

ROLE OF CONSTITUTION AND ITS SCOPE IN PROMOTING EDUCATION IN INDIA: A CRITICAL ANALYSIS

Kangna Mishra*

ABSTRACT

India has the 2nd second-largest educational system in the world after China. The progress of any country in all aspects is directly linked to Education. Education is not just limited to creating a progressive country, but it is also the fundamental Right of every citizen in India. However, it isn't easy to define Education in one definition. Various articles and amendments, particularly the 86th Amendment of The Indian Constitution and judicial pronouncement, underscore education as a fundamental right. This article talks about the RTE Act, Article 21A, Directive Principles of State Policy, and National Education Policy (NEP), which play a significant role in Education, achieving social justice, and the nation's overall development. It also highlights the challenges, loopholes, and measures the higher authority should take.

Keywords: Fundamental Rights, 86th Amendment, RTE Act, Directive Principles, National Education Policy, Loopholes.

INTRODUCTION

The growth of a nation relies on a well-educated society. "Give a man a fish, and you feed him for a day; teach a man to fish, and you feed him for a lifetime." - Maimonides. The Constitution of India is built on the pillars of justice, liberty, equality, and fraternity. Upholding these enduring values, Education stands as the primary pathway. Throughout the history of India, many great visionaries have highlighted the importance of Education as the foremost tool, providing us with the capabilities to protect our human rights, build our reputation in society, and understand how to protect our constitution and nation. Education was considered sacred in Ancient India, and teachers earned everyone's respect¹. In ancient India, a healthy mind and body were equally important. Ancient Indian studies mainly focused on Religion, Warfare, Medicine, etc. Gurus and their pupils cooperated to learn all aspects of learning. In modern India, the first steps toward implementing Education as a fundamental right in India were taken

*BBA LLB, SECOND YEAR, SISTER NIVEDITA UNIVERSITY, KOLKATA.

¹Athira Prasad, Right to education: A Critical Analysis of the Indian Approach, National university of advanced legal studies, Kochi

on August 4, 2009, with the passing of the Right of Children to Free and Compulsory Education Act 2009. The main goal of the act is to ensure universal access to Education. In December 2002, the constitutional 86th Amendment came into effect, which made free and compulsory Education a fundamental right under Article 21A by providing that: -

"The state shall provide free and compulsory education to all the children of six to fourteen years in such manner as the state may, by law, determine"².

Article 26 of the Universal Declaration of Human Rights declares:

Everyone has the Right to Education. Education shall be free, at least in the elementary and fundamental stages. Elementary Education shall be compulsory. Technical and Professional Education shall be generally available, and higher Education shall be equally accessible to all based on merit³. There are two groundbreaking verdicts as follows:

Mohini Jain v. State of Karnataka (1992)

In this matter, Mohini Jain⁴, a resident of Uttar Pradesh, challenged the Karnataka government's notification that authorized the private medical college to charge high fees from students not admitted under "government seats".

The judgement holds historic importance in this case by declaring that the Right to Education is intrinsically linked with the Right to life and highlighting the preamble of our constitution, which ensures justice, equality, liberty and fraternity in every aspect. The court also stressed that charging unreasonable fees in educational institutions violates Article 14. These statements made by the court were obvious that every state was responsible for providing academic services for the welfare of the people. Therefore, Fundamental rights and Directive principles of state go hand in hand.

Unni Krishnan J.P & Others v. State of Andhra Pradesh (1993)

There is an extension of Mohini Jain's case, which brings more clarity to the decision made in this case. The issue arises in Unnikrishnan case⁵ law, whether the educational Right provided under Article 21 of our Indian Constitution extends to Professional Education. Article 45 must

² Indian Constitution (Eighty-Sixth Amendment) Act 2002, art 21A.

³ Universal Declaration of Human Rights 1948, art 26.

⁴ Mohini Jain v State of Karnataka [1992] 3 SCC 666 (SC)

⁵ Unni Krishnan, JP and Others v State of Andhra Pradesh and Others (1993) 1 SCC 645 (SC).

be read in tune with Article 41. In this case, the court held that the fundamental Right to Education is restricted to the age of 14 years. After 14, providing compulsory Education to the people is based on the state's economic capacity. These two groundbreaking judgements led to the 86th Amendment Act of 2002.

NAVIGATING LOOPHOLES IN INDIA'S EDUCATIONAL LANDSCAPE⁶

India has a rich history of academic excellence dating back to ancient times, with prestigious institutions like Nalanda University. But currently, Indian Education facing numerous challenges and considerable criticism, primarily due to several underlying reasons:

- The education system needs to be updated to equip students for the challenges of the modern world.
- Underpaid, overworked, and limited academic material are the primary factors for burnout. Educative facilitators in some areas.
- More qualified educators need to be hired nationwide, particularly in rural areas.
- The Indian education system mainly focuses on cramming and textbook knowledge only rather than understanding the concepts to evaluate the students in the examination, which leads to heavy stress, anxiety, and depression among students.
- The students' intelligence is determined by their grades in many schools and colleges, and the parents of the students wish only for their child to become a CA, Doctor, IAS officer, or Engineer and be pushed to excel academically.
- The educational institutions are mainly focused on the student's marks. They thought only the students' marks could build the institution's reputation in the market, and they didn't teach ethics, manners, and Character.
- Quotas and Reservation systems reduce the quality of the education system, resulting in many deserving students from general categories being overlooked, and the authorities have to choose the marginalized group that is not deserving of the seat.

⁶ Harshitha, 'Top Challenge in the current Indian education system' (5 September 2023) <https://www.orchidsinternationalschool.com/blog/recommended/top-challenges-in-the-current-indian-educational-system> accessed 7th May 2024.

- Many college and university students are influenced by political agendas, causing them to lose their own identities and personal goals.
- Students often feel demotivated compared to their peers based on grades and capabilities, negatively impacting their mental well-being and pursuit of Education.

If these loopholes continue, there will never be any growth in our country's education system. As mentioned in this article, Education is the only source of enduring values safeguarding our constitution and nation. Education doesn't merely mean Education. Instead, it must be quality education.

"The function of Education is to teach one to think intensively and critically. Intelligence plus Character is the goal of true Education." – Martin Luther King Jr.

RIGHT TO EDUCATION ACT (RTE): IMPLEMENTATION AND CHALLENGES

This act came almost sixty years after independence. It guarantees that Indian children aged 6-14 will receive the most basic Education. This act endeavours to provide free, compulsory, and quality education for all. Provisions also endeavour to enrol children in schools who were not attending school into an age-appropriate class. It prohibits activities such as Physical punishment, mental harassment, capitation fees, private tuition, and running unregistered schools. It promised to ensure equitable distribution of teachers and pupils in the school. It mandates that every private school must reserve some percentage of seats for economically backward and disadvantaged groups of society⁷.

CHALLENGES IN IMPLEMENTING THIS ACT

- No set of penalties is specified if the authorities fail to provide rights ensured under this act.
- More focus needs to be placed on quality education, as ensured by this act, instead of on RTE statistics.
- Children below the age of 6 were not covered under this act.

⁷ Abhiram Sajai, Right to Education: Implementation, Problems and Challenges (April 1, 2023) [Right to Education: Implementation, Problems and Challenges \(sociologygroup.com\)](https://sociologygroup.com) accessed 19, 2024.

- Many orphans are left out of this act because birth certificates, BPL certificates, and other documents are required at admission.
- Five states of India, namely Goa, Manipur, Mizoram, Sikkim and Telangana, have yet to issue the notification regarding 25% seats for backward communities children of society under the RTE Act.
- There was a 'no detention' policy till class 8⁸.

A Productive Environment and availability of supplies would open the door for a better future for individuals and the nation.

DIRECTIVE PRINCIPLES OF STATE POLICY FOR EDUCATION

Articles 36 to 51A in Part IV of the Constitution Covered Directive Principles of State Policy provide three guiding foundational frameworks for national policies and priorities in Education. These are :

As per Article 41- The State shall, within the limits of its economic capacity and development, make adequate provisions for securing the Right to work and Education.⁹

As per Article 45 - The State shall endeavour to provide early childhood care and Education for all children until they are six years old.¹⁰

As per Article 46 - "State shall promote with special care the educational and economic interests of the weaker sections of the people in particular of the Scheduled Castes and the Scheduled Tribes and shall protect them from social injustice and all forms of exploitation".¹¹

However, the Government implemented other various policies and schemes at the state and national levels, such as National Education Policy 2020, the Beti Bachao Beti Padhao Scheme, the Rashtriya Madhyamik Shiksha Abhiyan and the National Digital Education Architecture, etc. Various stakeholders, such as UNICEF, UNESCO, the World Bank, private companies, etc., supported these schemes and policies.

⁸ Roshan Melwyn Lobo, 'RTE ACT 2009 and Issues in its implementation' [2022] vol 10 IJCRT, accessed May 19,2024.

⁹ Constitution of India, art 41.

¹⁰ Constitution Of India, art 45.

¹¹ Constitution of India, art 46.

THE NATIONAL EDUCATION POLICY (NEP) 2020

The initiative aims to bring transformative reforms to Education in India, focusing on equity, access, quality, and affordability. It addresses gaps in the education sector and prioritizes socio-economically disadvantaged backgrounds to ensure equality for underrepresented groups. It replaces the previous National Education policy, 1986.

Rather than taking exams every academic year, Students studying in the school will now attend three exams in classes 2, 5 and 8. Board exams will be taken for only class 10 and class 12 students. The standard for board exams will be based on **PARAKH**¹² (Performance Assessment, Review and Analysis of Knowledge for Holistic Development). The exam will be taken in two parts. For Higher Education, NEP proposed a 4-year-multidisciplinary bachelor's degree in an undergraduate programme.

THE CURRENT SCENARIO OF EDUCATION IN INDIA: DATA FROM CENSUS 2011

As per Census 2011, the literacy rate in India is 74%, with 81% for males and 65% for females. Kerala ranks at the top in literacy rate, and Bihar has the lowest literacy rate among other states in India. However, they are improving their position in the Education Sector. During 2001-2011, The female literacy rate increased by 12% and the male literacy rate increased by 6%. In Bihar, the female literacy rate increased from 33% in 2001 to 53% in 2011, a noteworthy achievement. The gender gap literacy rate is high in Rajasthan, with the lowest female literacy rate in India.¹³

SUGGESTIONS TO OVERCOME THESE LOOPHOLES

"And Just Because you have colleges and Universities does not mean you have an Education."
– Malcolm.

To enhance the education system, the Government should introduce liberal studies and incorporate practical applications of the subject to make learning more engaging and relevant. The Government should stand for STEM Education, i.e. Science, Technology, Engineering and Mathematics. It improves the creativity and innovative skills of young individuals. If the

¹² Sreeramana Aithal et al., 'Analysis of the Indian National Education Policy 2020 towards Achieving its objectives' (International Journal of Management, technology, and Social Sciences 2020).

¹³ All India Survey on Higher Education (India, 2021).

schooling system provides a satisfactory education, then there is no need for additional coaching as it puts a financial burden and stress on parents. Society should be supportive towards Education. Trained teachers should be recruited to replace para teachers to ensure quality education in the country.¹⁴

CONCLUSION

Education is the only way to transform India from developing to developed. Education should encompass the overall development of a child's physical, emotional, social, and cognitive skills so the child grows up autonomous, independent, and Knowledgeable. Education is the primary key for nation-builders and Policymakers. Education in India falls under the concurrent list, which means the central and state governments of India are accountable for establishing and executing education Policy. No doubt, RTE acts as a backbone for Indian Education. The economic growth of any country relies upon its educational system. By analyzing the whole article, I came to a nutshell that Education is the only device by which India and the entire world can achieve their target and aims for their country and the only means through which countries can be integrated into one thread.

¹⁴ James A. Ejiwale, 'Barriers to Successful Implementation of STEM Education' (Journal Of Education and Learning, 2013).