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THE RIGHT TO EDUCATION: AN EMERGING DIMENSION OF ARTICLE 21

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ABSTRACT

The enactment of the Constitution (Eighty-sixth Amendment) Act in 2002 led to the inclusion of Article 21-A in the Constitution of India, which guarantees free and compulsory education for all children between the ages of six and fourteen as a Fundamental Right, subject to the regulations established by the State through law. This amendment made it clear that every child in the age group of 6 to 14 years has the right to receive free education. The inclusion of this provision reflects the Indian state's commitment to empowering its citizens by providing access to education, irrespective of socio-economic disparities. The Act ensures that no child is denied education based on financial constraints. The RTE Act mandates certain standards for schools, including infrastructure, teacher qualifications, and pupil-teacher ratios, to ensure a quality learning environment. One of the immediate outcomes of the RTE Act has been a significant increase in enrolment rates, especially in rural and marginalized communities.

Key Words: Right to education, Article 21, Article 21A, Constitution (Eighty-sixth Amendment) Act in 2002, Directive Principles of State Policy

Introduction

One of the fundamental rights guaranteed by the Indian Constitution⁹¹ is the right to education⁹², which stipulates that all children in the country must receive free and compulsory education. The goal of this right is to guarantee that all children, irrespective of their cultural, social, or economic circumstances, have access to education. By giving its residents the information and skills required for both personal development and societal advancement, the

right to education plays a crucial part in determining a country's destiny.

The enactment of the Constitution (Eighty-sixth Amendment) Act in 2002 led to the inclusion of Article 21-A in the Constitution of India⁹³, which guarantees free and compulsory education for all children between the ages of six and fourteen as a Fundamental Right, subject to the regulations established by the State through law. The Right of Children to Free and Compulsory Education (RTE) Act of 2009⁹⁴ is the legislative framework that follows from Article

⁹¹ https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

⁹² <https://www.constitutionofindia.net/articles/article-21a-right-to-education/>

⁹³ https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/2002_0.pdf

⁹⁴ https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/RTE_Section_wise_rationale_rev_0.pdf

21-A, affirming that every child has the right to receive full-time elementary education of satisfactory and equitable quality in a formal educational institution that adheres to certain essential norms and standards.⁹⁵

Constitutional Provisions

1. Article 21A: The Fundamental Right to Education

“The State shall provide free and compulsory education to all children of the age of six to fourteen years in such a manner as the State may, by law, determine.”

This amendment made it clear that every child in the age group of 6 to 14 years has the right to receive free education. The inclusion of this provision reflects the Indian state's commitment to empowering its citizens by providing access to education, irrespective of socio-economic disparities. It was introduced by the 86th Amendment Act of 2002 with the aim of providing free and compulsory education to all children in the specified age group. The amendment makes it the duty of the State to ensure that every child within the specified age group receives compulsory education. It prohibits discrimination and ensures equal opportunities for education. Article 21A guarantees that education provided by the State to children in the specified age group should be free of charge. It aims to remove financial barriers that could hinder access to education. The responsibility for implementing the provisions of Article 21A lies with the respective state governments. They are tasked with ensuring that adequate infrastructure, facilities, and qualified teachers are available to provide quality education to all children.

To give effect to the provisions of Article 21A, the Right to Education (RTE) Act was enacted in 2009. The RTE Act further elaborates on the specifics of free and compulsory education, including the responsibilities of the government, admission processes, curriculum, and

standards for schools, and mechanisms for monitoring and enforcing the right to education.

2. Article 45: Directive Principles of State Policy

Article 45, originally part of the Directive Principles of State Policy⁹⁶, directs the State to provide free and compulsory education to all children below the age of 14 years. Although it was not enforceable by law, it served as a guiding principle for successive governments in making policies and creating a framework for universal education. Article 21A gives this provision more substance, transforming the right to education into a legal entitlement for children in the specified age group.

In **Mohini Jain vs. State of Karnataka** (1992),⁹⁷ the Court emphasized the fundamental character of the right to education and recognized that access to education is critical for a person's growth. In the absence of a clearly defined constitutional right, the Court took the stand that right to education as an essential prerequisite for the realization of the right to life as stipulated in Article 21 of the Indian Constitution. Furthermore, the Court determined that private institutions, functioning as representatives of the State, are obligated to guarantee equal access to higher education and to prevent discrimination in its provision.

In **Unni Krishnan versus State of Andhra Pradesh** (1993),⁹⁸ the Court stated that the right to education encompasses not only free education but also early childhood care and education, which is a crucial role in preparing children for their academic future. The Supreme Court affirmed that the right to education is a fundamental right derived from the right to life under Article 21 of the Constitution. The ruling held that the State should provide free and compulsory education for children until the age of 14. The Court also directed the State to take appropriate measures to guarantee that

⁹⁶ https://www.education.gov.in/directive_principles_of_state_policy_article-45

⁹⁷ <https://indiankanoon.org/doc/40715/>

⁹⁸ <https://indiankanoon.org/doc/1775396/>

⁹⁵ <https://dse.education.gov.in/rte>

education is accessible to all children and that it meets reasonable quality standards.

The Right to Education Act, 2009

The most important legal development following the 86th Amendment was the enactment of the **Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)**. This Act came into force on April 1, 2010, and it operationalizes the provisions of Article 21A. The key features of the RTE Act include:

Free Education: The Act ensures that no child is denied education based on financial constraints. It mandates that all private schools must reserve 25% of seats for children from economically weaker sections.

Compulsory Education: The Act makes it compulsory for the government to provide free education to all children between the ages of 6 to 14. Parents are also held responsible for sending their children to school. The passage of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) was the most significant piece of legislation to come out of the 86th Amendment. The provisions of Article 21A are operationalized by this Act, which went into effect on April 1, 2010. The RTE Act's salient characteristics include:

Quality Standards: The RTE Act mandates certain standards for schools, including infrastructure, teacher qualifications, and pupil-teacher ratios, to ensure a quality learning environment.

No Detention Policy: Initially, the Act prohibited the detention of children in classes 1 to 8, ensuring that no child could be failed based on their academic performance. However, this provision was later modified to give state governments the discretion to introduce evaluations.

Child-Centric Approach: The Act emphasizes child-centred education, which includes a curriculum that promotes critical thinking and creativity rather than rote learning.

Role of Local Bodies: The Act empowers local bodies to play a crucial role in planning and implementation of educational programs.

Importance and Impact of the Right to Education

The Right to Education is a transformative step in the development of Indian society. Here are some of the key impacts of this fundamental right:

Increased Enrolment Rates: One of the immediate outcomes of the RTE Act has been a significant increase in enrolment rates, especially in rural and marginalized communities. As more children gain access to education, India is moving closer to achieving universal education.

The passage of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) was the most significant piece of legislation to come out of the 86th Amendment. The provisions of Article 21A are operationalized by this Act, which went into effect on April 1, 2010. The RTE Act's salient characteristics include:

Free Education: The Act guarantees that no kid will be excluded from school because of their inability to pay. It requires all private schools to set aside a quarter of their seats for students from lower-income families.

Compulsory Education: Under the Act, all children aged 6 to 14 must get free education from the government. Additionally, parents are accountable for their children's education.

Social Inclusion: The provision of free education ensures that children from economically weaker sections, marginalized communities, and rural areas have access to education. This plays a vital role in reducing social inequality.

Empowerment: Education is a powerful tool for individual empowerment. By ensuring access to quality education, the RTE Act helps break the cycle of poverty and gives children the skills needed to participate actively in the nation's economy and democratic processes.

Improved Gender Equality: The RTE Act has contributed significantly to reducing the gender gap in education. The emphasis on free education ensures that girls, who have traditionally been marginalized in terms of educational opportunities, have an equal chance to learn.

Challenges in Implementing the Right to Education

Despite the significant progress made, there are several challenges in ensuring the full realization of the right to education:

Infrastructure Deficiencies: Many schools, especially in rural and remote areas, still lack basic infrastructure such as toilets, drinking water, and adequate classrooms. This hampers the learning experience and discourages attendance.

Teacher Shortages and Quality: The shortage of qualified and trained teachers remains a significant concern. There are instances of schools with inadequate or untrained teaching staff, which negatively impacts the quality of education.

Disparities in Education Access: While the RTE Act aims to bridge educational inequalities, certain regions and communities still face barriers to accessing education. Children with disabilities, for example, often do not receive adequate facilities for inclusive education.

High Dropout Rates: Despite free education, high dropout rates persist, particularly among disadvantaged groups. This is often due to economic pressures, child labour, and social norms that prioritize other forms of labour over education.

Conclusion

The Right to Education under the Constitution of India is a landmark provision that has made education a fundamental right for all children aged 6 to 14. Through the RTE Act, the government has committed to ensuring that every child has access to free and compulsory education. While the journey toward universal

education faces several challenges, the enactment of the Right to Education signifies India's commitment to building an inclusive society where education acts as a catalyst for social, economic, and personal development. As the nation continues to address challenges like infrastructure, quality of education, and equity, the Right to Education remains a cornerstone of India's democratic values and a beacon for future progress.

To conclude, the right to education is an essential cornerstone of human development and empowerment. It provides every individual, regardless of their background, with the necessary resources for personal development and societal engagement. Despite notable advancements in recognizing education as a universal right, challenges like inequality, accessibility, and quality remain prevalent. Achieving the full potential of the right to education requires a concerted effort from governments, communities, and individuals to eliminate obstacles and establish inclusive, equitable education systems. This collaboration is vital to ensure that education continues to be a powerful driver for a brighter future for all.