

## CONSTITUTIONAL APPROACH TO RIGHT TO EDUCATION: COMPARATIVE PERSPECTIVES FROM INDIA, SOUTH KOREA AND FINLAND

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### ABSTRACT

*The following Research Paper deals with the constitutional approach and implementation of Right to Education in India, Finland and South Korea. It analyses the legal perspective and policy framework of each country. This dissertation stated India's progressive but implementation-challenged Article 21-A, South Korea's achievement-driven yet high-pressure model under Article 31, and Finland's equity-oriented and student-centric approach rooted in Section 16 of its Constitution. This comparative study helped me to find the strengths, weakness, and challenges that every country is facing and how they are accepting it. To conclude, this paper deals with how the policies and framework is supported by the constitutional commitments. Lastly it provides pragmatic recommendations to enhance the education system with the betterment of the society as a whole.*

**Key Words:** Constitution, Right to Education, India, South Korea, Finland, Article, implementation, policy, framework, Section, Society.

### CONSTITUTIONAL PROVISIONS OF THE RIGHT TO EDUCATION

#### 1. The Right to Education in India

The Right to Education in India has undergone a transformative journey—from being part of the Directive Principles of State Policy to gaining the status of a Fundamental Right. Its elevation into Part III of the Constitution through Article 21-A marks a significant constitutional and socio-political milestone, aiming to ensure inclusive and equitable access to education for all children.<sup>461</sup>

#### 1.1 Analysis of Article 21-A of the Indian Constitution

Article 21-A, inserted by the 86th Constitutional Amendment Act, 2002, reads: "The State shall provide free and compulsory education to all children of the age of six to

fourteen years in such manner as the State may, by law, determine."

This article represents a direct mandate to the State, making it legally obligated to ensure that every child in the age group of 6 to 14 receives education without any cost. By placing this right under Part III, the Constitution elevated it to the level of justiciable rights, thereby allowing individuals to seek judicial remedy in case of violation.<sup>462</sup>

However, the wording— "in such manner as the State may, by law, determine"—grants significant discretion to the legislature in terms of framing the operational framework. This balance between enforceability and legislative flexibility has led to extensive judicial scrutiny and legislative development.

<sup>461</sup> Alam, Khabirul, and Ujjwal Kumar Halder. "Human rights and right to education in India." *International Journal of Research and Analytical Reviews* 5.2 (2018): 2183-2186.

<sup>462</sup> Singh, Jagdeep. "Article 21A (Right to education): Critical analysis." *Asian Journal of Multidimensional Research (AJMR)* 3.3 (2014): 45-50.

## 1.2 Legislative and Judicial Developments: The Right to Education Act, 2009

In pursuance of Article 21-A, Parliament enacted the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)<sup>463</sup>, which came into force on 1st April 2010. The Act lays down detailed provisions for access, infrastructure, curriculum, teacher qualifications and grievance redressal mechanisms. It mandates:

- Free and compulsory education in a neighbourhood school
- Norms for pupil-teacher ratio, school infrastructure and inclusive admission
- 25% reservation for children from economically weaker sections in private unaided schools (Section 12(1)(c))
- Prohibition of capitation fees, screening procedures and corporal punishment

The RTE Act reflects a child-centric, equity-based framework, aligning closely with international human rights standards.

## 1.3 Role of the Judiciary in Interpreting the Right to Education

Judicial interpretation has played a pivotal role in shaping the contours of the Right to Education in India, even before the formal enactment of Article 21-A. In *Mohini Jain v. State of Karnataka (1992)*<sup>464</sup>, the Supreme Court held that the right to education is a fundamental right under Article 21 (Right to Life), emphasizing that the State cannot deny access to education due to financial constraints.

This view was further solidified in *Unni Krishnan v. State of Andhra Pradesh (1993)*<sup>465</sup>, where the Court explicitly linked education with the right to life, holding that children up to the age of 14 have a fundamental right to free education. It also recognized that beyond that age, the right

is subject to the State's economic capacity and development.<sup>466</sup>

Post the enactment of Article 21-A and the RTE Act, the judiciary has continued to enforce and expand the right. In *Society for Unaided Private Schools v. Union of India (2012)*<sup>467</sup>, the Supreme Court upheld the constitutionality of the 25% reservation for disadvantaged children in private schools, affirming that the right to education is not just a policy measure but a constitutional mandate.

Furthermore, High Courts across India have addressed specific grievances related to infrastructural inadequacies, mid-day meal schemes and the denial of admission, thereby reinforcing judicial activism as a key mechanism for realising the right.

In conclusion, the constitutional recognition of the Right to Education under Article 21-A, supplemented by the RTE Act, 2009 and reinforced by judicial pronouncements, has created a robust legal foundation for educational rights in India. However, implementation challenges remain—particularly regarding quality, equity and infrastructural support. The judiciary continues to serve as a vital institution in bridging the gap between constitutional promise and ground realities.

## 2. The Right to Education in South Korea

South Korea has long recognized education as a cornerstone of its national development. The country's impressive rise in economic and social indicators is often attributed to its strong commitment to accessible, high-quality education. This commitment is constitutionally enshrined in Article 31 of the South Korean Constitution, which provides the foundation for a comprehensive, rights-based educational framework.<sup>468</sup>

<sup>463</sup> Sarkar, Chanchal Chand. "Right of Children to Free and Compulsory Education Act, 2009 and its Implementation." *India Infrastructure Report 2012*. Routledge India, 2016. 33-43.

<sup>464</sup> *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666.

<sup>465</sup> *Supra* Note 12.

<sup>466</sup> Simon-Kerr, Julia A., and Robynn K. Sturm. "Justiciability and the role of courts in adequacy litigation: Preserving the constitutional right to education." *Stan. JCR & CL* 6 (2010): 83.

<sup>467</sup> *Society for Unaided Private Schools of Rajasthan v. Union of India*, (2012) 6 SCC 1.

<sup>468</sup> Sorensen, Clark W. "Success and education in South Korea." *Comparative education review* 38.1 (1994): 10-35.

## 2.1 Examination of Article 31 of the South Korean Constitution

Article 31 of the Constitution of the Republic of Korea lays down the basic legal framework for the right to education. It comprises several clauses, the key ones being:

1. "All citizens shall have an equal right to receive an education corresponding to their abilities."
2. "Compulsory education shall be free and at least elementary education shall be compulsory."
3. "The independence, professionalism, and political impartiality of education and the autonomy of universities shall be guaranteed."

This article not only guarantees access but also emphasizes equality of opportunity, a significant principle in a country where academic performance often determines socio-economic mobility. Importantly, it imposes a positive obligation on the State to provide free compulsory education and create a system that supports professional and politically neutral educational institutions.<sup>469</sup>

## 2.2 Key Legal and Constitutional Provisions Guaranteeing Education

Beyond the Constitution, South Korea has developed a robust legal structure to operationalize the right to education. The Framework Act on Education (1997) is the principal statute that governs the education system. It outlines the goals, principles and structure of national education and emphasizes holistic development, social integration and lifelong learning.

Key features of South Korean education laws include:

- Compulsory education from Grade 1 to Grade 9 (ages 6 to 15), which is fully state-funded.

- Free education extended to high school (Grades 10–12) under recent reforms starting in 2021.
- Legal safeguards against discrimination, political indoctrination and unequal access.
- Emphasis on student rights, teacher autonomy and localized school governance under the Local Education Autonomy Act.

Additionally, laws such as the Elementary and Secondary Education Act and the Higher Education Act provide further guidance for curriculum standards, student evaluation and institutional regulation.<sup>470</sup>

## 2.3 Analysis of Governmental Initiatives and Policy Frameworks

South Korea's educational policies are designed to align with constitutional ideals while responding to evolving societal needs. The Ministry of Education has implemented a series of national education plans, including the Education Reform Plans (1995 onward) and the Digital Education Initiative (2021), aimed at modernizing the education system.<sup>471</sup>

Key initiatives include:

- Expansion of free education through all levels of schooling, including kindergartens and special schools.
- High investment in education infrastructure and teacher training, ensuring consistently high educational standards.
- Special focus on inclusivity, with targeted programs for students with disabilities, rural populations and multicultural families.
- The use of Information and Communication Technology (ICT) in

<sup>469</sup> Kim, Jongcheol. "Social Equality and The Korean Constitution: Current State and Legal Issues." *Yonsei LJ* 10 (2020): 115.

<sup>470</sup> Oo, Khin Khin. "Legal Framework on Constitutional Review: Cases and Experiences Learnt from Korea." (2015).

<sup>471</sup> Jang, Sojin, Christopher M. Weible, and Kyudong Park. "Policy processes in South Korea through the lens of the advocacy coalition framework." *Journal of Asian Public Policy* 9.3 (2016): 274-290.

classrooms, positioning South Korea as a global leader in digital education.

- Regular assessments and reforms to address issues like student stress, academic pressure and mental health concerns.

Despite its strengths, the South Korean education system also faces criticism for being overly competitive, exam-centric and heavily reliant on private tutoring (hagwons). Nevertheless, constitutional guarantees and policy efforts continue to guide reforms aimed at reducing inequalities and improving the overall well-being of learners.

In conclusion, the Right to Education in South Korea is constitutionally protected and effectively implemented through an integrated system of legal provisions, educational policies and governmental oversight. Article 31 of the Constitution stands as a beacon of equality and quality, ensuring that education remains a vital public good accessible to all citizens. As South Korea adapts its system to emerging challenges, it maintains a strong commitment to the foundational constitutional principles of equal opportunity, state responsibility and educational excellence.<sup>472</sup>

### 3. The Right to Education in Finland

Finland's education system is globally recognized for its equity, inclusivity and quality. Underpinned by constitutional guarantees and progressive social values, the Finnish approach to education prioritizes equal opportunities, learner autonomy and holistic development. The Finnish model demonstrates how constitutional commitment, state support and pedagogical innovation can together ensure the realisation of the right to education for all.<sup>473</sup>

<sup>472</sup> "Right to education and rights of participants in education in Korean Constitution." 23.3 (2017): 157-177.

<sup>473</sup> Leijola, Liisa. *The education system in Finland: Development and equality*. No. 909. ETLA discussion papers, 2004.

### 3.1 Constitutional and Legal Provisions Ensuring the Right to Education

The Finland Constitution of 1999 enshrines education as a fundamental right. Section 16 of the Constitution states:

1. "Everyone has the right to basic education free of charge."
2. "The public authorities shall guarantee for everyone equal opportunity to receive other educational services according to their ability and special needs, as well as the opportunity to develop themselves without being prevented by economic hardship."

These provisions establish education not only as a legal entitlement but also as a social equalizer. Importantly, the Constitution guarantees free access to education at all levels, not merely primary or compulsory schooling. This right is linked to broader constitutional principles of equality, non-discrimination and personal development.<sup>474</sup>

Complementary legislation such as the Basic Education Act (1998), the General Upper Secondary Schools Act and the Universities Act (2009) outline the structure and content of educational services, responsibilities of municipalities and the rights of students and educators. These laws reinforce the state's duty to provide accessible, high-quality education across all levels.

### 3.2 Finland's Education System as a Model of Universal Education

Finland's education system is widely regarded as a model of universal and inclusive education. It is consistently ranked among the top in the Programme for International Student Assessment (PISA), not just for academic outcomes, but also for student well-being and equity.<sup>475</sup>

Some key features of the Finnish system include:

<sup>474</sup> Saario, Voitto. "Control of the Constitutionality of Laws in Finland." *Am. J. Comp. L.* 12 (1963): 194.

<sup>475</sup> Sahlberg, Pasi. "A model lesson: Finland shows us what equal opportunity looks like." *American Educator* 36.1 (2012): 20.

- Completely free education, including meals, health services, transport, learning materials and sometimes even housing.
- No tuition fees at any level of education, even for higher education (for EU/EEA citizens).
- No standardised testing or national ranking of schools during basic education, to reduce pressure and promote learning for understanding.
- A comprehensive school system (Grades 1–9) where all students, regardless of background, attend the same type of school.
- Highly qualified and autonomous teachers, all of whom must hold master's degrees and are trained in research-based pedagogy.
- Investments in early childhood education and care (ECEC), regarded as the foundation of lifelong learning.
- Regular policy reviews to ensure inclusive education, digital competence and climate-conscious learning.
- Continuous teacher training and professional development, reinforcing the status of teaching as a respected profession.

Moreover, Finland's approach is built on trust-based governance, with minimal top-down interference, ensuring that teachers and schools innovate freely while being held accountable through local assessments.<sup>477</sup>

In conclusion, the Finland exemplifies how a constitutionally guaranteed right to education, when supported by comprehensive policy frameworks and inclusive pedagogical practices, can produce not only academic excellence but also social cohesion and equity. The Finnish model illustrates that the right to education is best realised when it is embedded in broader social policies and a culture of trust, equality and respect for learners and educators alike.

The emphasis on equality and learner support ensures that students with special needs or learning difficulties receive tailored assistance. The system avoids early streaming and competitive exams, creating a relaxed and inclusive environment for learning.

### 3.3 The Role of the Government and Its Educational Policies

The Finnish government plays a central role in planning, funding and overseeing the education system. While schools enjoy significant autonomy in curriculum delivery, the Ministry of Education and Culture sets national education goals and provides funding to municipalities, which are responsible for organizing and maintaining schools.<sup>476</sup>

Key government initiatives include:

- The National Core Curriculum, developed by the Finnish National Agency for Education, which guides local curriculum planning with an emphasis on transversal skills, creativity and critical thinking.

### 4. Role of Judiciary and Constitutional Interpretation

The judiciary plays a pivotal role in interpreting constitutional provisions, especially in contexts where fundamental rights such as education intersect with policy implementation and social justice. In India, South Korea and Finland, the judicial branches have varied in their activism and engagement, yet each has shaped the right to education through landmark rulings and constitutional interpretation.<sup>478</sup>

<sup>476</sup> Sahlberg, Pasi. "Education policies for raising student learning: The Finnish approach." *Journal of education policy* 22.2 (2007): 147-171.

<sup>477</sup> Sahlberg, Pasi. "Educational change in Finland." *Second international handbook of educational change* (2009): 323-348.

<sup>478</sup> Ojanen, Tuomas. "From constitutional periphery toward the center-transformations of judicial review in Finland." *Nordic Journal of Human Rights* 27.2 (2009): 194-207.

#### 4.1 Comparative Role of Judiciary in India, South Korea and Finland

India has seen a highly activist judiciary in matters concerning the right to education. Even before Article 21-A was introduced in 2002, the Indian Supreme Court interpreted Article 21 (Right to Life and Personal Liberty) to include the right to education. In *Mohini Jain v. State of Karnataka* (1992)<sup>479</sup> and *Unni Krishnan v. State of Andhra Pradesh* (1993)<sup>480</sup>, the Court laid the groundwork for recognizing education as a fundamental right. The judiciary's interpretation prompted legislative action, culminating in the Right of Children to Free and Compulsory Education Act, 2009. Indian courts have also emphasized the State's duty to provide equitable, quality education, often intervening in cases of school fee hikes, teacher vacancies and infrastructural deficiencies.

In South Korea, the judiciary has generally adopted a more restrained role, reflecting the country's strong legislative and executive frameworks for education. The Constitutional Court of Korea, however, has played a critical role in safeguarding educational equality and access. For instance, the Court has ruled on cases concerning educational discrimination, the autonomy of educational institutions and the scope of state responsibility in compulsory education. While judicial activism is less pronounced than in India, the Korean judiciary has nonetheless upheld constitutional guarantees by striking down policies that contravene equality or impede access to education.

In Finland, the judiciary's role in constitutional interpretation, especially regarding social rights like education, is minimal and largely procedural. Finland follows a parliamentary supremacy model, wherein the Constitutional Law Committee of Parliament reviews legislation for compatibility with constitutional provisions. Courts may interpret laws in conformity with the Constitution, but there is no

separate constitutional court and judicial activism is limited. Nonetheless, Finnish courts have occasionally addressed education-related grievances, such as discrimination in admissions or the provision of special education services, always in line with the welfare state ethos and non-discrimination principles.

#### 4.2 How Courts Have Reinforced or Limited the Scope of Education Rights

In India, courts have significantly expanded the scope of education rights, often emphasizing the qualitative dimension of the right—highlighting the need for trained teachers, adequate infrastructure and inclusive access. In *Environmental & Consumer Protection Foundation v. Delhi Administration* (2012)<sup>481</sup>, the Supreme Court issued directions on improving the quality of education under the RTE Act. However, Indian courts have also sometimes been criticized for issuing overreaching directives that blur the line between judicial and executive functions.

In South Korea, courts have reinforced educational rights by upholding non-discrimination, especially regarding access to university education and gender equity. For instance, the judiciary has ruled in favor of students with disabilities, emphasizing inclusive education in line with constitutional guarantees. While the courts generally defer to policy-makers, they have intervened when policies are found to unduly restrict educational access or autonomy.

In Finland, although the courts rarely expand constitutional rights through judicial rulings, the strong legislative framework and the social democratic character of the state ensure that education remains accessible and equitable. The limited role of courts does not imply a weak right to education but rather reflects strong institutional trust, where parliamentary oversight and administrative enforcement are

<sup>479</sup> Supra Note 16.

<sup>480</sup> Supra Note 12.

<sup>481</sup> *Environmental & Consumer Protection Foundation v. Delhi Administration*, (2012) 10 SCC 197.

deemed sufficient to safeguard educational rights.

In conclusion, the judiciary plays varying roles in interpreting and enforcing the right to education. While India's judiciary is assertive and interventionist, South Korea's courts are cautious yet responsive and Finland relies more on legislative mechanisms than judicial activism. Together, these models highlight how constitutional structures and legal cultures shape the interpretation and practical realization of education as a fundamental right.

### **COMPARATIVE ANALYSIS**

It presents a comprehensive comparative analysis of the constitutional and legal frameworks of the Right to Education (RTE) in three countries: India, South Korea and Finland. The goal of this comparison is to examine the similarities and differences in how these nations ensure access to quality education through their legal provisions, policies and judicial interpretations. By exploring the educational systems in these diverse contexts, the chapter aims to shed light on the strengths and challenges each nation faces in upholding the right to education and advancing it as a fundamental human right.<sup>482</sup>

India, as a democratic nation with a vast population and diverse socio-economic challenges, has enshrined the right to education in its Constitution under Article 21-A. The Right to Education Act, 2009 is a key legislative step, but challenges remain in terms of implementation and ensuring equity across different states.

South Korea, with its strong emphasis on educational achievement and technological advancement, operates within a framework under Article 31 of the Constitution. The country has successfully achieved high literacy rates, but its system faces issues of intense pressure and competition within its rigorous educational structure.

Finland, often regarded as a model of educational excellence, ensures free and accessible education through its Constitutional guarantees and strong policy frameworks. Finland's emphasis on equality, inclusivity and teacher autonomy has led to a highly effective and student-centered system, though it faces its own challenges in maintaining standards amid increasing international expectations.<sup>483</sup>

By comparing these three countries, this chapter explores how each has tailored its education policies to meet the needs of its citizens while tackling unique challenges shaped by culture, economy and governance.

### **5. Comparative Framework**

The comparative analysis of the Right to Education (RTE) in India, South Korea and Finland is based on a framework that evaluates the constitutional provisions, legal structures, policy implementation and judicial interpretations within each country. The analysis is organized around key thematic areas that help identify the strengths and weaknesses of each nation's approach to education. These areas include the constitutional and legal guarantees, the role of the state and judiciary, education policies and implementation and the degree of inclusivity and equity in the system. This comparative framework provides insights into how diverse political, economic and cultural contexts influence the development and functioning of the right to education in these countries.

#### **5.1. Constitutional and Legal Guarantees<sup>484</sup>**

The first axis of comparison involves the constitutional and legal guarantees of education. India, South Korea and Finland have embedded the right to education in their constitutions, but they do so in different ways:

- India: Education is guaranteed under Article 21-A of the Indian Constitution,

<sup>482</sup> Kimonen, Eija. *Education and society in comparative context*. Springer, 2015.

<sup>483</sup> Bordia, Meenakshi. "A comparative study of elementary education systems of India and Finland." *ZENITH International Journal of Multidisciplinary Research* 7.4 (2017): 73-79.

<sup>484</sup> Black, Derek W. "The constitutional compromise to guarantee education." *Stan. L. Rev.* 70 (2018): 735.

which mandates the state to provide free and compulsory education to children aged 6 to 14 years. The Right to Education Act, 2009 further operationalizes this constitutional provision, setting standards for infrastructure, curriculum and teacher qualifications. However, the implementation of this right is uneven, especially in rural areas, where challenges related to quality and accessibility remain.

- South Korea: Article 31 of the South Korean Constitution guarantees the right to education, with specific provisions for free and compulsory primary and secondary education. The Framework Act on Education and other national laws ensure comprehensive and systematic educational provisions. South Korea has succeeded in creating a high-performing education system through its strong legal backing and institutional arrangements.
- Finland: Finland's Constitution also guarantees the right to education under Section 16, ensuring access to free and high-quality education for all citizens. The Basic Education Act (1998) and other subsequent policies underpin this constitutional guarantee. The Finnish model emphasizes inclusivity, focusing on students' well-being and personalized learning, which has led to impressive educational outcomes across the country.

## 5.2 Role of the State and Judiciary<sup>485</sup>

The second area of comparison is the role of the state and judiciary in ensuring the right to education. In all three countries, the state is primarily responsible for providing education, but the role of the judiciary in interpreting and enforcing educational rights varies:

- In India, the judiciary plays a significant role in interpreting the right to education, with landmark judgments such as *Unnikrishnan v. State of Andhra Pradesh (1993)*<sup>486</sup> and *People's Union for Civil Liberties v. Union of India (1997)*<sup>487</sup>, which extended the scope of education as a fundamental right under Article 21. However, challenges remain in translating judicial directives into effective policies, especially concerning the private sector and the quality of public education.
- South Korea, the judiciary has a relatively limited but significant role in interpreting education-related laws. The courts primarily act as arbiters when disputes arise concerning educational policies, including cases related to discrimination or inequality in educational access. The legal framework is robust and the judiciary upholds constitutional rights relating to education, but it does not have the same level of proactive involvement as in India.
- Finland's approach places significant trust in its educators and local authorities. The role of the judiciary in educational matters is less prominent, as the legal system generally supports the efficient and flexible implementation of education policies. Finland's education system is largely governed by the Ministry of Education and the municipalities, with minimal judicial intervention in daily educational practices.

## 5.3 Education Policies and Implementation<sup>488</sup>

The third theme of comparison examines the education policies and how they are implemented across different contexts. All three countries have established comprehensive

<sup>485</sup> Hubsch, Allen W. "Education and self-government: The right to education under state constitutional law." *JL & Educ.* 18 (1989): 93.

<sup>486</sup> *Supra* Note 12.

<sup>487</sup> *People's Union for Civil Liberties v. Union of India*, (1997) 1 SCC 301.

<sup>488</sup> Ojha Seema, S. "Implementing right to education: Issues and challenges." *Research Journal of Educational Sciences* \_ISSN 2321 (2013): 0508.

policies to promote education, but their focus differs:

- India: The Indian government has introduced various policies, such as the National Policy on Education (1986) and the National Curriculum Framework (2005), aimed at improving the quality and accessibility of education. However, disparities in educational infrastructure, teacher quality and funding pose significant implementation challenges.
- South Korea: South Korea's education policies emphasize technological integration, universal access and high academic standards. Policies such as the Equalization Policy aim to reduce disparities across regions and schools. There is also a strong focus on high academic achievement, though this has led to issues such as student pressure and mental health concerns.
- Finland: Finland's education policies focus on equity, inclusivity and pedagogical freedom. The emphasis is on student well-being, with policies that promote comprehensive support services for children, including those with disabilities. Finland's success is largely due to its teacher-centered approach, where teachers have considerable autonomy in their methods and curricula.

#### 5.4 Inclusivity and Equity

Lastly, the degree of inclusivity and equity within each education system is crucial for understanding their overall effectiveness. Finland leads in ensuring universal access and equity through its inclusive policies, which are designed to accommodate children from diverse socio-economic backgrounds. South Korea also places significant emphasis on ensuring equal educational opportunities but faces challenges related to high competition and educational pressure. India, while making strides through the Right to Education Act,

continues to grapple with issues of educational inequality due to socio-economic disparities.<sup>489</sup>

In conclusion, the comparative framework illustrates that while India, South Korea and Finland all recognize education as a fundamental right, their approaches to guaranteeing this right are shaped by different legal, social and economic contexts. South Korea's success lies in its high academic standards and centralized governance, while Finland's model focuses on inclusivity and student well-being. India, on the other hand, has made significant strides with its legislative framework but faces challenges in effectively addressing the diverse needs of its population.

#### 6. Comparison of Constitutional Provisions<sup>490</sup>

The constitutional provisions governing the Right to Education (RTE) in India, South Korea and Finland are key elements in understanding how each country approaches the concept of education as a fundamental right. The constitutional guarantees are the foundation upon which the legal and policy frameworks are built and they serve as a measure of the state's commitment to ensuring universal access to education. A comparative analysis of the constitutional provisions in these three countries reveals both similarities and stark contrasts, shaped by their distinct socio-political and cultural contexts.

##### 6.1 India: Article 21-A and the Right to Education Act

In India, the right to education is explicitly enshrined in the Constitution under Article 21-A, which was added by the Constitution (86th Amendment) Act, 2002. This article mandates that the state shall provide free and compulsory education to all children aged 6 to 14 years. The provision makes education a fundamental right under the right to life and personal liberty (Article 21). The Right to Education Act, 2009,

<sup>489</sup> Satter, Allyson, Jessica Meisenheimer, and Wayne Sailor. "Equity and inclusivity in education." *The SAGE handbook of inclusion and diversity in education* (2019): 133-144.

<sup>490</sup> Heymann, Jody, Amy Raub, and Adele Cassola. "Constitutional rights to education and their relationship to national policy and school enrolment." *International Journal of Educational Development* 39 (2014): 121-131.

further operationalizes Article 21-A, outlining specific obligations of the government, such as ensuring that schools are established, teachers are adequately trained and infrastructure meets certain standards.<sup>491</sup>

The Indian Constitution's approach emphasizes free education for all children within the specified age group, aiming to eliminate barriers related to economic status and access. However, the disparities in educational access across states, rural and urban areas and socio-economic backgrounds continue to challenge the effective implementation of this constitutional right.

### 6.2 South Korea: Article 31 and the Education Act<sup>492</sup>

South Korea's Constitution, under Article 31, similarly guarantees the right to education, stating that the state must provide free and compulsory elementary education. The education system is based on the principles of democratic citizenship, aiming to foster both individual development and social integration. Article 31 places emphasis on ensuring that educational opportunities are universal and accessible to all children and it mandates that the state ensure proper measures are in place for providing basic education.

The legal framework is reinforced through various laws and acts, including the Framework Act on Education, which defines the role of the government in providing education at all levels. This act outlines the responsibility of the state to maintain an equitable and efficient education system. Unlike India, South Korea has historically placed a significant emphasis on academic excellence and competition, which has contributed to the country's rise as one of the highest performers in international educational rankings.

While Article 31 guarantees free education, it is also worth noting that South Korea's education

system is increasingly competitive, with high emphasis on examinations, often resulting in educational pressure. This high academic demand has led to societal concerns about student mental health and the pressures of standardized testing.

### 6.3 Finland: Section 16 and the Education Act

In contrast to India and South Korea, Finland's Constitution under Section 16 offers a more comprehensive and inclusive guarantee for education. The Constitution of Finland not only establishes free education but also mandates that the state ensure the availability of education that promotes the equality and well-being of all students. The right to education in Finland is considered essential for individual and collective development and it is rooted in the principles of equality and social justice. Section 16 guarantees that everyone has the right to basic education free of charge and this is extended to higher education as well, under certain conditions.<sup>493</sup>

Finland's constitutional approach emphasizes that education is a public good and a fundamental right. The inclusion of student well-being as part of the educational experience is integral to the constitutional provisions, which significantly influence the educational policies in the country. Furthermore, the Basic Education Act (1998) and other key laws operationalize these constitutional provisions, ensuring that education is accessible and of high quality for every child, regardless of their socio-economic background.

One of the distinguishing features of Finland's constitutional provisions is its focus not only on access but also on the quality of education. The Finnish model emphasizes equality of outcomes, where the objective is to ensure that all students, regardless of their starting point, achieve the same high standards of education. This has contributed to Finland's international reputation for having one of the best education systems globally.

<sup>491</sup> Singh, Jagdeep. "Article 21A (Right to education): Critical analysis." *Asian Journal of Multidimensional Research (AJMR)* 3.3 (2014): 45-50.

<sup>492</sup> Seth, Michael J. *Education fever: Society, politics, and the pursuit of schooling in South Korea*. University of Hawaii Press, 2002.

<sup>493</sup> Kalalahti, Mira. "Access to secondary education (Finland)." *Bloomsbury Education and Childhood Studies: Articles*. Bloomsbury Publishing, 2019.

#### 6.4 Comparative Analysis of Constitutional Provisions

While all three countries guarantee the right to education, their constitutional provisions reflect different priorities:

- India's Constitution guarantees the right to free and compulsory education for children aged 6-14, emphasizing the removal of socio-economic barriers. The framework is still evolving and faces challenges of implementation and equity, particularly in rural and marginalized communities.
- South Korea's Constitution emphasizes free and compulsory elementary education, with a focus on academic achievement and universal access. However, the competitive nature of the system has resulted in a highly pressured educational environment, highlighting concerns about student well-being.
- Finland's Constitution goes beyond access and explicitly ties the right to education to the goals of equality, inclusivity and well-being. The Finnish approach seeks to ensure that all students receive a high-quality education, regardless of socio-economic background, with a focus on promoting student well-being.

In summary, the Indian Constitution provides a relatively narrow scope focused on compulsory education, while South Korea's Constitution links education to national development goals through academic achievement. Finland, on the other hand, frames education as a universal, inclusive and equitable right, with a strong emphasis on student well-being alongside access. These variations in constitutional frameworks significantly influence the design and outcomes of educational systems in each country.<sup>494</sup>

<sup>494</sup> Reddick, Winston. "A Comparative Analysis of State Constitutional Provisions on Education." *SUL Rev.* 1 (1975): 53.

#### 7. Comparative Analysis of Legal and Policy Frameworks

The legal and policy frameworks that govern the right to education (RTE) in India, South Korea and Finland provide insight into the varied approaches taken by these countries to ensure universal access to education. While all three countries have constitutional provisions that guarantee the right to education, their legal structures and policy frameworks differ significantly in terms of their scope, implementation strategies and focus on quality and equity. A comparative analysis of these frameworks reveals the strengths and weaknesses inherent in each country's system and offers valuable lessons for improving educational policies globally.<sup>495</sup>

##### 7.1 India: The Right to Education Act and Policy Frameworks

India's legal framework for education is largely based on Article 21-A of the Constitution, which guarantees free and compulsory education for children aged 6 to 14. The landmark Right to Education Act, 2009 (RTE Act) operationalizes this constitutional provision, making education a fundamental right and ensuring that every child is provided access to elementary education. The Act mandates several provisions to improve access and quality, including minimum standards for infrastructure, teacher-student ratios and special provisions for disadvantaged groups.

In addition to the RTE Act, India's educational policies include the National Policy on Education (1986) and the National Curriculum Framework (2005), both of which emphasize equity, quality and social justice. These policies call for increased investment in education, particularly for marginalized and economically disadvantaged groups. However, despite these legal and policy frameworks, significant challenges remain in terms of implementation and equity. Issues such as poor quality of education, teacher shortages, lack of

<sup>495</sup> Zhukova, Iryna, et al. "Legal frameworks and state policy in education: A theoretical analysis." *Multidisciplinary Reviews* 8 (2024).

infrastructure and regional disparities continue to hinder the success of the RTE Act. The role of state governments is critical in implementing these policies, but their capacity and resources are often insufficient, leading to uneven implementation across the country.

## 7.2 South Korea: The Framework Act on Education and Government Policies

South Korea's legal and policy framework for education is governed by Article 31 of the Constitution, which guarantees free and compulsory education. The Framework Act on Education (1949) is the central piece of legislation that guides South Korea's education system, ensuring that education is universally accessible. South Korea's education policies prioritize academic achievement and are designed to provide high-quality education to all students. These policies have contributed to the country's success in international education rankings, with a strong emphasis on standardized testing and teacher professionalism.

In addition to the Framework Act, policies such as the Equalization Policy have been implemented to ensure that education is equitable, particularly in terms of resources and opportunities. The government has invested heavily in technology integration and teacher development, making these key components of the educational system. One of South Korea's notable achievements is its ability to maintain a high standard of education across the country while fostering regional equity through government interventions in school financing and resources.

However, despite these successes, South Korea's focus on academic excellence and its highly competitive education system have led to concerns about student mental health and the pressure placed on students. The prevalence of private tutoring and after-school programs, known as hagwons, has also raised questions about the equity of the education system, as access to these services is often determined by economic status.

## 7.3 Finland: The Basic Education Act and Inclusive Policies

Finland stands out in its legal and policy approach to education, largely due to its emphasis on **equity** and **quality**. The Finnish Constitution under Section 16 guarantees the right to education, ensuring that all citizens have access to free, high-quality education. The Basic Education Act (1998) and other legal frameworks operationalize this constitutional right by outlining the responsibilities of municipalities and the state in providing education. Finland's education system is governed by the Ministry of Education and Culture, which ensures the quality and inclusivity of education at all levels.

A key feature of Finland's education policy is its commitment to inclusive education, where students with disabilities or other special needs are integrated into mainstream schools. The Finnish National Board of Education (FNBE) plays a crucial role in ensuring that educational standards are maintained across the country. Policies focusing on teacher training, curriculum flexibility and student welfare have contributed to the country's reputation as a global leader in education.

One of Finland's most important innovations is the focus on student well-being, with policies that address not only academic outcomes but also mental health, social skills and personal development. Free school meals, personalized learning and early intervention programs are examples of how Finland's education system promotes holistic development. Additionally, the Finnish education system is decentralized, with a high degree of local autonomy, which allows municipalities to tailor educational approaches to the needs of their communities.

Despite Finland's global success, challenges remain in terms of immigration and integration of non-native students, as well as maintaining high educational standards in an increasingly diverse society. However, Finland's policy emphasis on equity and quality remains central to its approach.

#### 7.4 Comparative Insights: Legal and Policy Strengths and Weaknesses<sup>496</sup>

While all three countries recognize education as a fundamental right, their legal and policy frameworks differ in the extent to which they prioritize quality, equity and inclusivity:

- India's policy framework is comprehensive but often falters at the implementation level, particularly in rural and marginalized areas. The government's decentralized approach and the varying capacities of state governments are major challenges.
- South Korea's framework successfully maintains high educational standards, but the pressure of competition and a privatized tutoring system undermine the equity of its education system. Its strong emphasis on academic achievement often overshadows concerns about student well-being.
- Finland's legal and policy framework is perhaps the most inclusive and equitable, with a strong focus on student well-being and personalized learning. However, challenges related to immigrant integration and socio-economic diversity remain.

In conclusion, while all three countries have developed robust legal and policy frameworks to guarantee the right to education, the focus and challenges of each system reflect the different socio-cultural and economic contexts in which they operate. Finland's holistic approach to education stands in contrast to South Korea's achievement-driven model and India's expanding yet uneven system.

#### 8. Case Studies

Case studies provide an in-depth understanding of how legal frameworks and policy provisions are implemented in real-world scenarios. In the context of the right to

education, case studies offer valuable insights into the effectiveness, challenges and impact of education laws and policies across different countries. This section presents case studies from India, South Korea and Finland, highlighting their unique approaches and the lessons that can be drawn from each.

##### 8.1 Indian Case Study: The Implementation of the Right to Education Act (RTE Act), 2009

India's Right to Education Act (RTE Act), 2009 serves as a cornerstone for promoting free and compulsory education for children aged 6 to 14. The implementation of the RTE Act has been a subject of much scrutiny, as it is intended to provide universal access to quality education, particularly for children from marginalized communities.

A case study from the state of Rajasthan illustrates both the successes and challenges of the RTE Act. In 2013, the state government launched a school enrollment drive, targeting children in rural and tribal areas. The initiative led to significant increases in enrollment rates in remote regions. However, the quality of education remained a concern due to the lack of qualified teachers, inadequate infrastructure and poor learning outcomes.

The Sarva Shiksha Abhiyan (SSA), a national program running alongside the RTE Act, aimed to address these issues by improving school infrastructure and teacher training. However, the program faced challenges of implementation gaps, particularly in rural areas, where access to basic educational resources was still limited. For instance, many schools lacked toilets, a critical facility that was supposed to be part of the infrastructure requirements under the RTE Act. Additionally, there were reports of children dropping out due to economic pressures or because schools were not prepared to cater to students with special needs.

Despite these challenges, the case of Rajasthan highlights the positive impact of policy interventions, especially in terms of increased

<sup>496</sup> Pratt, Lara Michelle. *Legal and political protections of fundamental rights: strengths and weaknesses: a comparative study*. Diss. Macquarie University, 2011.

enrollment. However, it also underscores the need for comprehensive efforts that focus not just on accessibility but also on quality education, especially in marginalized areas.

### 8.2 South Korean Case Study: The Equalization Policy and Its Impact

South Korea's Equalization Policy (1974) was implemented to reduce educational inequalities between urban and rural areas and between different socioeconomic groups. A critical case study of this policy can be found in Jeju Island, a region that had historically lagged behind in terms of educational opportunities. Prior to the implementation of the policy, schools in Jeju faced challenges in attracting qualified teachers, leading to gaps in the quality of education.

With the introduction of the Equalization Policy, the central government provided significant financial resources to schools in underdeveloped regions and implemented teacher redistribution to ensure a more equitable distribution of qualified staff. As a result, the region saw substantial improvements in both the quality of education and student outcomes. High school graduation rates in Jeju increased significantly and students from low-income families gained access to higher education opportunities that were previously out of reach.

Despite these successes, the policy has not been without its critics. The emphasis on standardized testing and a highly competitive academic culture has led to increased pressure on students. There is concern that while educational access has been expanded, the mental health of students has been negatively impacted due to the intense academic pressure. South Korea has made efforts to balance these concerns by introducing mental health initiatives in schools, but the tension between academic achievement and well-being continues to be a challenge.

### 8.3 Finnish Case Study: Inclusive Education and the Role of Teacher Training

Finland is often hailed as a model of inclusive education and equity in education. The country's approach to education is based on the principles of equality and student welfare, ensuring that every child, regardless of background, has access to high-quality education.

One of the most notable case studies in Finland's education system is the city of Helsinki, where integrated education models have been successfully implemented. Helsinki's approach involves mainstreaming students with special educational needs into regular classrooms, with support from specialized teachers and individualized learning plans. This model has been highly effective in fostering an inclusive environment where students of all abilities can learn together.

The key to this success lies in teacher training. Finnish teachers undergo extensive education and professional development, ensuring that they are equipped with the skills to handle diverse classrooms and to provide personalized support to students. Teachers are not just educators but also mentors who are deeply involved in their students' overall development, including their social and emotional well-being.

One example from Helsinki illustrates how Finland's inclusive education policies work in practice. A student with autism spectrum disorder was integrated into a regular classroom, where they received tailored support from both the class teacher and a special education teacher. Over time, the student developed social and communication skills and their academic performance improved significantly. The case reflects Finland's holistic approach to education, which emphasizes the importance of both academic achievement and personal development.

However, challenges remain in immigrant integration. Finland has experienced a rise in immigrant students in recent years and while

the country's education system has been successful in maintaining high standards, there have been concerns about how to best support students from diverse linguistic and cultural backgrounds. Efforts are ongoing to ensure that these students have equal access to educational opportunities and that teachers are trained to address the needs of a more diverse student population.

In conclusion, these case studies illustrate that while the legal and policy frameworks for the right to education are often similar in their intent, the contextual factors and implementation challenges differ significantly across countries. India's RTE Act emphasizes accessibility but faces significant hurdles in terms of infrastructure and teacher quality. South Korea's Equalization Policy has made education more equitable but at the cost of increasing academic pressure. Finland's emphasis on inclusive education and teacher training has contributed to its success, but challenges related to immigrant integration remain.

These case studies offer valuable lessons for other countries striving to improve their education systems, particularly the importance of focusing on both access and quality and the need to balance academic achievement with student well-being.

### Final Thoughts

In conclusion, the comparative analysis of the right to education in India, South Korea and Finland underscores the diverse challenges and successes each country faces in striving to make education universally accessible and of high quality. While each country's context and approach are unique, the key takeaway is the universal importance of legal frameworks, equitable policies, investing in teachers and ensuring inclusivity. As the world continues to confront evolving educational challenges, the experiences of these countries offer valuable insights into how education systems can be strengthened, providing practical guidance for

other nations working toward ensuring the right to education for all.

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