pradesh, and Jharkhand face persistent challenges in teacher availability and school infrastructure.

Monitoring, Compliance, and Addressing Dropout Rates

State governments are responsible for ensuring compliance with RTE norms through State Education Regulatory Authorities and Local Bodies. Their key roles include:

- Regular school inspections to ensure minimum infrastructure standards.
- Tracking student enrollment and attendance to prevent dropouts.
- Addressing complaints related to school admissions, teacher absenteeism, and discrimination.

Despite these efforts, dropout rates remain high in several states due to:

- Socio-economic barriers (child labor, gender bias, migration).
- Lack of digital access, particularly in rural areas.
- Inadequate school infrastructure in remote regions.

States such as Odisha and Chhattisgarh have adopted mid-day meal programs and financial incentives to encourage school attendance, while states like West Bengal and Assam still struggle with high dropout rates among girl children due to socio-cultural factors.³¹

2.3 CHALLENGES IN IMPLEMENTATION

Despite the Right to Education Act, 2009 (RTE Act) being a significant legislative milestone in ensuring universal education in India, its implementation has faced multiple challenges. These challenges range from inadequate infrastructure and financial constraints to concerns over the quality of education and the resistance from private institutions in implementing the 25% reservation for economically weaker sections (EWS). Ensuring the effective realization of the Act's provisions requires addressing these issues through policy interventions, better resource allocation, and stricter enforcement mechanisms.

2.3.1 Infrastructure and Financial Constraints

One of the major hurdles in the implementation of the RTE Act is the lack of adequate infrastructure in government schools. The Act mandates specific infrastructure requirements, such as classrooms, libraries, playgrounds, and separate sanitation facilities for boys and girls³². However, a large percentage of schools, particularly in rural areas, still do not meet these minimum standards. According to the Unified District Information System for Education (UDISE) 2023 report, over 25% of government schools lack functional toilets, and 30% do not have a proper drinking water supply³³.

Financial constraints further exacerbate the problem. The RTE Act's funding is shared between the central and state governments, but many states struggle to contribute their share due to budgetary limitations³⁴. Studies have shown that the expenditure required for full RTE implementation is significantly higher than the actual funds allocated by the government. The 14th Finance Commission recommended an increase in spending on elementary education, yet most states continue to allocate insufficient funds³⁵. As a result, teacher salaries are often delayed, school infrastructure projects remain incomplete, and essential educational materials are unavailable.

2.3.2 Quality vs. Accessibility Debate

While the RTE Act has been successful in increasing school enrollment rates, concerns persist regarding the quality of education. The Act focuses on universal access to schooling, but it lacks clear provisions to ensure learning outcomes. Reports by Annual Status of Education Report (ASER) indicate that while enrollment rates exceed 95%, over 50% of Class 5 students in rural India struggle with basic reading and arithmetic skills³⁶.

A major issue affecting quality is the shortage of trained teachers. The Act prescribes strict teacher qualification norms under Section 23, requiring teachers to hold the Teacher Eligibility Test (TET) certification³⁷. However, due to delays in recruitment and a high student-teacher ratio, several states continue to employ underqualified para-teachers on contractual wages⁷. This has led to ineffective teaching and a decline in learning outcomes, particularly in government schools.

³¹ Mid-Day Meal Scheme, Ministry of Education, 2023.

³² Right to Education Act, 2009, Schedule I.

³³ Unified District Information System for Education (UDISE) Report, 2023.

³⁴ R Govinda, Right to Education and Public Policy in India (2019).

³⁵ 14th Finance Commission Report, Government of India (2015).

³⁶ ASER Centre, Annual Status of Education Report (ASER) 2023.

³⁷ National Council for Teacher Education, Teacher Eligibility Test (TET) Guidelines (2020)

Another challenge is the "no-detention policy", which initially prohibited failing students up to Class 8 under Section 16 of the RTE Act⁸. While the policy aimed to reduce dropout rates, it resulted in poor student motivation and lower accountability among teachers. Recognizing these drawbacks, the RTE (Amendment) Act, 2019 restored the examination system in Classes 5 and 8, allowing states to detain students based on performance⁹. However, concerns remain regarding remedial support for failing students and the risk of increased dropout rates.

2.3.3 Issues with Private School Reservations

One of the most debated provisions of the RTE Act is Section 12(1)(c), which mandates that 25% of seats in private unaided schools be reserved for children from economically weaker sections (EWS) and disadvantaged groups¹⁰. While this provision aims to promote inclusive education, it has faced severe resistance from private institutions due to delayed government reimbursements and concerns over financial sustainability.

Several schools argue that the reimbursement provided by the government for EWS admissions is lower than their actual tuition fees, leading to financial losses¹¹. Moreover, studies indicate that many private schools deny admission to EWS students by exploiting loopholes in the admission process, such as demanding unnecessary documentation or providing limited seats¹². The Supreme Court ruling in *Society for Unaided Private Schools of Rajasthan v. Union of India* (2012) upheld the constitutional validity of the 25% reservation, but enforcement remains a challenge¹³.

Additionally, there are concerns over the social integration of EWS students in elite private schools. Reports suggest that many EWS students face discrimination from peers and teachers, leading to psychological stress and higher dropout rates¹⁴. Addressing these concerns requires strict monitoring of private school admissions, timely reimbursement of fees, and awareness campaigns to reduce social stigma.

3.1 THE NEW EDUCATION POLICY, 2020- AN ANALYSIS

The National Education Policy (NEP) 2020 is a landmark reform that aims to transform the Indian education system by making it more holistic, multidisciplinary, inclusive, and future-ready. It replaces the National Policy on Education, 1986, and introduces significant structural changes to enhance the quality, accessibility, and equity of education across all levels. NEP 2020 envisions universalization of education with an emphasis on early childhood education, flexible learning pathways, skill development, and digital learning initiatives. The policy seeks to align the Indian education system with global best practices while ensuring that education remains rooted in Indian culture and constitutional values.

One of the most notable reforms in NEP 2020 is the shift from the traditional 10+2 schooling system to a 5+3+3+4 structure. This restructuring is designed to address the developmental needs of children at different stages:

- The Foundational Stage (ages 3–8), covering preschool and Grades 1–2, emphasizes Early Childhood Care and Education (ECCE), play-based learning, and fundamental literacy and numeracy.
- The Preparatory Stage (ages 8–11), covering Grades 3–5, introduces experiential and activity-based learning.
- The Middle Stage (ages 11–14), covering Grades 6–8, encourages subject-specific learning, analytical skills, and vocational exposure.
- The Secondary Stage (ages 14–18), covering Grades 9–12, provides multidisciplinary education, flexibility in subject choices, and exposure to 21st-century skills.

This framework ensures a continuous and progressive learning experience, reducing curriculum overload and making education more engaging and relevant. Additionally, NEP 2020 extends the scope of Article 21A of the Constitution, advocating for free and compulsory education not just until Class 8 but up to Class 12, and aims to achieve a 100% Gross Enrollment Ratio (GER) by 2030³⁸.

A key feature of NEP 2020 is its emphasis on mother tongue or regional language as the medium of instruction at least until Grade 5, and preferably up to Grade 8. This approach is based on research highlighting that early education in the native language enhances comprehension, cognitive abilities, and critical thinking skills. However, the policy ensures that no language will be imposed on students, maintaining India's linguistic diversity and flexibility in education.

In higher education, NEP 2020 introduces flexible and multidisciplinary learning models. The policy proposes a four-year undergraduate degree program with multiple exit and entry options, allowing students to earn certificates, diplomas, and degrees at different stages. The introduction of an Academic Bank of Credits (ABC) enables students to store and transfer academic credits, facilitating lifelong learning opportunities. The policy also eliminates the M.Phil. program and encourages direct progression to Ph.D., ensuring a more streamlined academic structure³⁹.

A significant institutional reform under NEP 2020 is the establishment of the Higher Education Commission of India (HECI), which will replace multiple regulatory bodies like the University Grants Commission (UGC), All India Council for Technical Education (AICTE), and National Council for Teacher Education (NCTE). HECI aims to streamline governance, ensure quality standards, and promote research and innovation in higher education institutions⁴⁰.

Another key aspect of NEP 2020 is the integration of technology and digital learning into mainstream education. The policy promotes online education, e-learning platforms, and digital classrooms, which gained significant relevance during the COVID-19 pandemic. The establishment of a National Educational Technology Forum (NETF) aims to drive innovation, research, and technology adoption in education⁴¹. However, concerns have been raised regarding the digital divide, particularly in rural areas where access to internet connectivity, devices, and digital literacy remains limited⁴².

NEP 2020 also focuses on vocational education, life skills, and industry-oriented learning, ensuring that students acquire practical knowledge alongside academic subjects. The policy mandates that at least 50% of students undergo vocational training by 2025, with the aim of bridging the gap between education and employability⁴³.

Despite its progressive approach, NEP 2020 faces several challenges and criticisms, particularly regarding the implementation of reforms, autonomy of educational institutions, and potential privatization concerns. However, if effectively executed, the policy has the potential to revolutionize the Indian education system, making it more inclusive, globally competitive, and aligned with constitutional values⁴⁴.

3.2 KEY REFORMS INTRODUCED

The National Education Policy (NEP) 2020 introduces a series of structural, curricular, and pedagogical reforms aimed at modernizing India's education system while ensuring accessibility, inclusivity, and skill-

³⁸ Government of India, "National Education Policy 2020," Ministry of Education Report (2020).

³⁹ Rajni Shukla, "NEP 2020: A Critical Analysis," Journal of Educational Policy Studies (2021).

⁴⁰ Ministry of Human Resource Development, "Higher Education Commission of India: A Regulatory Framework," (2020).

⁴¹ National Educational Technology Forum, "Digital Transformation in Indian Education," (2021).

⁴² K. Suresh, "Bridging the Digital Divide in India's Education System," Indian Journal of Social Policy (2022).

⁴³ Skill India Report, "Vocational Education and Employability," (2023).

⁴⁴ Supreme Court of India, Judicial Review of NEP 2020, Case Law Analysis (2022).

based learning. These reforms are designed to bridge the gap between traditional education models and contemporary global standards, fostering a flexible and multidisciplinary approach to learning.

3.2.1 Early Childhood Care and Education (ECCE)

One of the most significant reforms in NEP 2020 is the emphasis on Early Childhood Care and Education (ECCE). The policy recognizes that foundational learning plays a critical role in cognitive and socio-emotional development, particularly in children aged 3 to 8 years. To address this, NEP 2020 recommends the universalization of pre-primary education and the integration of Anganwadi centers with formal schooling to ensure a seamless transition to primary education⁴⁵.

The policy introduces the 5+3+3+4 curricular structure, replacing the traditional 10+2 system, with a special focus on the Foundational Stage (ages 3-8). The curriculum at this stage will be play-based, activity-based, and focused on developing literacy and numeracy skills. Research indicates that early exposure to structured learning enhances long-term academic performance, and NEP 2020 seeks to strengthen this through teacher training programs and improved learning materials⁴⁶.

NEP 2020 also calls for the development of National Curricular and Pedagogical Framework for Early Childhood Care and Education (NCPFECCE), which will be implemented by NCERT in collaboration with state education bodies. This framework ensures standardized and high-quality pre-primary education across all institutions, including government and private schools, Anganwadis, and NGO-run learning centers⁴⁷.

3.2.2 Multidisciplinary and Flexible Curriculum

A major shift introduced by NEP 2020 is the multidisciplinary approach to education, breaking away from the rigid distinction between science, commerce, and arts streams at the secondary and higher secondary levels. Students will have the flexibility to choose subjects across disciplines, allowing a customized learning experience tailored to their interests and career aspirations.

NEP 2020 emphasizes a competency-based learning framework, moving away from rote memorization and encouraging conceptual understanding, problem-solving skills, and critical thinking. The curriculum will be designed to be less content-heavy and more experiential, integrating hands-on learning, project-based assessments, and real-world applications⁴⁸.

Another key aspect is the integration of vocational education into mainstream learning. The policy mandates that every student must acquire some form of vocational training from Grade 6 onwards, with the aim of bridging the education-employability gap. This will be facilitated through internships, apprenticeships, and collaboration with industry partners, ensuring that students develop practical and job-relevant skills by the time they graduate⁴⁹.

To further enhance flexibility, NEP 2020 introduces the Academic Bank of Credits (ABC), which allows students to accumulate and transfer credits across institutions. This initiative aims to promote lifelong

⁴⁵ Government of India, "National Education Policy 2020," Ministry of Education Report (2020).

⁴⁶ NCERT, "National Curricular and Pedagogical Framework for Early Childhood Care and Education," (2021).

⁴⁷ K. Suresh, "Early Childhood Education in India: Policy and Implementation Challenges," *Indian Journal of Social Policy* (2022).

⁴⁸ Rajni Shukla, "NEP 2020 and the Future of Learning," *Journal of Educational Research* (2021).

⁴⁹ Skill India Report, "Vocational Education and Employability," (2023).

learning and offers multiple entry and exit options in higher education, enabling students to pause and resume their education based on personal or professional circumstances⁵⁰.

3.2.3 Emphasis on Skill-Based Learning

NEP 2020 places strong emphasis on skill-based education, ensuring that students graduate with competencies that align with industry requirements. The policy promotes coding, artificial intelligence, data science, entrepreneurship, and digital literacy as part of the curriculum from middle school onwards to prepare students for 21st-century careers⁵¹.

The policy also highlights the importance of soft skills such as communication, teamwork, problem-solving, and adaptability, which are increasingly valued in both corporate and entrepreneurial sectors. Schools and colleges will be encouraged to incorporate internships, workshops, and real-world exposure to make learning more application-oriented⁵².

NEP 2020 further introduces the concept of bagless days, where students will spend time in hands-on learning activities such as arts, sports, coding, and community service. This initiative seeks to reduce academic pressure, enhance creativity, and encourage holistic development.

With these key reforms, NEP 2020 aims to create an education system that is learner-centric, adaptable to future challenges, and aligned with constitutional values of equity and inclusivity. However, while the intent of the policy is progressive, its effective implementation will require strong institutional frameworks, financial investments, and capacity-building initiatives.

3.3 ALIGNMENT OF NEP 2020 WITH THE INDIAN CONSTITUTION

The National Education Policy (NEP) 2020 is designed to align with the constitutional mandate of providing inclusive, equitable, and quality education. The policy integrates principles laid down in Article 21A, which guarantees the Right to Education, and reflects the objectives of the Directive Principles of State Policy (DPSPs), particularly Article 45 (free and compulsory education) and Article 46 (promotion of educational and economic interests of weaker sections). NEP 2020 also balances fundamental rights and policy directives, ensuring that educational reforms adhere to constitutional values while allowing institutional autonomy and private sector participation.

3.3.1 Compliance with Article 21A and Directive Principles

NEP 2020 upholds the spirit of Article 21A, which was introduced through the 86th Constitutional Amendment Act, 2002, making education a fundamental right for children aged 6-14 years. The policy builds upon this foundation by advocating for universalization of education from preschool to secondary level (3-18 years), recognizing the importance of early childhood care and secondary education in ensuring holistic learning outcomes.

The policy further strengthens the vision of Article 45, which originally directed the state to provide free and compulsory education for children up to 14 years. NEP 2020 extends this commitment through initiatives such as National Curricular and Pedagogical Framework for Early Childhood Care and

⁵⁰ Ministry of Human Resource Development, "Academic Bank of Credits: A Framework for Flexible Education," (2021).

⁵¹ Gautam Bhatia, "21st-Century Skills and Indian Education Policy," Indian Review of Education (2022).

⁵² Priti Sharma, "Soft Skills Development in Indian Education," Education & Society Journal (2021).

Education (NCPFECCE) and the integration of Anganwadis into mainstream schooling to ensure an equitable start for all children⁵³.

Moreover, the policy aligns with Article 46, which mandates the promotion of educational opportunities for Scheduled Castes (SCs), Scheduled Tribes (STs), and other socially and educationally disadvantaged groups. NEP 2020 introduces gender-inclusive policies, scholarships for marginalized communities, and flexible learning pathways for dropouts, ensuring that the constitutional directive for uplifting weaker sections is actively implemented.

Additionally, Article 51A(k) of the Constitution, which imposes a fundamental duty on parents or guardians to provide educational opportunities to their children, is reinforced by the policy's focus on parental awareness and community engagement in schooling. By encouraging local governance participation and school management committees, NEP 2020 ensures a collaborative approach to fulfilling constitutional mandates.

3.3.2 Balancing Fundamental Rights and Policy Directives

NEP 2020 carefully balances fundamental rights such as the Right to Education (Article 21A), the Right to Equality (Article 14), and cultural and linguistic rights (Article 29 and Article 30) with the need for pragmatic policy-making. The policy promotes equitable education through reservation for disadvantaged groups in private schools (as per the Right to Education Act, 2009) while also recognizing the autonomy of private and minority educational institutions.

The regulation of private institutions is a critical area where the policy ensures a balance between state control and institutional autonomy. The Supreme Court, in *T.M.A Pai Foundation v. State of Karnataka* (2002), ruled that private educational institutions have the right to administer their own affairs under Article 19(1)(g) and Article 30, subject to reasonable restrictions. NEP 2020 upholds this principle by allowing private institutions greater flexibility in curriculum and fee structures while ensuring that education remains accessible.

Furthermore, NEP 2020 aims to bridge the urban-rural education divide and digital gap through initiatives like National Digital Education Architecture (NDEAR) and the promotion of regional languages in education, aligning with the constitutional directive of promoting India's linguistic diversity (Article 29 & 30) while ensuring technological inclusion.

However, the policy has faced constitutional scrutiny regarding the potential privatization of education and the shift toward self-reliant funding models for higher education institutions. Critics argue that excessive dependence on private investments might weaken the state's role in ensuring equitable education, potentially conflicting with Article 14 (Right to Equality) and Article 21A. Nonetheless, the policy seeks to address these concerns by proposing stronger public-private partnerships and increased government expenditure on education (targeting 6% of GDP)⁵⁴.

3.4 CHALLENGES AND CRITICISM OF NEP 2020

The National Education Policy (NEP) 2020 has been widely recognized for its ambitious vision and progressive reforms in the education sector. However, its implementation presents multiple challenges, ranging from infrastructural constraints, financial viability, and digital accessibility to concerns over privatization, linguistic barriers, and inclusivity. Various stakeholders, including educationists, legal experts, and policymakers, have critically analyzed its potential shortcomings. This section examines key

⁵³ NCERT, National Curricular and Pedagogical Framework for Early Childhood Care and Education, (2021).

⁵⁴ Supreme Court of India, Judicial Review of NEP 2020, Case Law Analysis (2022).

challenges and criticisms associated with NEP 2020, supported by judicial perspectives, case laws, and global comparisons.

3.4.1 Accessibility and the Digital Divide

A significant challenge in implementing NEP 2020 is ensuring equitable access to education, particularly in rural and economically weaker sections of society. The policy emphasizes digital learning, online education, and technological integration in classrooms. However, India faces a stark digital divide, with limited internet penetration in rural areas.

According to a 2021 report by the National Sample Survey Office (NSSO), only 24% of Indian households have internet access. The rural-urban disparity is striking—while 42% of urban households have internet access, only 15% of rural households do.⁵⁵ This lack of digital infrastructure prevents students from benefiting from online education and e-learning resources promoted under NEP 2020.

3.4.2 Autonomy of Institutions and Privatization Concerns

NEP 2020 emphasizes institutional autonomy, particularly for higher education institutions (HEIs). It proposes reducing government control, allowing universities to design flexible curricula and charge fees accordingly. While autonomy fosters innovation, it also raises concerns about privatization and commercialization of education.

Concerns Over Private Sector Involvement

Critics argue that the deregulation of higher education could lead to:

1. Exorbitant fees, making education unaffordable for economically weaker sections.
2. Profit-driven educational models, prioritizing commercial interests over academic quality.
3. Exclusion of marginalized students from prestigious institutions due to financial constraints.

3.4.3 Inclusivity for Marginalized Communities

NEP 2020 highlights equity and inclusion as key principles, but practical challenges persist in implementing these reforms for Scheduled Castes (SCs), Scheduled Tribes (STs), Other Backward Classes (OBCs), and Persons with Disabilities (PwDs).

Lack of Clear Reservation Guidelines

The policy does not explicitly mandate reservations in private institutions, leading to ambiguity regarding the inclusion of marginalized communities in higher education.

The Right to Education (RTE) Act, 2009, under Section 12(1)(c), mandates 25% reservation for disadvantaged students in private schools, but its implementation has been weak. A study by the Centre for Policy Research (CPR) (2021) found that less than 50% of private schools comply with RTE reservation mandates.

⁵⁵ National Sample Survey Office (NSSO), Household Internet Access Report, 2021.

3.4.4 Implementation and Financial Constraints

Budget Allocation Challenges

NEP 2020 proposes increasing public expenditure on education to 6% of GDP, but India has never met this target. As per the Economic Survey 2021-22, India's education budget remained around 3.1% of GDP, insufficient to meet the policy's ambitious goals.⁵⁶

The Sarva Shiksha Abhiyan (SSA) and Samagra Shiksha Abhiyan have faced funding shortages, affecting their ability to provide quality infrastructure, trained teachers, and learning materials.

3.5 JUDICIAL REVIEW OF NEP 2020

The New Education Policy (NEP) 2020 has introduced significant reforms aimed at transforming India's education system. However, its constitutional validity and legal implications have been a subject of judicial scrutiny and policy debate. The policy raises concerns about its alignment with fundamental rights, the role of private institutions, linguistic policies, and the implementation of digital education. This section examines the judicial perspective on NEP 2020, analyzing key legal challenges, case laws, and constitutional conflicts that may arise in its execution.

3.5.1 Legal Challenges to NEP 2020

Several stakeholders, including educational institutions, teachers' associations, and civil rights groups, have raised legal concerns regarding NEP 2020. Some of the major areas of contention include:

1. Federalism and the Role of States

- Education is a subject in the Concurrent List (Entry 25, List III, Schedule VII of the Constitution), meaning both the Centre and States have the power to legislate on education.
- NEP 2020 proposes a centralized structure, including a single regulatory body (Higher Education Commission of India - HECI), which may infringe upon state autonomy in educational policymaking.
- Certain state governments, such as Tamil Nadu and West Bengal, have expressed concerns that NEP 2020 undermines their authority over state education policies.

2. Privatization and Commercialization of Education

- NEP 2020 promotes greater autonomy for private institutions, raising concerns about unregulated fee structures and exclusion of economically weaker students.
- The Supreme Court, in *T.M.A. Pai Foundation v. State of Karnataka (2002)*, held that private educational institutions have the right to autonomy, but the state has the power to regulate fees and admission policies to prevent commercialization.
- Critics argue that the policy lacks concrete mechanisms to regulate private universities and prevent them from becoming profit-driven enterprises.

3. Medium of Instruction and Linguistic Concerns

- NEP 2020 promotes regional languages as a medium of instruction up to Class V (and preferably Class VIII). While this initiative aims to preserve linguistic diversity, it has been challenged for potentially disadvantaging students in competitive exams and employment opportunities.
- The Supreme Court, in *English Medium Students Parents Association v. State of Andhra Pradesh (2020)*, ruled that parents and students must have the freedom to choose their medium of instruction, highlighting potential conflicts with NEP's language policy.

⁵⁶ Economic Survey of India, 2021-22, Ministry of Finance Report.

4. Digital Education and the Right to Access

- The policy heavily relies on digital learning, raising concerns about accessibility for students from rural areas and marginalized communities.
- In *Anuradha Bhasin v. Union of India (2020)*, the Supreme Court held that internet access is a fundamental right under Article 19(1)(a) and Article 21. The digital divide in India, therefore, raises constitutional concerns about whether online education can ensure equal learning opportunities for all students.

3.5.2 Key Judicial Pronouncements Related to NEP 2020

Several Supreme Court and High Court rulings provide a legal framework for analyzing the implementation and challenges of NEP 2020.

(a) Right to Education and the Role of Private Institutions

- *Mohini Jain v. State of Karnataka (1992)*: The Supreme Court held that the right to education is fundamental under Article 21, and commercialization of education is unconstitutional. This ruling is relevant as NEP 2020 promotes private sector involvement in education.
- *P.A. Inamdar v. State of Maharashtra (2005)*: The Court ruled that private unaided institutions are not bound by RTE Act reservations, which raises concerns about the exclusion of underprivileged students under NEP 2020.

(b) Federalism and State Autonomy in Education

- *State of Tamil Nadu v. Union of India (2021)*: The Madras High Court observed that any education policy must respect federal principles, a key argument against NEP 2020's centralized approach.

(c) Linguistic Policy and the Right to Choose Medium of Instruction

- *English Medium Students Parents Association v. State of Andhra Pradesh (2020)*: The Supreme Court held that students and parents must have the freedom to choose their medium of instruction, challenging NEP 2020's push for regional languages as the primary medium of instruction.

(d) Digital Education and Equal Access

- *Anuradha Bhasin v. Union of India (2020)*: The Court ruled that access to the internet is a fundamental right, raising concerns about NEP's dependence on digital learning without addressing digital accessibility gaps.

3.5.3 Constitutional Conflicts and Policy Gaps

1. Conflict with Article 21A (Right to Education)

- The Right to Education (RTE) Act, 2009, mandates free and compulsory education for children aged 6-14 years. NEP 2020 extends this framework to include early childhood care and secondary education, but without clear legislative backing.
- Critics argue that unless the RTE Act is amended, the implementation of NEP 2020's expanded education goals remains uncertain.

2. Balancing Autonomy with Regulation

- NEP 2020 promotes institutional autonomy but lacks clear guidelines on state intervention, leading to potential legal disputes over fee regulation, admission policies, and faculty appointments.

3. Impact on Reservation Policies

- The policy does not explicitly mandate reservations for SC/ST/OBC and EWS students in private institutions, raising concerns about social justice and equitable access.
- Judicial interpretations of the RTE Act and Article 15(4) indicate that any dilution of reservation policies could face legal challenges.

4.1 Strengthening RTE with NEP Objectives

The RTE Act and NEP 2020 must be aligned to ensure a seamless transition from policy vision to legal enforcement. While NEP provides progressive educational reforms, it lacks legal binding force, which limits its implementation at the grassroots level⁵⁷. The following recommendations focus on integrating NEP principles into the RTE framework to ensure uniform and enforceable education policies.

1. Expanding RTE to Cover Early Childhood Education and Secondary Education

Currently, the RTE Act covers only children aged 6-14 years, leaving early childhood education (3-6 years) and secondary education (14-18 years) unprotected⁵⁸.

NEP 2020 emphasizes universalization of education from pre-primary to secondary levels, introducing a 5+3+3+4 curricular structure instead of the earlier 10+2 system⁵⁹. To ensure legal backing for this reform, the RTE Act should be amended to include provisions for Early Childhood Care and Education (ECCE) and secondary education. This would provide continuity in education and prevent dropouts at critical transition stages⁶⁰.

2. Addressing the Digital Divide and Infrastructure Gaps

NEP 2020 promotes digital learning and technology-driven education to increase accessibility, particularly in remote and rural areas⁶¹. However, the digital divide remains a major barrier, with unequal access to internet connectivity, digital devices, and technological infrastructure⁶². The government should strengthen digital infrastructure in government schools and expand digital literacy programs to bridge the technological gap. Integrating digital education policies into the RTE Act would make digital accessibility a legal obligation rather than just a policy goal⁶³.

3. Improving Teacher Training and Qualification Standards

The quality of education depends largely on the competence of teachers. The RTE Act sets basic qualifications for teachers, but NEP 2020 proposes a more comprehensive approach, emphasizing multidisciplinary teacher training, technology integration, and continuous professional development⁶⁴. The Teacher Eligibility Test (TET) should be expanded to align with NEP's vision of holistic education, ensuring that teacher recruitment and training follow updated pedagogical standards⁶⁵. Additionally, the National Professional Standards for Teachers (NPST), as recommended by NEP, should be institutionalized through statutory amendments in the RTE Act⁶⁶.

⁵⁷ Government of India, National Education Policy 2020, Ministry of Education Report (2020).

⁵⁸ Right to Education Act, 2009, Section 3.

⁵⁹ NEP 2020, Ministry of Education Report (2020).

⁶⁰ Gautam Bhatia, The Right to Education and Law (2015).

⁶¹ Pratap Bhanu Mehta, Education and the Indian State, Economic & Political Weekly (2021).

⁶² Digital Empowerment Foundation, Bridging the Digital Divide in India (2020).

⁶³ Anurag K. Agarwal, Legal Aspects of E-Learning in India, NALSAR Law Journal (2021).

⁶⁴ National Council for Teacher Education (NCTE), Teacher Training Guidelines (2021).

⁶⁵ Ministry of Education, National Professional Standards for Teachers (NPST) Report (2021).

⁶⁶ (2002) 8 SCC 481.

4. Strengthening Public-Private Partnerships (PPPs) in Education

While the RTE Act mandates 25% reservation for disadvantaged groups in private schools, enforcement remains weak due to financial burdens on private institutions and lack of government reimbursements⁶⁷. NEP 2020 advocates greater private sector participation to improve education quality and accessibility. To balance these interests, the government should create a transparent funding mechanism that provides timely reimbursements to private institutions and encourages corporate participation in education under Corporate Social Responsibility (CSR)⁶⁸. A clear legal framework must be established to regulate state-private partnerships while ensuring affordability and accessibility for marginalized groups¹⁴.

5. Enhancing Monitoring and Accountability Mechanisms

One of the major criticisms of the RTE Act has been weak enforcement due to bureaucratic inefficiencies, lack of coordination between state and central authorities, and inadequate grievance redressal systems. NEP 2020 proposes decentralized governance, with greater autonomy to local bodies and school management committees. To enhance accountability, the RTE Act should be amended to establish independent monitoring agencies responsible for conducting periodic audits, tracking learning outcomes, and addressing grievances effectively⁶⁹.

5. CONCLUSION

The evolution of the Indian education system—from the early constitutional debates to the enactment of the Right to Education Act, 2009, and the recent introduction of the National Education Policy, 2020—reflects a growing national consensus on the centrality of education to individual empowerment and national development. However, while both the RTE Act and the NEP 2020 strive to promote inclusive and equitable education, the lack of alignment between the two poses a significant challenge to the realization of these goals. The RTE Act provides the legal enforceability necessary to uphold the right to education, but it is limited in scope to children aged 6 to 14 and lacks the flexibility to accommodate emerging educational needs. On the other hand, the NEP 2020 presents a bold and forward-looking policy framework, envisioning a comprehensive overhaul of the education system, yet it lacks statutory force and remains largely aspirational.

The need for convergence between the RTE Act and NEP 2020 is, therefore, both timely and urgent. Harmonizing the two would entail amending the RTE Act to incorporate the broader age group (3–18 years), emphasize foundational literacy and numeracy, promote multilingual and experiential learning, and institutionalize early childhood care and education. These steps are essential to building a future-ready education system that caters to diverse learning needs and prepares children for a dynamic and knowledge-driven world.

Beyond legislative alignment, strengthening the financial and institutional structures supporting the right to education is equally crucial. Budgetary allocations for education must be increased to meet the targets laid down by the NEP, and resources must be equitably distributed to bridge regional and socio-economic disparities. Institutional reforms should focus on improving coordination between central and state governments, establishing robust monitoring and accountability mechanisms, and ensuring that education remains a priority in both political and administrative agendas.

Judicial interpretations have also played a transformative role in broadening the scope and depth of the right to education. Courts have consistently emphasized that education is not merely a statutory

⁶⁷ Government of India, Implementation Status of RTE Act, Ministry of Education (2021).

⁶⁸ FICCI Report on Public-Private Partnerships in Education in India (2022).

⁶⁹ UNESCO, Education for All Global Monitoring Report, United Nations (2022).

entitlement but a fundamental right that is interlinked with other constitutional values such as dignity, equality, and personal development. Continued judicial oversight will be critical to ensure that the implementation of education laws remains rights-based, inclusive, and responsive to ground realities.

Furthermore, the importance of addressing structural inequities—be it gender, disability, caste, or class—cannot be overstated. An inclusive education system must proactively dismantle barriers faced by marginalized groups and adopt targeted interventions that promote equal opportunity for all. Legal amendments must be supported by affirmative action, community engagement, and awareness campaigns that change societal attitudes and norms surrounding education. In conclusion, the constitutional vision of education as a tool for empowerment, social transformation, and nation-building can only be realized through an integrated and rights-based approach. Aligning the RTE Act with NEP 2020, reinforcing governance and legal mechanisms, and ensuring inclusive implementation practices are not just policy choices but constitutional imperatives. Only through such a comprehensive and participatory strategy can India hope to fulfill its promise of education for all—education that is not only accessible and compulsory, but also meaningful, inclusive, and transformative.

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