



Review Article

# An Analytical Study of Right to Education in India

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## Abstract

Since Article 21A recognizes the right to education as a fundamental right, all Indians are granted this right without limitations. Article 45 of the Constitution's Directive Principles of State Policy mandates that all children under the age of six receive free and compulsory education. In accordance with the Fundamental Duties outlined in Article 51A, parents are also required to ensure that their child, who is between the ages of 6 and 14, receives an education. On August 27, the Right of Children to Free and Compulsory Education Act of 2009 was unveiled. The National Education Policy 2020 has been designed with the principles of justice—social, economic, and political outlined in the Preamble, as well as the constitutional guarantees for all citizens. The Policy aims to achieve the SDG 4 goals, adapting to the evolving world of knowledge, and ensuring future generations are not only knowledgeable but also skilled to meet the demands of future employment.

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## INTRODUCTION

“Education is a human right with immense power to transform. On its foundation rest the cornerstones of freedom, democracy and sustainable human development”.

- Kofi Annan

Education ensures the holistic development of a human being that mental, physical and spiritual. It is an everlasting process and is essential for the inclusive progress of individuals. Education not only provides means of support but also broadens

the outlook of an individual to new ideas, possibilities and opportunities.

Though the concept of education had been prevalent for a long time, it took many years for it to become a fundamental right. The reason behind this delay was probably that the right to education was not as attractive as freedom of expression and many other political rights. Gradually, from the 20th century onwards, education was expanded and transformed into a fundamental social right and it became the responsibility of the state towards its citizens. After the rise of the modern secular

state, education became a public issue and the responsibility of the state.

The first National Education Policy, which concentrated on centralized education policy, was approved in 1968. The second National Education Policy, introduced by the government in 1986, placed a strong emphasis on eliminating inequalities and granting equitable access to education, particularly for Indian women and members of the Scheduled Caste (SC) and Scheduled Tribes (ST) populations. To restore the Indian educational system, the National Education Policy 2020 was presented as a revolutionary framework. Its main goal was to close the disparities in access, equity, and quality of education at all levels.

## OBJECT OF THE STUDY

1. To Study the Right to Education an Indian Perspective
2. To Study the Right to Education in an International Perspective

### Importance of Education

‘The importance of education has come to be recognised by various thinkers and in judicial decisions. The significant of education was very well explained by Chief Justice ‘Earl Warren’ of U.S. Supreme Court in following words: “Education is perhaps the most important function of state and local governments. It is the very foundation of good citizenship. It is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms”.’

### International framework

‘The fundamental human right to universal education is protected by a number of international agreements. These international instruments represent the shift in perspective towards a more specific right to inclusive education for children. First acknowledged in 1948 by the Universal Declaration of Human Rights (UDHR), the right to education was reaffirmed in 1966 by the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

The 1960 UNESCO Convention Against Discrimination in Education established the fundamental tenets of the right to education, including the prohibition of discrimination in education and the guarantee of equal access to education. The Declaration on the Rights of Disabled Persons was adopted by the UN General Assembly in 1975. The Education for All (EFA) 2000 Assessment, the most comprehensive assessment of global education ever carried out, serves as the foundation for the Dakar Framework for Action. This assessment, which was ordered by the World Conference on Education for All, gave a thorough analysis of the condition of elementary education around the globe.

To guarantee that EFA remained a top priority on every national legislative agenda, it recommended nations to fortify their national and regional frameworks. It also underlined the necessity of significant national efforts to strengthen the legal underpinnings of the right to education in each nation's educational system. The evaluation also emphasised how important it is for the international community to provide financial assistance to developing countries in their fight to end poverty.

In response, the UN General Assembly set a target for achieving this goal, and the UN Millennium Declaration, approved in September 2000, saw governments pledging to fight poverty, promote human dignity and equality, and strive for peace, democracy, and environmental sustainability. The international community specifically committed through the Millennium Development Goals to reduce extreme poverty by half by 2015 and to eliminate it by 2025. A key global objective was set to ensure that all children, regardless of gender, complete the entire primary school curriculum by 2015.

As a result, these international agreements have long acknowledged the right to education, encompassing both access to educational opportunities and the need to eliminate discrimination at all levels of the education system. They also call for the establishment of minimum standards and the enhancement of quality. In the context of India, it is important to note that the country is a signatory to the ICESCR, the CEDAW Convention, and the Convention on the Rights of the Child.’

### Right to Education in India- A Constitutional Perspective:

Entries 25 and 26 of the Concurrent List of the seventh schedule of the Indian Constitution address a wide range of subjects, including technical education, medical education, universities, and vocational training. These articles grant both the Union and State legislatures the power to pass education-related laws, even though the scope of the Union Government's power is recognized.

The 86th Amendment Act of 2002 brought several important changes to the Constitution of India regarding education. Article 21A was added, stating that the State must provide free and compulsory education to all children aged 6 to 14 years, with the details of how this should be done determined by law. This guaranteed the right to education for children within this age group. The State shall endeavour to provide early childhood care and education for all children until they turn six, according to an amendment to Article 45. This acknowledges how crucial early education is to a child's growth. With the inclusion of clause (k) to Article 51-A, parents or guardians now have a fundamental obligation to guarantee that their wards, or children, between the ages of 6 and 14, obtain an education. The Indian Constitution's Article 41 addresses people's rights to employment, education, and public aid under specific conditions, particularly for those who are unable to exercise these rights because of poverty or other difficult circumstances. Article 46 focuses on the promotion of education and the economic interests of Scheduled Castes (SC), Scheduled Tribes

(ST), and other weaker sections of society. It directs the State to make efforts to uplift these marginalized groups, ensuring they have access to better educational and economic opportunities. Article 15 shall prevent the state from making any special provision for women and children. Article 15(4) of the constitution provides that the state from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the schedule castes and schedule tribes.'

### Judicial perspectives:

It was the Supreme Court's ruling in *Mohini Jain v. State of Karnataka* that established the right to education as a fundamental right. The court held that the "right to life" is the direct source of the "right to education," and that the "right to education" is therefore a corollary of the fundamental rights. In this historic ruling, the Supreme Court ruled that, in accordance with Article 21 of the Constitution, a citizen's right to an education cannot be restricted by imposing a higher fee known as the capitation fee.

The right to life is strongly related to the right to education. Without the right to education, it is impossible to guarantee both an individual's dignity and their right to life under Article 21. In *Unni Krishnan v. State of Andhra Pradesh*, the Supreme Court reaffirmed the idea that the right to education is implicit in and flows from the right to life given by Article 21. A five-judge panel further reviewed the reasoning behind this ruling. However, the court has ruled that the right to education is not unqualified and must be evaluated in the context of Directive Principles of State policy, including Articles 41, 45, and 46. The Court ruled that all citizens are entitled to free education up until the age of 14.

*Bandhua Mukti Morcha v. Union of India* the Hon'ble Apex Court observed that "the right to education is implicit in and flows from the right to life. Concentrating on the right to live with human dignity, the court clarified that the right to live with human dignity enshrined in Article 21 derives its life and breath from the Directive Principles of State Policy and particularly Clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include educational facilities in order to enable a person to live with human dignity

### Impact of the RTE Act:

The Parliament enacted The Right of Children to Free and Compulsory Education Act, 2009 on August 4, 2009. The Act received the President's assent on August 26, 2009. Commonly referred to as the Right to Education (RTE) Act, it outlines the provisions for providing free and compulsory education to children aged 6 to 14 years in India, as per Article 21A of the Indian Constitution. With the implementation of this Act on April 1, 2010, India became one of 135 countries to recognize education as a fundamental right for every child. Every child of the age of 6-14 years shall have Right to Free and Compulsory Education in a neighbourhood school till completion of elementary education. Act expressly stated that No child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the

elementary education. If a child over six years old has not been enrolled in any school or, despite being enrolled, has not completed their elementary education, they must be placed in a class suited to their age. However, if a child is directly placed in a class based on their age, they are entitled to receive special training to help them catch up with their peers, in a manner and within time limits set by regulations. Additionally, the child admitted to elementary education will have the right to free education until they complete their elementary education, even if they are over fourteen years old. The act has made it compulsory for every private unaided school to admit at least 25% of its entry level class from children belonging to weaker section and disadvantaged groups. Court held that the government had the authority to legally mandate that private schools set aside twenty-five percent of their available spots for students who come from underprivileged families. The RTE Act outlines specific norms and standards for the recognition of schools, as detailed in the schedule of the Act. These include key parameters such as:

- 'The optimal pupil-teacher ratio.
- Standards for school buildings.
- Minimum number of working days.
- Required instructional hours in an academic year.
- Minimum weekly working hours for teachers.
- Provision of a library facility.
- Guidelines for teaching and play materials.'

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### Duty of appropriate Government and local authority and parents or guardians

RTE Act provided to duty of the appropriate government, local authority to ensure that children are getting their right to education guarantee under the constitution and RTE Act ensure that the children from economically weaker sections and disadvantage groups are not facing any discrimination. Duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to an elementary education in the neighbourhood school.

### Challenges in Implementing the Right to Education Act

Although the Right to Education Act has seen some major challenges are following-

**Infrastructure Deficiencies:** Many public schools, especially in remote areas, still face significant infrastructure issues. Some schools struggle to meet RTE standards due to a lack of basic

facilities like functional restrooms (particularly for girls), poorly maintained buildings, and insufficient teaching materials. While urban schools have seen improvements, rural institutions often lag behind.

**Teacher Shortages and Quality:** A major obstacle is the shortage of qualified teachers, particularly in rural areas. Many schools fail to meet the required teacher-student ratio, and there is a noticeable difference in the quality of education. Underqualified or inadequately trained teachers often negatively affect student performance, and issues like teacher absenteeism and lack of accountability further worsen the situation.

**Non-Compliance by Private Schools:** Despite the RTE Act mandating that private schools reserve 25% of their seats for students from disadvantaged backgrounds, many private institutions fail to comply. These schools either deliberately ignore the requirement or claim operational challenges, such as financial constraints, as reasons for not admitting the mandated number of economically weaker section.

**Monitoring and Evaluation Challenges:** Another significant issue is the lack of a robust monitoring and evaluation system to oversee the implementation of the Act. Poor data collection, coupled with a lack of coordination between state and central authorities, leads to ineffective execution and monitoring of the Act.

**Socioeconomic Barriers:** Socioeconomic issues, such as poverty, child labour, and cultural norms, continue to hinder children's access to education, despite the provision of free education. Discrimination based on caste still affects Dalit children, especially in rural areas, creating additional obstacles for marginalized communities.

### Main features of NEP

The NEP 2020 aims to achieve a 100% Gross Enrolment Ratio in school education by 2030. To reach this goal, several initiatives will be implemented, including the provision of adequate and effective infrastructure, the establishment of alternative and innovative education centres to reintegrate children who have dropped out of school, and ensuring universal school participation by closely monitoring students and their learning progress. Additionally, counsellors or trained social workers linked to schools and teachers will offer continuous support. work with students and their parents to ensure that all school-age children are attending and learning in school.

- **5+3+3+4 Structure:** A new educational system consisting of 5 years of foundational learning, 3 years of preparatory learning, 3 years of middle school, and 4 years of secondary education.
- **Multiple Entry and Exit Points:** Higher education institutions will provide flexible entry and exit options, allowing students to customize their educational journey.

- **Focus on Vocational Education:** Vocational education will be incorporated into the regular curriculum, giving students the opportunity to pursue vocational courses starting from Class 6.
- **Promotion of Digital Literacy:** The policy emphasizes integrating technology into education, aiming to enhance students' digital literacy skills.

The Annual Status of Education Report (ASER) 2018, which surveyed 546,527 children aged between 3 and 16 years from 354,944 households across 596 districts in rural India, presents a mixed picture of educational progress. The report reveals a slight decline in the proportion of children not enrolled in school from 3% to 2.8% in 2018. Additionally, the percentage of out-of-school girls aged 11 to 14 decreased significantly, from 10.3% in 2006 to 4.1% in 2018.

While these statistics indicate a positive trend in terms of school participation, the report also highlights that this upward trajectory has not translated into expected improvements in the quality of education. Both enrolment rates and foundational learning outcomes still fall short of national goals, underlining the gap between access to education and actual learning achievements.

The 14<sup>th</sup> ASER report 2024 survey was conducted in 29 states their 17997 village across 605 rural districts. It reached 649491 children in the 3-16-year age group, and tested the reading and arithmetic skills of over 500000 children in the 5–16-year age group. The proportion of class 3 students in government schools able to read a class 2 text rose to 23.4% in 2024, 16.3% in 2022, and 20.9% in 2018. This raises the quality issues being compromised through the act. The UN Sustainable Development Network released the Sustainable Development Report 2024. On average, only 16% of the SDG targets are on track to be met globally by 2030, while 84% show limited progress or regression. India is ranked 109<sup>th</sup> with on-track performance in poverty reduction and quality of education targets, while decreasing progress in sustainable cities and climate action targets.

### Suggestion

- The government should provide free sanitary napkins to adolescent students, ensuring that every girl has access to essential menstrual hygiene products without financial barriers.
- Schools should have clearly separated toilets for boys and girls to ensure privacy and safety. This helps create a comfortable environment, especially during adolescence.
- Develop a comprehensive framework to regulate private schools while ensuring they remain accessible to economically disadvantaged students.
- The government would ensure that schools across the nation are equipped with the same level of infrastructure, technology, and educational materials, ensuring no child is left behind due to resource disparities.

## CONCLUSION

The Right to Education (RTE) is a fundamental human right that guarantees every child access to free, quality education. It plays a crucial role in social empowerment, offering equal opportunities to children, irrespective of their background or socio-economic status. By fostering inclusivity, enhancing literacy rates, and promoting an equitable society, RTE seeks to break the cycle of poverty and pave the way for a more just and prosperous future. However, for its full potential to be realized, continuous efforts are needed to improve infrastructure, enhance teacher quality, ensure curriculum relevance, and address regional disparities. The successful implementation of RTE is vital for the overall development of children and the progress of society as a whole.

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