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"JUSTICE AND EQUITY IN INDIAN HIGHER EDUCATION: A CONSTITUTIONAL REFORM AGENDA"

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Abstract

India's higher-education landscape, though the world's third largest, remains marred by stark socio-economic, regional and caste-based inequities. This article argues that incremental policy tweaks are no longer sufficient; a constitutional overhaul is needed to guarantee justice and equity in access, quality and outcomes. After tracing the historical expansion of universities and examining constitutional provisions that currently stop at elementary education, the paper details persistent gaps in gross-enrolment ratios, representation of marginalised groups, urban-rural divides, and the unchecked commercialisation of private institutions. It then proposes constitutional reforms. Anchoring these reforms in the Constitution, the paper contends, would create justiciable obligations that compel the State to act, curtail profiteering, and align national development with the constitutional ideals of equality, justice and fraternity. Drawing on comparative insights from jurisdictions where higher education is constitutionally protected the paper advances a rights-based blueprint that would elevate higher education to a justiciable entitlement, recalibrate public-funding obligations, and impose transparent, equity-centred duties on all providers, public or private. By hard-wiring enforceable equity benchmarks into the constitutional fabric, India can move beyond enrolment targets toward genuine inclusion, quality improvement and social mobility. Such a recalibration is critical if the country is to leverage its demographic dividend, nurture innovation-led growth, and realise the constitutional ideals of equality, fraternity and social justice envisioned by the framers.

Keywords : Higher education reform, Constitutional amendment, Equity and inclusion, Fundamental right to education , Educational institutions.

Introduction : India attained freedom after a history of long struggle and strife. The battle for freedom tested the resolve of many heroes who relentlessly fought for the sake of their motherland. However, even after years of gaining independence, the country continues to grapple with numerous socio-economic challenges, one of the most significant being the need for comprehensive educational reforms. Education plays a pivotal role in progress and growth of a nation. According to John Dewey "The aim of education is growth: the aim of growth is more growth." Education serves as an

instrument of empowerment, growth and development.

India has a vast higher education system which has undergone remarkable changes, particularly in the post-independence era. The higher education system includes universities and colleges offering undergraduate, postgraduate, vocational, technical and doctoral degrees. As of 2020, the Ministry of Human Resource Development (MHRD) reported India to have over 1000 universities which includes 54 central universities, 416 state universities, 125 deemed universities, 361 state

private universities, and 159 Institutes of National Importance which includes AIIMS, IIMs, IITs, NITs. The system is large and diverse, catering to various fields such as engineering, medicine and arts. It plays a key role in equipping individuals with skills and knowledge. There has been a huge expansion of higher education institutions since last two decades which are mainly due to private institutions and deals with the professional and technical education. Higher education in India has witnessed unprecedented growth over the past few decades, according to a World Bank 2019 report after the USA and China India has the third largest Higher Education system in the world.¹⁰⁴ Despite many strides in expanding access to higher education inequalities arising out of socio-economic, gender, caste disparities continue to exist and there is a pressing need for systemic changes. Education should serve as a bridge to social justice and equity, opening doors for all individuals regardless of their backgrounds. However, if higher education remains a privilege accessible only to a select few due to economic constraints or systemic biases, then the very purpose of education is undermined, leading to a fragmented and unjust society.

Constitutional Provisions Related to Education :

The Constitution of India acknowledges the critical role of education in national development and social justice. Various provisions in the Constitution aim to ensure access to education for all sections of society. Article 21A of the Constitution guarantees the right to free and compulsory education for children aged 6 to 14 years. Articles 15(4) and 16(4) empower the state to make special provisions for socially and educationally backward classes, Scheduled Castes, Scheduled Tribes. Article 21(A) states that education is a fundamental right, and no one can be denied admission to educational institutes based on caste, colour, creed or religion. Article 30 states

that minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. The Directive Principles of State Policy emphasize equal opportunities in education and the promotion of interests of weaker sections of the society under sections 41,45 and 46.¹⁰⁵ Article 41 provides that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.¹⁰⁶ Article 45 lays down that state shall endeavour to provide, within ten years from the commencement of the Constitution, free and compulsory education for all children until they complete the age of 14 years. The state shall promote with special care the educational and economic interests of weaker sections of the people and, in particular, of the scheduled caste and scheduled tribes, and shall protect them from social injustice and all forms of exploitations

Despite, the safeguards provided in the Constitution there are very many challenges which come in the way of making higher learning a possibility for every citizen of the country. The applicability of these provisions to higher education is limited. While elementary education is free and compulsory, higher education remains out of reach of people who cannot afford it, thus giving rise to disparity. Therefore, to ensure that education becomes equitable and easy to access, it is essential to review the existing provisions and add new ones by means of amendment to the Constitution. Accessibility to higher education is measured in terms of Gross Enrolment Ratio (GER) which is the ratio of persons enrolled in higher education institutions to total population of the persons in the age group of 18- 23 years. India's gross

¹⁰⁴ Shabnam, & Kaushal, S. (2024). Challenges and prospects of higher education in India: A critical analysis for *Viksit Bharat @ 2047*. *FOERA*, 2, 1–14. <https://doi.org/10.3048/6858>

¹⁰⁵ Pandey, J. N. (2008). *Constitutional law of India* (45th ed.). Central Law Agency.

¹⁰⁶ Article 41 in Constitution of India accessed on 18.05.25

enrolment ratio (GER) in 2018-19 was 26.3%.¹⁰⁷ There has been an increase to 28.4% in 2021-2022. This growth demonstrates the country's commitment to improving access to higher education and meeting the aspirations of young Indians.¹⁰⁸

Although there has been a steady increase in the GER over the years, a low participation of SCs and STs is reflected in the GER, highlighting the persistent gaps and disparities in access to higher education. The representation of marginalized sections in higher education is a matter of concern. The SC/ST/OBC students and women are not adequately represented in the institutes of higher learning. It is equally important to meet the needs of students with disabilities at higher education levels to realize the goal of just and equitable education system. The urban-rural divide in educational access is particularly striking. On the one hand there is no dearth of educational institutes in big cities and metropolitan areas, making higher education readily available for the urban population, on the other hand the rural population is still struggling with problems of access to higher education due to few or no institutions of their choice. Furthermore, private institutes have better infrastructure, trained teachers, higher quality but all this often comes at a high cost. A 2021 survey by the National Council of Applied Economic Research revealed while most parents view education as a path to a better future, they are increasingly concerned about its affordability. Approximately 60 percent of respondents expressed dissatisfaction with the rising costs. Many felt the fees charged by private institutions were disproportionate to quality of education provided. Several students from rural areas and economically weaker sections often find themselves excluded due to the costs, a sentiment echoed in the Annual Status of Education Report 2021, which noted an

increase in dropout rates in rural areas, partly due to rising education expenses.¹⁰⁹

The exorbitant fee of private institutes hampers the economically weaker sections of the society to enrol into colleges and universities to continue their studies. Many students from rural and economically disadvantaged backgrounds are forced to either take on substantial financial debt or forgo higher education altogether. This is very discouraging and disturbing for students who are meritorious and bright. The Standing Committee on Human Resource Development has been observed that many private institutions of higher education charge exorbitant fees. In the absence of well-defined norms, fees charged by such universities have remained high.¹¹⁰ It is quite significant to ensure quality in higher education, although there are regulatory bodies like the University Grants Commission (UGC), and the All-India Council for Technical Education that monitor the quality of standards even then a continuous effort is important.

The financial constraints manifesting in the form of paucity of funds and low investment on education affect the quality and accessibility of education in a major way. The lack of sufficient government funding for public universities further exacerbates the issue, leading to infrastructural deficits, inadequate faculty recruitment, and a compromise on academic quality. Addressing these financial barriers is crucial to ensuring equitable access to higher education and fostering a level playing field for students from all socio-economic backgrounds.

The quality of education varies widely. While some institutes like Indian Institute of Technology (IITs) and Indian Institutes of Management (IIMs) are globally recognized, a majority of institutes lack infrastructure, faculty and resources. This leads to the widening of an

¹⁰⁷ Ravi, S., Gupta, N., & Nagaraj, P. (2019, November 27). *Reviving higher education in India*. Centre for Social and Economic Progress. <https://csep.org/policy-brief/reviving-higher-education-in-india/>

¹⁰⁸ http://timesofindia.indiatimes.com/articleshow/117817185.cms?utm_source=chatgpt.com&utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst accessed on 18.05.25

¹⁰⁹ Kennedy, J. J. (2024, August 28). *Rising education costs turn aspirations into burdens*. *The New Indian Express*. <https://www.newindianexpress.com>

¹¹⁰ Standing Committee on Human Resource Development. (2011, May 30). *236th report on the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010*. Parliament of India.

already existent gap of parity in higher education institutes.

Suggestions for Reform

To bring positive changes in the higher education system in India and make it more just and equitable it is necessary to introduce reforms in the Constitution as it is an important tool to trigger transformation and progress of the nation. Keeping in mind the above-mentioned challenges an urgent need to address them is crucial to strengthen the system of higher education in India. Introducing reforms in the Constitution to make the system of higher education more just and equitable can prove to be of immeasurable value. The following Constitutional reforms can go a long way in addressing these aspirations and fostering a higher education that is just, inclusive and equitable:

1. Higher Education as a Fundamental Right : Higher education should be made a fundamental right thereby increasing the ambit of Article 21 A. Incorporating this amendment in the Constitution will prove helpful in improving the affordability, accessibility and quality for all as this will compel the state to raise the standards of higher education. To support the provision of higher education as a fundamental right the government can come up with schemes and policies which align with the Constitution. This amendment would necessitate that every citizen, irrespective of socio-economic status, has an equal opportunity to pursue higher education.

2. Regulation of Private Institutions: Constitutional provisions should regulate and monitor private institutions in matters of accountability, fee structures and transparency. Commercialization of education should be checked to ensure that they do not operate solely for profit but contribute to equitable access to higher education. Restraints imposed on private institutions in matters of exorbitant fee structures will enable many students to pursue higher education and achieve their goal.

3. Increase Public Funding: Increased public funding should be introduced through Constitutional amendments so that financial constraints do not prevent students from accessing higher education. Scholarships, educational loans and grants should be readily available to students so that lack of finance does not come in the way of their education. Amendments prioritising allocation of budget for higher education should be made. India allocated approximately 4.1% to 4.6% of its Gross Domestic Product (GDP) between 2015 and 2024.¹¹¹ However, to provide aid to the marginalized and rural population of the nation it is pertinent to spend more percentage of its GDP on education.

4. Promote Regional Equity: The Constitution should mandate provisions for improving higher education in regional and underdeveloped regions. This can be in the form of guidelines to the government to make policies for the development of higher education at regional level. Many such regions lack proper access to educational opportunities, hindering students academic growth. Students, particularly females are not encouraged to pursue higher education because of non-availability of institutes in their region as parents are apprehensive about and safety and security concerns, including inadequate hostel facilities and unsafe commuting options. Investing in opening institutes in regional areas will not only lead to an increase in enrolment rates but will also reduce regional disparities in higher education. Presently the rate of participation in higher education is much less for rural population in comparison to the urban population as there is a lack of opportunities and access to higher education. It is thus even more important to build more institutes of higher education to cater to the needs of different students at the regional level.

5. Support Systems for Disadvantaged Students: The Constitution should encourage guidance

¹¹¹ [India education GDP allocation 2024: India's education expenditure aligns with global benchmarks](#) accessed on 15.04.25

and counselling for students from socio-economically disadvantaged backgrounds as they require encouragement and support to make a successful transition to higher education. The NEP 2020 stresses that Universities and colleges will be required to set up high-quality support centres and will be given adequate funds and academic resources to carry this out effectively. There will also be professional academic and career counselling available to all students, as well as counsellors to ensure physical, psychological and emotional well-being.¹¹²

6. Strengthen Government Institutions: The Constitution should play an effective role in improving the standards of government institutes by laying down stringent provisions focussing on providing better access, quality, curriculum, nominal fee and special incentives ensuring inclusion of marginalized sections. This will not only persuade students to join these institutes but also this will provide them with a viable alternative to costly private institutions while maintaining educational excellence. Thus, resulting in bridging the glaring disparities in education.

7. Foster Inclusion and Representation: The Constitution should make provisions for encouraging inclusivity in higher education. This could be done by embedding special incentives, reservations, and support systems in the higher education framework to promote social equity. It would prove beneficial for increasing the representation of marginalized groups like SCs, STs, OBCs, Women, Physically Challenged, Economically and Socially challenged students. The NEP, 2020 suggests measures like unique hostels, bridge courses, and financial assistance to facilitate their entry into higher education.¹¹³

8. Adopt Global Best Practices: India can draw inspiration from the best education systems of the world and apply it in the Indian context with

necessary changes. It's critical to understand that the world's greatest educational system encompasses more than just colleges and universities. It combines excellent instruction, accessibility, and worldwide student achievement. Nations like the United States, Canada, and Australia are frequently ranked among the top performers in this field. These nations make significant investments to develop both domestic and foreign talent, preparing students for careers that last a lifetime. Germany is known for having one of the most affordable educational systems in the world, especially for students from other countries. Numerous courses have no or cheap tuition costs, with a focus on engineering and technology disciplines. As a result, a wide variety of students can now access higher education. With a global ranking of fourth for educational quality, Canada has one of the best educational systems in the world. Over 800,000 international students decided to study in Canada in 2022, drawn by the country's dedication to quality and accessibility. Since the nation devotes over 5% of its GDP to education, most of its institutions are publicly supported and open to everyone. India can apply these inspirational ideas for making its higher education system more just and equitable.

The Universitas 21 Ranking of National Higher Education Systems was first introduced in 2012, using national systems—rather than individual institutions—as the primary unit of assessment. By 2018, the ranking covered 50 countries, evaluating them across four key dimensions: Resources, Environment, Connectivity, and Output, based on 25 identified indicators of quality. The overall score was calculated with Output receiving the highest weight at 40%, while each of the other three dimensions—Resources, Environment, and Connectivity—contributed 20% each. According to the 2018 rankings, the top ten countries were, in order: the United States, Switzerland, Denmark, the United

¹¹² [NEP_Final_English.pdf](#) accessed on 04.05.25

¹¹³ Singh, D., & Mishra, R. S. (2023). Equity and inclusion in Indian education: Constitutional principles and NEP 2020 approaches. *BSSS Journal of Education*, 12(1), 106–117. <https://doi.org/10.51767/je1208> accessed on 17.05.25

Kingdom, Sweden, Finland, the Netherlands, Singapore, Canada, and Australia.¹¹⁴

In conclusion, it can be said with absolute surety that education is a fundamental pillar of democracy, social justice, and economic progress. The role of higher education in shaping the future of individuals and the nation cannot be overstated. The Indian Constitution's provisions for education reflect the country's commitment to creating an equitable and inclusive educational system.¹¹⁵ A strong, inclusive, and equitable higher education system can serve as a catalyst for socio-economic transformation, reducing disparities and fostering sustainable development. Constitutional reforms are indispensable to foster the values of equality, justice and inclusivity enshrined in the Constitution. The changes in the Constitution will lead to a positive impact on system of higher education making it more just and equitable.

Constitutional reforms which seek to make higher education a fundamental right, regulate private institutions, increase public funding, promote regional institutes, improve government institutions, encourage inclusivity, and draw inspiration from international models can serve well to bring radical reforms in higher education system of our country. Transforming higher education requires a committed government, strong policy decisions, and the collective effort of society. Ushering in reforms will create a higher education system that enables every individual to realize their full potential. By prioritizing education, India can build a knowledgeable, skilled, and empowered population that contributes to sustainable development and global competitiveness.

¹¹⁴ Benito, M., Gil, P., & Romera, R. (2020). Evaluating the influence of country characteristics on the Higher Education System Rankings' progress. *Journal of Informetrics*, 14(3), Article 101051. <https://doi.org/10.1016/j.joi.2020.101051> accessed on 15.05.25

¹¹⁵ Constitutional Provisions of Education in India: Complete Analysis - YOUR SMART CLASS accessed on 17.05.25