

# RIGHT TO EDUCATION- A CONSTITUTIONAL MANDATE

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## Abstract

*The education comes from Latin word educare which means to flourish, to grow or to nourish. Education is indispensable and essential for the overall growth of human genre. Education not only develops one's personality rather also balances the balance between fauna, flora, environment and economy. Education is first and foremost is human right. It is statutory as well as constitutional right under the Indian Constitution, 1950.*

*This paper covers the aspect of Art 21, 21-A, 41, 45 and 46 of the Indian Constitution; Right to Education Act (RTE) of 2009; NEP, 2020; court rulings and major government initiatives. Education as a right has been expanded in diverse directions to inculcate the best practices for education for all. The Apex court has been very instrumental in defining the scope of education.*

*This paper emphasis upon striking a balance between individual rights and state obligation. The legislative and judicial changes which are done to this right bring forth new avenues and challenges to fully implement this right and take the education right to the last mile of connectivity. This study highlights the judiciary and court's role in creating a more inclusive and fair Indian educational system through case laws.*

*Moreover, Indian Government has taken many steps through schemes and programs to reach to the last mile for inclusive development and innovation towards Viksit Bharat 2047.*

**Keywords:** Constitution of India, NEP 2020, Judiciary's role, Government initiatives.

## **INTRODUCTION**

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

– Nelson Mandela

The most significant issue that both developed and emerging nations must deal with in order to advance humankind is giving dynamic education right. Education is an indispensable value that allows people to interact and engage with society while also fostering intellectual growth.

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Education can broadly be described as the process through which a society transmits to future generations its knowledge, skills, and moral values necessary for its continued existence.”<sup>3</sup> **Émile Durkheim**, often regarded as the founder of modern social science, viewed education as the influence exercised by older generations on those not yet prepared for social life. He argued that its purpose is to nurture and develop in children the physical, intellectual, and moral qualities demanded by society as a whole, as well as by the specific environment in which they are expected to function.<sup>4</sup>

ICESC and the UDHR both expressly acknowledge the education rights. Education is viewed as both a vital tool for fostering respect for human rights and freedoms required for the wholesome growth of an individual's personality.

The 1948 UN Universal Declaration of Human Rights (UDHR) expressly recognises the right to education, saying:

Every person is entitled to education. It shall be provided free of charge, at least at the elementary and basic levels, with primary schooling being compulsory. Access to technical and vocational training should be widely available, and higher education should be open to all based on merit.<sup>5</sup>

In 1976, the ICESC rights came into effect. The education right and the enjoyment of the advantages of cultural freedom and scientific advancement are among the human rights that the Covenant aims to advance and defend.

Dr. A.K. Lakshmanan, then CJI, rightly remarked in *Ajay Goswami vs. UOI & Others* that:

“Education is perhaps the most important function of state and a local government. It is required in the performance of our most basic responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today, it is the principal instrument in awakening the child to cultural values, preparing him for later professional training, and normally adjusting to his environment. In these days, it is doubtful, and a child may reasonably be expected to succeed in life if he is denied the opportunity of an education.”<sup>6</sup>

## **OBJECTIVES**

1. To carry out a thorough examination of how laws, constitutional clauses, and significant court rulings affect the advancement and defence of the education right in India, with an emphasis on how well they work together.
2. To assess the contribution of legal enactments and constitutional provisions for the upliftment of human rights, particularly education rights. Determine what needs to be improved so as to have comprehensive legal system.

<sup>3</sup> Amadou-Mahtar M'Bow "Introduction," in G. Mialaret (ed.) *The Child's Right to Education*, 9, 14-15

<sup>4</sup> Emile Durkheim, *Education et. Sociologie* (1992) T.B. Bottomore, *Society* (1986) p. 262.

<sup>5</sup> Article 26(1) of UDHR

<sup>6</sup> Article 26(2) of UDHR

## **RESEARCH PROBLEM**

1. How much do court rulings, legislative frameworks, and constitutional provisions-especially those pertaining to free and compulsory education-help or impede India's successful enforcement of education rights?
2. Within India's legal framework, what opportunities and tactics may be investigated to promote a more unified and successful strategy to defend the right to free and mandatory education?

## **RESEARCH METHODOLOGY-**

For the purpose of reaching its results, this study takes a doctrinal approach, analysing and interpreting current legal concepts, principles, statutes, and court rulings. Secondary materials, such as books, scholarly articles, and research papers published in national and international journals, serve as the main foundation for this study.

## **Right to Education and Human Fundamental Rights (Part III)**

Art 21A: RTE Act - Following the enactment of the RTE Act, 2009 by Parliament, children aged 6 to 14 years were granted a fundamental right to education.. This legislation came into force on April 1, 2010, marking a significant milestone following the 86th Constitutional Amendment Act, 2002. It directs the state to provide free and compulsory education to children within this age group.

The RTE Act was enacted as a measure to properly address the primary demand and secure social justice for everyone children following a thorough drafting and redrafting process. The 4As serve as the foundation for the overall policy, giving us an understanding of the topics they intended to address with this legislation.

1. Availability; In this context, education is provided free of cost, with the government bearing its expenses, supported by qualified and well-trained teachers, along with adequate infrastructure to sustain the educational system.
2. Accessibility: It means that everyone has access to education; there is no discrimination and the main objective is to help the most disadvantaged people of society.
3. Acceptability: The school atmosphere is secure, the teachers are well qualified, the value of education is adequate, there is no prejudice, and it is culturally acceptable.
4. Adaptability: The idea that education is dynamic, it fulfils the wants of society and its citizens, and helps to eradicate injustices like sexism.

To protect citizens' access to an education, the Eighty-sixth Amendment to the Constitution was passed. To strengthen the enforcement mechanism of the Constitution and protect the right of children aged 6 to 14 years to free and compulsory education, it proposed three additional amendments.

Art 21A a newly added provision which mandates that each child has the right to free and compulsory education of equal quality, subject to specific norms and standards, is among the most drastic changes brought about by the 86th Amendment Act.

Additionally, this new fundamental requirement resulted in the inclusion of a new sentence under Article 51A, (K), it provides that every parent or guardian has a duty to ensure that a child, or ward as the case may be, between 6 to 14 years of age is given access to educational opportunities.

In *State of Tamil Nadu & Ors. Vs K Shyam Sunder & Ors.*, - The court held that a child's education right should extend beyond merely free and mandatory schooling to encompass quality education, irrespective of economic, social, or cultural background.<sup>7</sup>

### **Right to Education and DPSP-**

- Article 41: In circumstances of unemployment, old age, illness, or other incapacities, the union and state may provide the education right, employment, and public assistance within the confines of its financial resources.
- Article 45: Within a decade of the adoption of the Indian Constitution, the state was obligated to provide free and mandatory education to children up to 14 years of age. Subsequently, the 86th Constitutional Amendment Act, 2002 mandated that the state also ensure early childhood care and education for children up to the age of 6.
- Article 46: In an attempt to shield the SCs and STs from exploitation and social injustice, the state must advance their economic and educational interests.<sup>8</sup>

### **New Education Policy, 2020-**

The historic change, the NEP 2020 mandates to make the Indian educational system more inclusive, interdisciplinary, holistic, and future-ready. It makes sure accessibility and standard of quality of education at any stage of education. NEP 2020 provides to universalize education with emphasis on skill development, AI and digital upgradation initiatives and ECC with education. It provides strategy to inculcate Indian culture and heritage

NEP 2020 provides for harnessing and usage of mother tongue generally upto Grade 5 and if possible upto Grade 8 as understanding things in mother tongue language can be grasped by concerned child. Having knowledge in mother tongue makes it easily understandable and along with that it enhances the critical thinking, opens up the mind for things never seen, increases the cognitive capabilities of child's mind and improves overall perception. However, for preserving India's linguistic and cultural diversity, and

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<sup>7</sup> (2011) 8 SCC 737

<sup>8</sup> Ms. Anisha Sahuwala, "Harmony in Rights: A Comprehensive Analysis of Constitutional, Legislative, and Judicial Dynamics Shaping the Right to Education in India", Volume-1, Issue:1, SARVALOKUM: LAW AND SOCIETY-MULTIDISCIPLINARY NATIONAL PEER-REVIEWED JOURNAL (2024)

educational freedom NEP assures that no language would be forced upon anyone as Indian Constitution guarantees educational freedom to individuals and institutions.

This policy is adjustable that is it is not strict so as to cause child to loose contact with studies rather it showcases adaptable and varieties of learning behaviour. It consist a four year undergraduate program in which if the student is not able continue with full four year course then there are stages for each year that is student will get certificate if he left the course after one year, student will get diploma if he left after two year and if student left after three years completion then he will get degree. NEP presents a flexible approach to learning method so that no one is left out as education is a constitutional right. NEP creates an Academic Bank of Credit (ABC) that is with increasing learning experience students will get creit and that credit can be transferred also which promotes lifelong learning. For the purpose of providing a more efficient academic structure, the policy also does away with the M.Phil. program and promotes straight advancement to the Ph.D.<sup>9</sup>

The amalgamation of technology and digital initiatives into mainstream education is another key feature of the NEP 2020. The policy supports digital classrooms, e-learning platforms, and online education—all of which became increasingly important in today's era. In order to promote innovation, R&T usage in education, a NETF was established.

The digital gap, however, has drawn criticism, especially in rural regions where access to gadgets, internet connectivity, and digital knowledge is still restricted<sup>10</sup>.

Additionally, NEP 2020 attended upon industry-oriented learning, skills development, and vocational education to make sure that students gain practical skills in addition to academic courses. There is much gap then expected between education and employability which means what one person is studying is of no use to his or her job as input and output is different. In order to decrease the gap so that only that skill would be provided by the educational institutions which is in demand in market, approach should be that minimum 50 percent of students should complete either skill development program or vocational training. NEP although showcases a progressive approach but due to obstacles and challenges particularly with respect to enforcement of reforms suggested, working of educational institutions and entry of private sector that is privatization- Both parents and students are positively influenced by its benefits However if executed in right direction keeping in mind the aspirations of Indian citizens, this policy can be a makeover for educational institutions and can set an example on global platform, and it is in consonance with various constitutional core provisions and basic structure of the constitution<sup>11</sup>.

### **Role of Judiciary in upholding Art 21-A by Judicial Pronouncements-**

The journey of education right being upheld as fundamental right is very challenging and is interpreted by Indian judiciary through various rulings. The Supreme Court of India, through landmark judgments, has

<sup>9</sup> Rajni Shukla, "NEP 2020: A Critical Analysis," Journal of Educational Policy Studies (2021)

<sup>10</sup> K. Suresh, "Bridging the Digital Divide in India's Education System," Indian Journal of Social Policy (2022).

<sup>11</sup> Supreme Court of India, Judicial Review of NEP 2020, Case Law Analysis (2022)

outlined the role of private educational institutions (PEIs) in the education sector and clarified the state's duty to give free and mandatory education.

Constitutional provisions like Article 21A, which guarantee inclusive, equitable, and accessible education, have been fashioned by court rulings. India's legal system and education policy have been significantly impacted by a number of rulings, especially the creation of statutes like the RTE Act, 2009.<sup>12</sup>

In **Mohini Jain v. State of Karnataka (1992)**<sup>13</sup> and the Education Right under Art 21- The SC directly traced the education under Art 21. The court also emphasised upon the State's duty to make education accessible to Indian citizens.

In **Unnikrishnan J.P. v. State of Andhra Pradesh (1993)** – PEIs expressed worries about their capacity to levy fee and operate independently in reaction to the above case. The former ruling was improved and a comprehensive, organized framework for the education right was developed in the Unnikrishnan J.P. case. In this decision, the Apex Court upheld that basic education until the age of 14 years is a FR guaranteed by Art 21. The SC directed that higher education is also important but it cannot be made mandatory upon government to provide because of financial constraint and other inadequate resources. However, with time it can be made accessible by pilot projects.

In accordance with the DPSP under Art 45 of the Constitution, the ruling upheld the state's responsibility to ensure free and compulsory schooling for children below 14

In **T.M.A Pai Foundation v. State of Karnataka (2002)** - The court dealt with the subject of whether Article 30 allowed the government to control educational institutions privately managed, especially those managed by minority populations. The Apex Court heard the issue after a number of private universities contested state rules pertaining to faculty nominations, fee schedules, and admissions.

The court held that the provisions regarding reservations or quotas cannot be applied upon PEIs as their right of giving education is institution's educational freedom and that cannot be curbed only because of some government's scheme or program. There has to be balance drawn between necessity of government to ensure equity, equality and scientific excellence in education and independent right of private educational institutions to earn profit along with giving quality education.

In **P.A. Inamdar v. State of Maharashtra (2005)** – the main issue was government's control over PEIs. The Hon'ble SC of India ruled that, for PEIs to reserve seats for economically weaker and disadvantaged groups, some level of government support or assistance is necessary. However, the court recognized the

<sup>12</sup> Abhilasha Panwar, "New Education Policy and the Constitutional validity of Right to Education Act: A Critical Study", Volume 10, Issue 5 May 2025 | ISSN: 2456-3315, IJRTI(2025)

<sup>13</sup> 1992 AIR 1858, 1992 SCR (3) 658

need for rules and regulations to be formulated to ensure fairness and inclusivity in admission procedures and fee structures.

The above ruling opens up the arena for 25 percent reservation for underprivileged and disadvantaged group as per RTE Act, 2009. This Act is one of the overhauling structure based on Supreme Court ruling. However, the court stressed upon the necessity of eliminating financial obstacles.

**In Society for Unaided Private Schools of Rajasthan v. Union of India**<sup>14</sup>- It is commonly referred to as the “Rajasthan Private Schools Case”. The Apex Court rendered a decision in this important case in 2012. The case examined whether the RTE Act, 2009 obligated private unaided schools in Rajasthan to reserve a certain proportion of seats for children from economically weaker sections.

The main question was concerned whether Section 12(1) (c) of the RTE Act, which mandated that private unaided schools accept a certain proportion of pupils from economically and socially disadvantaged homes, was constitutional. This clause as per private schools lower down their right under Art 19(1) (g) and Art 30 of the Constitution of India to run and administer PEIs.

The Apex Court held that Section 12(1) (c) of the RTE Act is constitutional and uphold that this section depicts greater public interest for underprivileged group for setting aside seats in private schools. Every child either socially or economically backward has a basic human right of right to education. The Indian Constitution and RTE Act only recognises what was already in existence and ensures legally education right to every child irrespective of age. The court ruled that these provisions ensures equality, equity, social and economic justice and because of this private unaided schools can be made subject to these justice provisions. Therefore, the government can make it mandatory for educational institutions to reserve seats or quotas for disadvantaged people.

**In Rajneesh Kumar Pandey and Ors. v. Union of India**<sup>15</sup>- The main issue was quality of education and inclusiveness of education given to persons with disabilities (PwD).

The court comes with the term reasonable accommodation that is if child suffering from autism, deafness, etc. is being sent to schools with normal developmental child then latter should be inculcated with sensitivity towards former child or separate educational institutions and schools be established so that all the Focus should be placed on their needs and complete cognitive development. The court emphasised upon training and sensitivity of teachers about children in need of welfare support.

This court’s judgement is a welcome step as gates are constructed for children suffering physically and mentally impairment. These children are on the same pedestal with other children and should not be considered below to latter. This judgement increases educational opportunities for all classes of children and court tackled with problems of modern world like lack of inclusiveness, lack of quality and

<sup>14</sup> WRIT PETITION (C) NO. 95 OF 2010

<sup>15</sup> WRIT PETITION (CIVIL) NO. 132 OF 2016

discrimination. The court has been essential in promoting education as a basic right in India by striking a balance between individual rights and governmental responsibility.

In the recent judgement by Hon'ble Apex Court in the case of **Dr. Jaya Thakur v. Govt of India & Ors. (2026 SC)**<sup>16</sup>- the court held that menstrual hygiene is impliedly followed under fundamental right under Art 21 and Art 21A as structural exclusion is also denial of fundamental right of education right.

### **Challenges in completely harnessing this right-**

1. Infrastructure and Financial Constraints- A key challenge in the RTE Act, 2009 and the NEP 2020 is the inadequate provision of essential infrastructure, including sufficient classrooms, modern smart learning facilities, and separate sanitation arrangements for boys and girls. But lack of finance further enhances the complexity of education right.
2. Affordability and Accessibility- Although there are provisions in RTE Act and in Judicial decisions that human right includes indispensable education right and this should be affordable in the sense that either to ease the process of education loan or reduces the altogether procedural cost or reduces the fee chargeable. For education to be accessible to all, help of digital era can be taken and devices can be provided to all. Virtual classes can be conducted wherever possible.

### **Conclusion**

This paper emphasised upon responsibilities and liabilities of every pillar of democratic institution. Every institution of legislature, executive, and judiciary has a vital responsibility of preserving and maintaining right to education. The fourth pillar of democracy that is media is entrusted with double responsibility of showing both sides of coin i.e., both positive and negative sides of any judgement, any government program or any executive rule. It is evident that the judiciary has fulfilled its responsibility of being protector and guardian of basic rights and expanding the horizons of the Constitutional rights written in the constitution. The courts fostered a culture of inclusive and quality education.

NEP 2020 gave wings to right of Compulsory, cost-free education provided under RTE Act and Art 21A of the Constitution for children between the ages of 6 to 14years. NEP addresses many traditional issues with modern solutions, for example, affordability, accessibility and quality education.

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<sup>16</sup> Dr. Jaya Thakur v. Govt of India & Ors. ( 30<sup>th</sup> January 2026 SC)

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