



# “The Aim & Purpose Of Indian Education In The Ambit Of Art. 21 Of Indian Constitution”

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## Abstract

"Right education should assist the learner in understanding his own greatest interest in addition to helping him improve his abilities.<sup>1</sup>" We are dedicated to making sure that all kids, regardless of gender or social class, have access to education. An education that helps students to gain the abilities, information, attitudes, and values required to become responsible and engaged Indian citizens. Children are the pioneers of education, which is one of the major cornerstones for the growth of a nation. As children's education serves as the foundation for future advances, providing education at the grassroots level becomes crucial for a nation. The most important organisation of this kind, the Committee on Economic, Social, and Cultural Rights (CESCR), asserts that education is both a fundamental human right in and of itself and a critical tool for achieving other fundamental rights. Through the 86th Constitutional Amendment of 2002, India has embraced the right-based approach to education. As a result of the two rulings by the Supreme Court in *Mohini Jain v. UOI* and *J. P. Unnikrishnan v. State of Andhra Pradesh* as well as the Saikia Committee's recommendations, Article 21A was added to the Indian Constitution in 2002 through the 86th Constitutional Amendment Act, making all children between the ages of 6 and 14 obligated to receive free and compulsory education.

## Introduction

When we study education, we learn that education is defined differently by many academics and illustrious people. Education's etymology may be traced back to the Latin words *educare*, *educare*, and *educatum*. *educar* in Spanish and *eduquer* in French. *Educare* is Latin for "to bring up, nurture, nourish, or mold." The teacher must raise the child in the same way that a plant is raised in a garden. His potential should be nurtured and cared for appropriately. The essence of the country is education, and without it, the country cannot survive. As a result, the cornerstone of the country is education. It is crucial to the overall growth and

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effective operation of democracy. The process of education starts at birth and lasts all the way until death. As students progress through school each year, the focus of educational achievements mostly shifts from collective to individual gains. For this reason, children must attend school for the first 10 or 12 years of their lives.”

According to Durkheim (1956), "education is the effect that mature generations have on those who are not yet ready for social life" (p. 71). In other words, the main goal of education is to support children's intellectual growth and physical improvement. Additionally, kids should be encouraged at school to develop the moral qualities that political society demands, as failing to do so might cause social issues that would cost society more money to resolve.<sup>2</sup>

Education aids in the child's general growth and prepares him for professional training. All Indian citizens are required to complete a basic education since it is the cornerstone for supporting professional training programmes that provide knowledge in specialised fields. “The most important investment in human growth is education, which is also a tool for creating an equitable and just society and for fostering economic prosperity. In addition, the government has established a number of national institutions to promote and defend citizens' right to an education. The dynamic process of education begins at birth.<sup>3</sup>” Education is both a fundamental and a human right. It encourages respect for human rights and basic freedoms, as well as peace. The importance and need of education have been highlighted on the common platform of the United Nations through the medium of several covenants and treaties, and it is today recognised as a fundamental human right. The most crucial component of higher education is elementary education. In light of this, universalizing elementary education makes it necessary for the state to offer free and required education to all children aged 6–14. The Sarv Shiksha Abhiyan is one such cutting-edge initiative that aims to give everyone access to education. Every kid in India between the ages of 6 and 14 is guaranteed the right to education as a basic right under Article 21 A of the Indian Constitution<sup>4</sup>.

A person acquires discipline, attitude, conduct, and awareness of the many situations in life via education. Education provides people with experiences and the positive characteristics of an educated person, not just the ability to attend school, university, and so on.

### **Through the lens of the Indian Constitution**

The goal was to eradicate illiteracy from the nation. Because of the value of education, the government amended the constitution (86th Amendment Act of 2002) and included a new article 21A that declares children between the ages of 6 and 14 have a basic right to an education<sup>5</sup>. The current revision, however, made it clear that a separate Education Bill would need to be drafted in order to clarify the manner in which the Right to Education would be implemented.

Article 45 of the Indian Constitution of 1950 stated this as one of the directive principles of state policy.

<sup>2</sup> Dewey, J., "My Pedagogic Creed," 1897. 77–80 in *The School Journal*, LIV(3).

<sup>3</sup> Gursharan Singh Kainth, "The Right to Education," Bharti Publications, Delhi, 2014, page 29

<sup>4</sup> The Constitution of Law by Dr. Narender Aggarwal, Allahabad Law Agency, Faridabad 2016, p. 297

<sup>5</sup> "Right to education" by Dr. Gursharan Singh Kainth, page 217, Bharti publishing, Delhi, 2014.

A constitutional amendment was made in 1976 to make education a concurrent topic that falls under both federal and state jurisdiction.

In the 1993 case of *Mohini Jain V. State of Karnataka*<sup>6</sup>, the Supreme Court determined that the right to education is a basic right that follows from the right to life guaranteed by Article 21 of the Indian Constitution.

In 1997, a constitutional amendment was proposed that would have made education a basic right.

Article 21A, changes to Article 45, and a new fundamental duty mandated by Article 51A(k) were all added to the Constitution in 2002.

Discrimination based on grounds of religion, ethnicity, caste, sex, or place of birth is forbidden under Article 15. The state, however, is free to make any further measures for women and children, according to Article 15(3), which specifies that nothing in this article shall impede them<sup>7</sup>.

According to Article 29(2), "No citizen will be refused admittance into any educational institution maintained by the state or receive help out of public funds on the basis of any religion, race, caste, language, or any combination of these<sup>8</sup>."

Article 30 protects linguistic and religious minorities. They may design and manage any institutions they wish<sup>9</sup>.

The Indian government began enforcing the rule requiring free and compulsory education for all children in the age range of 6 to 14 years on April 1, 2010, nearly eight years after the Constitution was changed to include education as a basic right. The new law mandates that local and state governments work together to make sure that every kid attends a school in their community.

### **A DREAM OR A REALITY FOR THE RIGHT TO EDUCATION IN INDIA?**

However, after gaining its independence, India's educational position has grown steadily but gradually, but not to the extent that it should. A few factors contributing to India's slow progress in education include the inadequate teacher-to-student ratio, the government's low budget allocation for education, the private sector's entry into the sector as a result of FDI investment, the poorly implemented education policies, the high taboo against female education in remote areas, the lack of skill- and job-oriented education in the schools, illiteracy, and the lack of parental motivation for education.<sup>10</sup>

The creators of the constitution recognised the importance of the right to an education and included a clause in the Directive Principles of State Policy requiring the state to be in charge of education. Despite implementing policies one after another, the succeeding administrations were unable to carry out the constitution's design because of a lack of dedication and pervasive corruption. Depending on the calibre of the students and their financial situation, the right to education entails the right to free and compulsory education at the elementary or foundational level as well as further education.

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<sup>6</sup> AIR 1992 SC 1858

<sup>7</sup> Supra 12

<sup>8</sup> ibid

<sup>9</sup> ibid

<sup>10</sup> Sourina and Bej How the government intends to sell off India's educational system, Dailyo, (11-12-2015)

<https://www.dailyo.in/politics/occupy-ugc-smriti-irani-higher-education-modi-government-wto-gats-chennaihrd-ministry-digital-india/story/1/7891.htm>

The availability, accessibility, acceptability, and flexibility of education are mentioned in several international conventions, agreements, protocols, and declarations that maintain the right to education<sup>11</sup>. Nationally, the Right to Education Act, the Constitution, and judicial rulings all presuppose that the right to education is a basic right. The aforementioned presumptions have been taken into account when developing the national policy on education. However, the universal right to education remained unattainable due to its inadequate execution and, in addition, the lack of political will on the part of the decision-makers. The ineffectiveness of the Right to Education Act and the urge for privatisation are two of them.

### **The actions taken by the Indian Supreme Court**

Education was only one area where the administrative and legislative parts of the Indian government lacked effectiveness. The Supreme Court of India appears to have been compelled to offer relief to people who were disgruntled with successive administrations' inability to accomplish constitutionally required goals starting in the late 1970s.

The Supreme Court has utilised this authority over the years to handle a broad and diverse range of issues, despite the fact that it was initially intended to provide assistance to the most vulnerable segments of society. In the 1990s, the Court addressed a number of issues relating to India's expanding middle class using its P.I.L. jurisdiction.

The Supreme Court was asked to rule on the constitutionality of the right to education in two cases in the 1990s: *Karnataka State v. Mohini Jain*<sup>12</sup> and *Unni Krishnan. P v. State of Andhra Pradesh*<sup>13</sup> which contested the legitimacy of state legislation passed to rein down the exorbitant "capitation" fees imposed by for-profit universities. It's interesting that, although dealing with concerns related to higher education, both of these cases ultimately led to rulings that had an impact on elementary education.

It is important to note that, of the various articles in Part IV, only Article 45 mentions a time limit; none of the other articles do. The Supreme Court expressed its displeasure with the apparent disregard for Article 45 while discussing the constitutional position of the right to education in *Unni Krishnan P v. State of Andhra Pradesh*. Is it accurate to say that the responsibility created by Article 45 becomes an enforceable right once 44 years have passed, which is more than four times the time period stipulated in that article? In light of this, we are obligated to remark that India's distribution of funding to various education sectors shows a reversal of the Constitution's stated goals<sup>14</sup>.

The Court stressed the importance of the rights included in the Directive Principles for both governing and interpreting the Fundamental Rights' substance. According to the Court's interpretation of the pertinent constitutional provisions, every child in the nation is entitled to a free education up until the age of fourteen, beyond which time his access to an education is subject to the state's economic ability and development.

<sup>11</sup> General Comment No. 13, Paragraph 6.

[http://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/d\)GeneralCommentNo13Therighttoeducation\(article13\)\(1999\).aspx](http://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/d)GeneralCommentNo13Therighttoeducation(article13)(1999).aspx)

<sup>12</sup> A.I.R. 1992 S.C. 1858

<sup>13</sup> A.I.R. 1993 S.C. 2178

<sup>14</sup> International Covenant on Economic, Social, and Cultural Rights, G.A. Res. 2200A (XXI), U.N. General Commission on the International Abolition of Racial Discrimination, 21st Session, Supp. No. 16, at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, became operative on January 3, 1976.

## Conclusion

Given that villages make up the majority of the population in India, it is important that the state provide education to all children without distinction based on their socioeconomic status. Private organisations or non-state companies may offer education, but at a high cost that children from underprivileged or disadvantaged backgrounds would find difficult to pay. Even at the fundamental or basic level, poor infrastructure and a lack of competent, committed instructors prevent distant places from providing students with a high-quality education. The government was unable to compete with private organisations that had solid infrastructure and a committed team of professionals to increase the level of education because it failed to renovate public schools and colleges using state funding. Universal Elementary Education is outlined in the National Policy on Education of 1986, but its implementation has been hampered by the upgrading and commercialization of the education sector. Even the RTE for 2009 fell short of achieving the anticipated pace of increase. It is also important to highlight that great education can only be taken into account if a child's whole development is taken into account. A complete, high-quality education that addresses a child's development is required, as literacy alone will never be sufficient for a child's progress. Education has become a pipe dream for many people, especially socially and economically disadvantaged children, due to the ineffective execution of constitutional requirements on education through national education policies and RTE. As a basic and human right, the right to education must be aggressively implemented by the state to ensure that everyone is treated equally without distinction based on socioeconomic factors.

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