

FUNDAMENTAL RIGHT TO EDUCATION OF CHILDREN, ESPECIALLY IN REMOTE AREAS; WITH SPECIAL REFERENCE TO ANDAMAN AND NICOBAR ISLANDS

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INTRODUCTION

Education is a very important aspect of anyone's life because it focuses on the overall development of an individual; by this, an individual becomes a responsible citizen of the nation, and responsible citizens are very much required for the success of any democracy; education, they come to know of their basic rights and duties, basic morals and can very well ascertain between right and wrong, and they can even guide others to the right path. Even education is included as one of the 17 Sustainable Development Goals of the UN under SDG 4¹ (Quality Education).

So, education must be provided to all. But, in India, education is not being provided to all as there are various constraints on children in India that do not let them get even basic education due to various factors like poverty, lack of opportunities in remote areas, lack of interest in parents who are not fully conscious of advantages of good education, lack of good quality infrastructure and even the ratio of pupil-teacher ratio is very low in some of the areas of India. So, there is a dire need to get them educated, and there have been various political and judicial debates around it. Now, separate legislation for it has even been made, that is the *Right to Education Act, 2009*². But its origin can be traced back to various other provisions before it got the form of legally enforceable legislation.

CONSTITUTIONAL PROVISIONS AND *RIGHT TO EDUCATION ACT, 2009*³

When the constitution was being framed, then the provision for education was added to it in the form of DPSP (*Directive Principles of State Policy*) under the aegis of Article 39(f)⁴ and

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¹ *Goal 4 | Department of Economic and Social Affairs* (no date) *United Nations*. United Nations. Available at: <https://sdgs.un.org/goals/goal4> (Accessed: March 23, 2023).

² *Right to Education Act, 2009*, No. 35, Acts of Parliament, 2009 (India)

³ *Id.*

⁴ INDIA CONST. art. 39, cl. f.

Article 45⁵. Article 39(f)⁶ says that “*the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment*”. , while article 45⁷ says that “*The State shall endeavor to provide early childhood care and education for all children until they complete the age of six years*”.

So, the constitution makers did care about childhood education and they wanted the upcoming governments to make legislation in this regard. But as these provisions were added as DPSP, they were non-justiciable, that is they could not be enforced under a court of law. But later on, on the recommendation of the Tapas Majumdar Committee (1999), the *Right to Education* was added as a Fundamental Right under *Article 21A*⁸ by the *86th Constitutional Amendment Act, 2002*; and it was made into legislation by the *Right to Education Act, 2009*, which came into force in 2010. This act was made particularly for the age group of 6-14 years. The act incorporated the expressions “free and compulsory”. These words signify that the child which has been admitted to a public school/government-supported school must receive free education without any expenses that may prevent him from getting elementary education, and the phrase "compulsory education" places a duty on the relevant authorities to ensure enrolment of children in schools, especially for the age range of 6 to 14. At first, it also had a No- Detention clause in it, but it was removed by the *Right of Children to Free and Compulsory Education (Amendment) Act, of 2019*. The No- Detention Clause meant that the children upto the class 8 would not be held back even if they did not get passing grades. 6. World Bank's education specialist, assigned to India, said that The RTE Act is the first law in history to make the government responsible for assuring enrolment, attendance, and completion. The children's attendance in schools in the US and other nations is the parents' duty.⁹ The Persons with Disabilities Act, a separate piece of legislation, establishes the right to education for people with disabilities up to the age of 18.

⁵ INDIA CONST. art. 45.

⁶ *Supra* note 4.

⁷ *Supra* note 5.

⁸ INDIA CONST. art. 21A inserted vide The Constitution (Eighty Sixth Amendment) Act, 2002 (w.e.f. April 1, 2010).

⁹ (no date) *Right to education*. Available at: <https://www.righttoeducation.in/know-your-rte/about> (Accessed: March 24, 2023).

VIEWPOINT OF INDIAN COURTS

The Right to Education can be traced back even through various case laws in the case of *Mohini Jain v. State of Karnataka*¹⁰, the Supreme Court made the observation that, despite the Constitution's lack of an explicit guarantee of education right, Article 21's fundamental right to life and human dignity cannot be realized without the right to education. The Court also determined that "It [is] clear that the framers of the Constitution made it obligatory for the State to provide education for its citizens". "The right to life "extends beyond "life and limb" and includes the need for basic necessities like food, shelter, and education," according to a number of decisions cited by the Supreme Court in support of its reasoning.¹¹

Further in the case of *Unni Krishnan, J.P & Ors. v. State of Andhra Pradesh & Ors*¹². The Supreme Court in this case "confirmed the ruling in *Mohini Jain v. Karnataka*, holding that the right to life flows from the right to education and requires the State to provide basic education to all citizens up to the age of 14 in accordance with this right." The judgment did, however, restrict the right to higher education, which is dependent on the State's economic development and capabilities.¹³

Further, in the case of *Avinash Mehrotra v. Union of India*¹⁴, "There is a fundamental right to receive an education free from fear of security and safety, and the right to education incorporates the provision of safe schools pursuant to Articles 21 and 21A of the Constitution," the Supreme Court ruled. The State is required to make sure that children don't suffer any harm while exercising their fundamental right to education, regardless of where a family chooses to teach its children (including private schools).¹⁵

CONDITION OF EDUCATION IN ANDAMAN & NICOBAR ISLANDS

The first Primary school in the Islands was founded in 1881–1882 for the inmates and their children, beginning the evolution of education in the A & N Islands at the end of the 19th century. This school was established in a hut and given a two-story structure in 1890. It was a single-teacher institution that used Urdu as its primary language of teaching while adhering to

¹⁰ *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858.

¹¹ *Id.*

¹² *Unni Krishnan, J.P. v. State of A.P.*, (1993) 4 SCC 111.

¹³ *Id.*

¹⁴ *Avinash Mehrotra v. Union of India*, (2009) 6 SCC 398.

¹⁵ *Id.*

the Punjab Education Department's syllabi, curriculum, and code. Since 1895, this school's enrolment has been growing to the point where the local administration was forced to open six other primary schools in and near Port Blair in 1900. One of these institutions, which continued to operate in accordance with Punjab Education Department regulations, was Anglo-Vernacular and was elevated to Middle School in 1904–1955. An educational inspector from Bengal visited the schools in the prison colony of the A & N Islands in 1905–1906¹⁶.

All children up to the age of 14 are to get a free, required, and effective education, according to the National Policy on Education. The aim of the education department is to establish a primary school within 1.0 km of each settlement with a population of 150 or more, keeping this as the major thrust area. In rural areas without primary schools, non-formal education centers have been established.

In the 36 islands that make up the A & N Islands, there are 396 schools. 306 of them are run by the Department of Education, 2 by the Kendriya Vidhyalaya Sangatan, 2 by the Navodaya Vidhyalaya Samiti, 2 are aided schools, 2 are maintained by the Municipal Council, and 71 are privately run schools. 24 of the 306 government schools are located in tribal communities. As of September 30, 2008, there were 85267 students enrolled in all of these schools, including 6018 Aboriginal children. Five different languages— Hindi, English, Bengali, Telugu, and Tamil —are used to deliver education. The CBSE is a partner with all senior secondary and secondary schools. 48.38 percent of students are female, and 56.6 percent of teachers are female. In the schools, there are 4726 teachers. 1:18 is the instructor-to-student ratio.

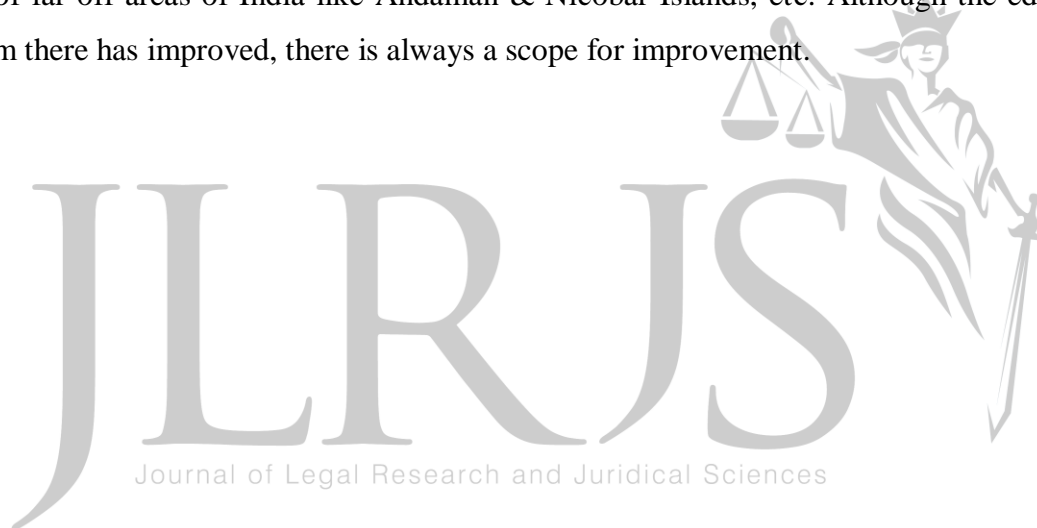
The administration is working tirelessly to boost enrolment and retention at the institution. The Andaman and Nicobar Islands' population had an 86.63% literacy rate in 2011, according to the Indian census, and has constantly remained stable over time. The rate is also greater than the national average of 77.7%, which gives the islands' educational system a positive impression. But still, the education system on the island, which is also a union territory, is not at par with the education system of other union territories of India like Delhi, Chandigarh, etc. probably because of the lack of employment opportunities in factories which discourages the people to further proceed for education, and also the environmental conditions have a lot to say about as this; as the tsunami of 2004 had greatly impacted the infrastructure facilities of

¹⁶ (no date) *Home // Directorate of Education, Andaman & Nicobar Administration, India*. Available at: <https://education.andaman.gov.in/History.aspx> (Accessed: March 24, 2023).

schools, which also need a revamp. So, the coordination of the administration and the local population is required for furthering the development of the education system on the island.¹⁷

CONCLUSION

All in all, it can be said that education has an important say in a nation's overall development and even internationally the significance of education has got the limelight. And India has taken various steps in furthering education to be available to the common masses by making various initiatives, like, under *Article 21A*, the *Right to Education* was made a fundamental right, and passing legislations like the *Right to Education Act, 2009*, and also passing various schemes like *Sarva Shiksha Abhiyan*, etc. But, still, India has a long road ahead in front it like in the case of far-off areas of India like Andaman & Nicobar Islands, etc. Although the education system there has improved, there is always a scope for improvement.



¹⁷ Lexpeeps (2021) *Fundamental rights of the child to education in Andaman and Nicobar Islands*, Lexpeeps. Available at: <https://lexpeeps.in/fundamental-rights-of-the-child-to-education-in-andaman-and-nicobar-islands/> (Accessed: March 24, 2023).