



INDIAN JOURNAL OF  
LEGAL REVIEW

VOLUME 6 AND ISSUE 6 OF 2026

INSTITUTE OF LEGAL EDUCATION



## INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 6 and Issue 6 of 2026 (Access Full Issue on – <https://ijlr.iledu.in/volume-6-and-issue-6-of-2026/>)

### Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

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## AN ANALYTICAL STUDY OF INDIAN WOMEN'S EDUCATION POLICIES AND THEIR IMPACT ON WOMEN'S RIGHTS

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**BEST CITATION –** MANGALLEIBI ONGNAM & DR. AVISHEK RAJ, AN ANALYTICAL STUDY OF INDIAN WOMEN'S EDUCATION POLICIES AND THEIR IMPACT ON WOMEN'S RIGHTS, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 6 (6) OF 2026, PG. 814-828, APIS – 3920 – 0001 & ISSN – 2583-2344.

### ABSTRACT

The constitutional promise of educational equality for women in India, inscribed across Articles 14, 15, 21A, 45, and 46 of the Constitution of India, has generated an elaborate scaffolding of legislative enactments, national policies, and targeted government schemes. Yet a persistent and troubling chasm separates the textual ambition of these frameworks from the lived experience of millions of women and girls across the country. This article undertakes a doctrinal and analytical examination of the legal architecture governing women's education in India, tracing its historical evolution from colonial-era reforms through the National Education Policy 2020, and critically evaluating the constitutional adequacy and practical impact of key legislative and programmatic interventions including the Right of Children to Free and Compulsory Education Act 2009, Samagra Shiksha Abhiyan, and Beti Bachao Beti Padhao. Drawing on judicial pronouncements from the Supreme Court and constitutional court decisions, the article identifies structural gaps including caste-based exclusion, geographic disparity, the digital divide, and early marriage that continue to undermine policy effectiveness. A comparative analysis of international frameworks, including CEDAW and the Sustainable Development Goals, informs a set of legally grounded recommendations for achieving substantive educational equality. The central thesis advanced is that while India's constitutional design creates strong normative foundations, the realisation of women's right to education requires institutional reform, adequate financing, and intersectional policy thinking that current frameworks inadequately provide.

**KEYWORDS:** Women's Education; Right to Education; Article 21A; RTE Act 2009; Beti Bachao Beti Padhao; Gender Equality; Constitutional Law; National Education Policy 2020; CEDAW; Intersectionality

### RESEARCH PROBLEM

The central research problem addressed by this article is the persistent and widening disjunction between the formal legal architecture of women's education in India and its substantive realisation at the ground level. India possesses an elaborate constellation of constitutional provisions, statutory enactments, and national policy frameworks that collectively impose strong obligations on the State to

guarantee women's access to education at all levels. Article 21A of the Constitution of India, inserted by the Eighty-Sixth Amendment of 2002, confers a justiciable fundamental right to free and compulsory education; the Right of Children to Free and Compulsory Education Act, 2009, operationalises this right through mandatory state obligations; and the National Education Policy 2020 articulates a comprehensive vision for gender-equitable, inclusive schooling. Yet, notwithstanding this

normative abundance, millions of girls and women in India continue to be excluded from the benefits that these frameworks promise. Dropout rates at the secondary stage remain disproportionately high among girls from Scheduled Caste, Scheduled Tribe, and economically marginalised households; early marriage continues to interrupt educational trajectories in several states; and the digital divide has reinforced educational inequality in the post-pandemic period. The research problem, therefore, is not the absence of law but the failure of law in action – the structural, institutional, and socio-cultural conditions that prevent constitutional and statutory rights from translating into lived educational freedoms for Indian women and girls.

#### HYPOTHESIS

This article proceeds upon the hypothesis that the gap between India's constitutional and legislative commitments to women's education and the empirical reality of women's educational attainment is not primarily attributable to normative inadequacy but to structural deficits in institutional design, fiscal commitment, and political will. Specifically, it is hypothesised that: (i) the current legal framework, while formally robust, fails to address the intersectional dimensions of educational disadvantage – the compounding effects of gender, caste, poverty, and geographic isolation – because it operates through universalist, non-intersectional categories that are structurally incapable of reaching the most marginalised; (ii) flagship government schemes such as Beti Bachao Beti Padhao are designed with a communicative rather than a substantive-outcomes orientation, such that their budgetary and programmatic priorities systematically diverge from the constitutional obligations they purport to discharge; and (iii) the judiciary, while having established strong doctrinal foundations for the right to education, has not developed a sufficiently demanding standard of review for State compliance with positive educational obligations, thereby leaving the enforcement

gap between entitlement and access effectively unremedied. The article tests these hypotheses through doctrinal analysis, scheme evaluation, and comparative reference, and proceeds to advance recommendations that, if adopted, would narrow the identified gap.

#### RESEARCH OBJECTIVES

- To trace the historical evolution of women's education policy in India from the colonial period through the post-constitutional era, examining the normative shifts, legislative milestones, and political economy factors that have shaped the contemporary framework, including the Wood's Despatch of 1854, the National Policies on Education of 1968, 1986, and 1992, and the National Education Policy 2020.
- To undertake a systematic doctrinal analysis of the constitutional and legislative framework governing women's education encompassing Articles 14, 15, 21A, 45, and 46 of the Constitution of India and the Right of Children to Free and Compulsory Education Act, 2009 – assessing the internal coherence of these provisions and their doctrinal adequacy for securing substantive educational equality.
- To critically evaluate the design, implementation, and documented outcomes of major government schemes including Samagra Shiksha Abhiyan, Beti Bachao Beti Padhao, Mahila Samakhya Programme, Kasturba Gandhi Balika Vidyalaya, and the Mid-Day Meal Scheme – measuring their programmatic architecture against both constitutional obligations and available empirical evidence of ground-level impact.

#### RESEARCH QUESTIONS

1. Is the existing constitutional and legislative framework, including Article

21A of the Constitution and the Right of Children to Free and Compulsory Education Act, 2009, adequate to guarantee substantive educational equality for women, or does the framework require doctrinal expansion and legislative augmentation to address the intersectional dimensions of women's educational exclusion?

2. In what specific ways have the design and implementation of major government schemes for women's education failed to address the intersectional barriers encompassing gender, caste, poverty, and geographic isolation that prevent women and girls from accessing and completing education, particularly at the secondary stage?
3. What standard of judicial review have the Supreme Court and High Courts of India applied to enforce the State's positive educational obligations under Articles 21A and 14, and is this standard sufficiently demanding to hold the executive accountable for structural failures in the delivery of women's education?

## I. INTRODUCTION

The constitutional aspiration for an educationally empowered womanhood occupies a central but contested terrain in Indian constitutional law. The Eighty-Sixth Amendment to the Constitution of India in 2002 introduced Article 21A, elevating the right to free and compulsory education for children between six and fourteen years to the status of a fundamental right<sup>1415</sup>. This transformation, reinforced by the Right of Children to Free and Compulsory Education Act, 2009<sup>1416</sup>, and subsequently given new ambition through the

National Education Policy 2020<sup>1417</sup>, represents the culmination of over seven decades of policy evolution. Yet, as UNESCO has observed, the translation of legal rights into educational access remains deeply uneven across gender, caste, class, and geography<sup>1418</sup>. Official data from the Unified District Information System for Education Plus reveals that while gross enrolment ratios for girls at the primary level have approached parity, dropout rates at the secondary and higher secondary stages remain disproportionately high<sup>1419</sup>. The United Nations Committee on the Elimination of Discrimination against Women, reviewing India's periodic reports, has expressed persistent concern about the structural barriers limiting girls' effective participation in education<sup>1420</sup>, concerns that resonate with obligations India has assumed under the Convention on the Elimination of All Forms of Discrimination against Women<sup>1421</sup>.

The research problem animating this article is, accordingly, not the absence of legal frameworks but their inadequate penetration. India's constitutional and statutory architecture pertaining to women's education is, by comparative standards, impressively elaborate; the challenge lies in understanding why this architecture has proven insufficient to eliminate the structural inequality that continues to define women's educational experience, particularly among Scheduled Caste and Scheduled Tribe communities, rural populations, and girls from economically marginalised households. Scholars have noted that policy declarations in India have historically outpaced institutional capacity, and that the enforcement mechanism of educational rights has been characterised by asymmetry between formal entitlement and

<sup>1415</sup>INDIA CONST. art. 21A (inserted by The Constitution (Eighty-sixth Amendment) Act, 2002).

<sup>1416</sup>Right of Children to Free and Compulsory Education Act, No. 35 of 2009, pmb., Gazette of India (Aug. 27, 2009).

<sup>1417</sup>Ministry of Education, Govt. of India, National Education Policy 2020, at 24 (2020) [hereinafter NEP 2020].

<sup>1418</sup>UNESCO, Education for All Global Monitoring Report: Teaching and Learning Achieving Quality for All 200 (2014).

<sup>1419</sup>Unified District Information System for Education Plus (UDISE+), School Education in India: Flash Statistics 2021–22, at 18 (Dept. of School Education & Literacy, 2022).

<sup>1420</sup>United Nations Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Fourth and Fifth Periodic Reports of India, CEDAW/C/IND/CO/4-5, ¶ 31 (July 18, 2014).

<sup>1421</sup>Convention on the Elimination of All Forms of Discrimination Against Women, arts. 10, 14, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW].

substantive access<sup>1422</sup>. This article addresses that asymmetry as its central analytical problem.

The objectives of this inquiry are fourfold. First, the article seeks to trace the historical evolution of women's education policy from the colonial period to the post-constitutional era, identifying the normative shifts that have shaped contemporary frameworks. Second, it aims to analyse the constitutional and legislative foundations of women's educational rights, examining both their internal coherence and their doctrinal limitations. Third, the article critically evaluates major government schemes deployed in furtherance of women's education, assessing their programmatic design against constitutional obligations and ground-level evidence. Fourth, it draws on judicial pronouncements and international frameworks to construct a set of legally grounded recommendations for narrowing the policy-rights gap.

These objectives are pursued through three interrelated research questions: first, whether the existing constitutional and legislative framework is adequate to guarantee substantive, as opposed to merely formal, educational equality for women; second, in what ways the design and implementation of flagship education schemes have failed to address the intersectional dimensions of women's educational exclusion; and third, what doctrinal and institutional reforms are necessary to align India's domestic legal order with its international obligations under CEDAW and the Sustainable Development Goals. A fourth, comparative question asks what lessons India may draw from jurisdictions that have achieved greater success in converting constitutional entitlement into educational reality.

The methodology adopted is doctrinal and analytical. Primary sources include constitutional provisions, central and state

legislation, government policy documents, and Supreme Court and High Court judgments. Secondary sources comprise academic journal articles, committee reports, national survey data, and international instruments. The analytical framework applied draws on the distinction between formal and substantive equality, as elaborated in Indian constitutional jurisprudence, and on the capabilities approach as a theoretical lens for evaluating whether legal entitlements translate into genuine freedoms. The article adopts a critical posture towards its sources, subjecting both legislative claims and judicial reasoning to evaluative scrutiny rather than mere summary.

## II. HISTORICAL EVOLUTION OF WOMEN'S EDUCATION POLICIES IN INDIA

The history of women's education policy in India is a history of successive, often halting, recognitions that educational access for women constitutes both an instrument of national development and a dimension of human dignity. In the pre-colonial period, formal education for women was largely confined to upper-caste households, with the dominant brahminical tradition simultaneously valorising a certain form of female learning and restricting its institutional expression. The colonial encounter introduced contradictory impulses: missionaries and reformers such as Jyotirao Phule established schools for girls from marginalised communities while the colonial administration, for much of its duration, treated women's education as a secondary concern.

The Wood's Despatch of 1854, also known as the Magna Carta of Indian education, marked a significant departure by explicitly recognising the importance of female education and recommending the establishment of schools for girls<sup>1423</sup>. Although the Despatch's implementation was uneven and its primary beneficiaries were upper-class and middle-class women, it institutionalised the idea that the colonial state bore responsibility

<sup>1422</sup>Tapas Kumar Majumdar, Education and the Indian Constitution, 7 J. Indian L. Inst. 1, 4 (1965).

<sup>1423</sup>Wood's Education Despatch (Despatch No. 49 of 1854), Board of Directors to the Governor-General of India in Council (July 19, 1854).

for women's schooling. The Hunter Commission of 1882–83 further examined the state of female education and recommended that local bodies take greater responsibility for primary education accessible to girls<sup>1424</sup>. Legislative instruments of the reform era, such as the Child Marriage Restraint Act, 1929, though primarily directed at social reform, had indirect implications for girls' schooling by seeking to defer the age of marriage and thereby extend the window for educational participation<sup>1425</sup>.

The post-independence period witnessed a constitutionalising of the education imperative. Article 45 of the original Constitution of 1950 directed the State to provide, within ten years, free and compulsory education for all children up to the age of fourteen a directive that, for decades, remained aspirationally significant but legally unenforceable. The National Policy on Education of 1968 was the first post-independence articulation of a comprehensive national vision for education, recognising the importance of equalising educational opportunity across gender and social groups<sup>1426</sup>. The National Policy on Education of 1986, subsequently revised in 1992, moved considerably further by committing to the elimination of disparities between males and females in educational attainment and by introducing the concept of 'Operation Blackboard' to improve infrastructure in elementary schools<sup>1427</sup>. The 1986 Policy also launched the Mahila Samakhyas Programme, a scheme grounded in the Freirean pedagogy of empowerment, which conceptualised women's education as a process of conscientisation rather than mere literacy.

The most transformative policy development of the post-independence era was the Eighty-Sixth Constitutional Amendment

of 2002, which converted the directive principle of free and compulsory education into a justiciable fundamental right under Article 21A. This was followed by the National Education Policy 2020, which represents the most ambitious rethinking of India's educational architecture in three decades. The NEP 2020 explicitly acknowledges historical inequities in educational access on grounds of gender, caste, and geography, and proposes a Gender Inclusion Fund and dedicated equity interventions for Socially and Economically Disadvantaged Groups<sup>1428</sup>. Whether these proposals translate into implementation outcomes commensurate with their rhetorical ambition is a question the subsequent sections examine in detail.

### III. CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

The constitutional framework governing women's education in India is multistranded, drawing its normative force from both fundamental rights and directive principles. Article 14 of the Constitution guarantees equality before law and equal protection of the laws<sup>1429</sup>, a provision that, as interpreted by the Supreme Court, requires not merely formal non-discrimination but a consideration of substantive equality, particularly in contexts of entrenched structural disadvantage. Article 15(3) creates an enabling exception by permitting the State to make special provisions for women and children<sup>1430</sup>, which has served as the constitutional basis for the numerous women-specific educational schemes discussed below. Article 46 directs the State to promote with special care the educational and economic interests of the Scheduled Castes, Scheduled Tribes, and other weaker sections, and to protect them from social injustice<sup>1431</sup>. Read conjunctively, Articles 15(3) and 46 provide a robust constitutional mandate for targeted

<sup>1424</sup>Hunter Commission Report, Report of the Indian Education Commission 1882–83, at 520 (Calcutta, 1883).

<sup>1425</sup>Sarda Act (Child Marriage Restraint Act), No. 19 of 1929, Gazette of India (Oct. 1, 1929) (restricting early marriage that impeded girls' schooling).

<sup>1426</sup>National Policy on Education 1968, Resolution No. F. 5(114)/65-EP, Ministry of Education, Govt. of India (1968).

<sup>1427</sup>National Policy on Education 1986, Ministry of Human Resource Development, Govt. of India, reprinted in Selected Educational Statistics 1986–87 (1987); Programme of Action 1992 (revised NPE).

<sup>1428</sup>NEP 2020, supra note 3, at 26–28, 58–61.

<sup>1429</sup>INDIA CONST. art. 14 (equality before law and equal protection of laws).

<sup>1430</sup>INDIA CONST. art. 15(3) (permitting special provisions for women and children).

<sup>1431</sup>INDIA CONST. art. 46 (State to promote educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections).

educational interventions in favour of women from marginalised communities.

Article 45, as amended by the Eighty-Sixth Amendment, now addresses early childhood care and education for children below six years of age. The significance of this provision for women's education lies not only in its direct application to the girl child but also in its recognition that early childhood nutrition and care disproportionately provided by women is a precondition for meaningful educational participation. Article 21A, the cornerstone of the contemporary right-to-education framework, provides that the State shall provide free and compulsory education to all children of the age six to fourteen years. The Supreme Court, in a series of landmark decisions discussed below, had laid the groundwork for this right long before its textual insertion into the Constitution.

The statutory manifestation of Article 21A is the Right of Children to Free and Compulsory Education Act, 2009. The Act imposes mandatory obligations on the State to provide a neighbourhood school within a specified distance, to ensure age-appropriate admission, and to prohibit the expulsion of a child before the completion of elementary education<sup>1432</sup>. Section 12(1)(c) of the Act, requiring unaided private schools to admit not less than twenty-five per cent of their total intake from disadvantaged groups and weaker sections – a provision upheld by the Supreme Court<sup>1433</sup> – has particular significance for girls from economically marginalised backgrounds, providing them access to quality private schooling. The Act's prohibition on corporal punishment and its requirements concerning teacher qualifications are also relevant to the safety and dignity of the girl child within the school environment.

Two additional legislative instruments intersect materially with girls' education. The

<sup>1432</sup>Right of Children to Free and Compulsory Education Act, No. 35 of 2009, §§ 3, 8, 12, Gazette of India (Aug. 27, 2009).

<sup>1433</sup>Society for Unaided Private Schools of Rajasthan v. Union of India, (2012) 6 SCC 1 (India) (upholding Section 12(1)(c) of the RTE Act requiring unaided schools to admit 25% disadvantaged children).

Protection of Women from Domestic Violence Act, 2005, defines 'domestic violence' to include economic abuse encompassing deprivation of educational resources<sup>1434</sup>, thereby creating a legal instrument through which a girl child's or woman's right to educational access can be asserted against private actors within the family. The Protection of Children from Sexual Offences Act, 2012, through its mandatory reporting obligations and child-friendly procedural mechanisms, seeks to enable survivors of sexual abuse to continue their schooling and to reduce the school-avoidance behaviour that commonly follows such abuse<sup>1435</sup>. The interface between these enactments and the RTE Act remains underexplored in both judicial practice and policy design, representing a significant gap in the integrated protection framework for girls' education.

#### IV. MAJOR GOVERNMENT SCHEMES AND THEIR POLICY IMPACT

The implementation of constitutional and statutory obligations relating to women's education has been channelled primarily through a series of centrally sponsored schemes, the design and performance of which reveal both the ambition of Indian education policy and its structural limitations.

##### Samagra Shiksha Abhiyan

Samagra Shiksha Abhiyan, launched in 2018 as a merger of the Sarva Shiksha Abhiyan, Rashtriya Madhyamik Shiksha Abhiyan, and Teacher Education schemes, represents the most comprehensive integrated framework for school education currently in operation<sup>1436</sup>. The scheme's gender-equity components include the provision of separate toilets for girls, stipends for girls from SC/ST/minority

<sup>1434</sup>Protection of Women from Domestic Violence Act, No. 43 of 2005, § 3, Gazette of India (Sept. 14, 2005) (defining domestic violence to include deprivation of educational resources).

<sup>1435</sup>Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 4, 6, Gazette of India (June 20, 2012) (mandatory reporting obligations and child-friendly procedures that enable school attendance by survivors).

<sup>1436</sup>Ministry of Education, Govt. of India, Samagra Shiksha – An Integrated Scheme for School Education: Framework for Implementation (2018) [hereinafter Samagra Shiksha Framework].

communities at the secondary level, and the Kanya Shiksha Pravesh Utsav initiative for enrolling out-of-school adolescent girls. These provisions directly address the well-documented relationship between sanitation infrastructure and girls' school attendance. Structurally, however, Samagra Shiksha operates within the constraints of a highly centralised fund-release mechanism, which creates delays in scheme implementation at the district and block levels, thereby attenuating its impact on the most disadvantaged communities.

### **Beti Bachao Beti Padhao**

Beti Bachao Beti Padhao, launched in 2015, was conceived as an integrated social campaign addressing female foeticide, girls' education, and the declining child sex ratio<sup>1437</sup>. While the scheme has achieved significant brand recognition and is frequently cited by the government as evidence of commitment to gender equality, the Comptroller and Auditor General's performance audit of 2017 found that fifty-six per cent of the scheme's released funds had been expended on media and advertising campaigns, with only a modest fraction reaching direct educational interventions<sup>1438</sup>. This fiscal asymmetry between communication and substantive programme delivery represents a structural deficiency in the scheme's design, raising serious questions about whether it constitutes a genuine effort at realising constitutional obligations or functions primarily as a governance optics exercise. Notwithstanding the scheme's communicative achievements, there is limited empirical evidence that it has significantly improved gender-disaggregated educational outcomes in the targeted districts.

<sup>1437</sup>Ministry of Women and Child Development & Ministry of Health and Family Welfare, *Beti Bachao Beti Padhao Scheme: Guidelines* (2015).

<sup>1438</sup>CAG of India, Report No. 23 of 2017 – Performance Audit of Beti Bachao Beti Padhao Scheme, at 17–22 (2017) (finding 56% of released funds spent on media/advertising).

### **Mahila Samakhyia Programme**

The Mahila Samakhyia Programme, conceptualised in the National Policy on Education 1986 and operationalised by the Ministry of Education, proceeded from the premise that women's education must be embedded in a process of social empowerment rather than mere literacy transfer<sup>1439</sup>. Operating through women's collectives called *sanghas*, the programme achieved notable success in mobilising women in remote rural areas of states such as Bihar, Jharkhand, Uttar Pradesh, and Gujarat to assert their educational rights. Scholarly evaluations have nonetheless noted that the programme's decentralised, community-driven model, while responsive to local needs, was insufficiently institutionalised to ensure uniform quality across geographies, and that its dependence on central funding made it vulnerable to abrupt policy reversals. The programme was discontinued in 2017, a decision whose implications for grassroots women's education remain inadequately studied.

### **Kasturba Gandhi Balika Vidyalaya**

Kasturba Gandhi Balika Vidyalaya, a residential school scheme targeting girls from SC, ST, OBC, and minority communities in educationally backward blocks, addresses the intersection of gender, caste, and geographic disadvantage that the mainstream school system has failed to resolve<sup>1440</sup>. By providing residential accommodation, the scheme overcomes the physical distance and safety barriers that prevent girls in remote areas from attending school. Official data indicate that KGBVs have contributed to increased secondary-level enrolment among the targeted populations. However, concerns persist about infrastructure quality, the adequacy of trained teaching staff, and the need to extend the scheme beyond Class VIII to ensure girls

<sup>1439</sup>Ministry of Education, Govt. of India, *Mahila Samakhyia Programme: A Programme for Education for Women's Equality* National Evaluation Report (2012).

<sup>1440</sup>Ministry of Education, *Kasturba Gandhi Balika Vidyalaya: Annual Status Report 2020–21*, at 9 (2021).

complete secondary education and do not re-enter cycles of early marriage upon leaving residential facilities.

### Mid-Day Meal Scheme

The Mid-Day Meal Scheme, the world's largest school feeding programme, operates as a retention incentive that particularly benefits girls from economically marginalised households, for whom the nutritional and economic value of a free cooked meal constitutes a material inducement to school attendance<sup>1441</sup>. The scheme has been linked in empirical literature to increased enrolment, reduced absenteeism, and improved learning outcomes. The CAG's performance audit nonetheless identified systemic irregularities including poor food quality, inadequate kitchen infrastructure, and gaps in fund utilisation, suggesting that the scheme's impact remains below its potential. The intersection of the scheme with caste discrimination reports of Dalit children being served separately or in degrading conditions in some states further complicates its role as an equity instrument.

### V. JUDICIAL PRONOUNCEMENTS AND THEIR ROLE IN SHAPING WOMEN'S EDUCATIONAL RIGHTS

The Indian judiciary has played a constitutive role in the emergence of education as a justiciable fundamental right, and several landmark decisions have shaped the normative architecture within which women's educational rights are understood and enforced.

In *Mohini Jain v. State of Karnataka*, the Supreme Court held for the first time that the right to education is a fundamental right flowing from Article 21, reasoning that the right to life encompasses the right to a dignified existence, of which education is a necessary constituent<sup>1442</sup>. Although the decision arose from the context of capitation fees in private medical colleges, its constitutional logic that the State's obligation to provide free education flows from

the fundamental right to life had profound implications for girls' education, particularly in contexts where families facing financial constraints were forced to choose which children to educate. The decision articulated, implicitly, a constitutional principle against allocative discrimination within households.

The constitutional foundation laid in *Mohini Jain* was qualified and elaborated by a Constitution Bench in *Unni Krishnan v. State of Andhra Pradesh*, where the Court confirmed that the right to free and compulsory education exists for all children up to the age of fourteen, while limiting the constitutional right to private unaided education to a regulated framework<sup>1443</sup>. The decision's lasting contribution to women's educational rights lies in its recognition of the State's positive obligation to create an infrastructure of access a recognition that has animated subsequent RTE Act litigation. The interplay between *Unni Krishnan's* framework and the enactment of Article 21A underscores the judiciary's catalytic role in constitutional amendment.

In *State of Himachal Pradesh v. Umed Ram Sharma*, the Supreme Court held that the right to life under Article 21 encompasses the right to road connectivity, insofar as the absence of roads in hilly terrain denies access to schools and healthcare<sup>1444</sup>. Though the decision was not directly concerned with women's education, its reasoning is of considerable relevance to girls in geographically isolated communities for whom physical infrastructure remains the proximate barrier to schooling. The decision illustrates the judiciary's willingness to deploy Article 21 expansively to address structural conditions that impede the exercise of rights.

In *Avinash Mehrotra v. Union of India*, the Supreme Court directed State governments to ensure the structural safety of school buildings, invoking the State's positive obligation under

<sup>1441</sup>Comptroller and Auditor General of India, Performance Audit of Midday Meal Scheme, Report No. 8 of 2013, at 42 (2013).

<sup>1442</sup>*Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666 (India).

<sup>1443</sup>*Unni Krishnan v. State of Andhra Pradesh*, (1993) 1 SCC 645 (India).

<sup>1444</sup>*State of Himachal Pradesh v. Umed Ram Sharma*, (1986) 2 SCC 68 (India) (holding that right to life under Article 21 encompasses access to road and connectivity essential for education).

Article 21A to create a safe educational environment<sup>1445</sup>. The significance of this direction for girls' education is considerable: the fear of physical insecurity inadequate toilets, absence of boundary walls, structural vulnerabilities is a documented determinant of girls' school dropout, and the Court's direction reaffirms that the right to education encompasses a right to educational safety. In *Society for Unaided Private Schools of Rajasthan v. Union of India*, the Court upheld the RTE Act's reservation mandate for unaided schools, a ruling that has expanded educational access for girls from disadvantaged communities. The decision's jurisprudential significance lies in its affirmation that the horizontal application of constitutional rights to private educational actors is permissible and indeed mandated by the Act's constitutional moorings.

More recently, in *Aparna Bhat v. State of Madhya Pradesh*, the Supreme Court articulated constitutional obligations of the State with respect to the bodily autonomy and dignity of women, a discourse that intersects with the right of the girl child to attend school free from the threat of sexual violence<sup>1446</sup>. The decision's emphasis on substantive equality and the State's affirmative duties under Articles 14 and 21 represents a doctrinal convergence between the equality jurisprudence and the right-to-education framework that holds considerable potential for judicial enforcement of girls' educational rights in conditions of violence and insecurity.

## VI. CRITICAL ANALYSIS GAPS, CHALLENGES, AND INTERSECTIONALITIES

An honest assessment of India's women's education framework requires confronting the structural, institutional, and cultural forces that

continue to undermine its effectiveness, forces that no single legislative intervention has proven sufficient to overcome.

The National Family Health Survey (NFHS-5) of 2019–21 reveals that approximately twenty-three per cent of women aged twenty to twenty-four years were married before the age of eighteen, with rates significantly higher in Rajasthan, Bihar, Jharkhand, and West Bengal<sup>1447</sup>. Early marriage remains the most consequential non-institutional barrier to girls' secondary and higher education, yet the legislative prohibition in the Prohibition of Child Marriage Act, 2006, and its proposed amendment, the Prohibition of Child Marriage (Amendment) Bill, 2021, have not been matched by adequate enforcement infrastructure. The intersection of early marriage with patriarchal household economics in which the perceived cost-benefit calculus of educating a daughter is distorted by dowry norms, perceived security concerns, and the expectation that daughters will migrate to their marital homes creates a structural disincentive to girls' education that law alone cannot dissolve without complementary social and economic interventions.

The intersection of gender with caste produces compounded disadvantages that the universalist framing of the RTE Act is structurally ill-equipped to address. Dalit and Adivasi girls face not merely the barriers common to all disadvantaged children but a specific configuration of social discrimination caste-based violence within schools, social ostracism, teacher apathy, and community norms prescribing domestic confinement that renders school attendance a site of daily indignity<sup>1448</sup>. The Annual Status of Education Report has consistently documented that learning outcomes at the elementary level remain severely depressed among children from SC and ST households, with girls from

<sup>1445</sup>Avinash Mehrotra v. Union of India, (2009) 6 SCC 398 (India) (directing States to ensure structural safety of school buildings as part of Article 21A obligations)

<sup>1446</sup>Aparna Bhat v. State of Madhya Pradesh, (2021) 5 SCC 452 (India) (articulating constitutional obligations of the State in protecting bodily autonomy of women, which intersects with the girl child's freedom to attend school).

<sup>1447</sup>International Institute for Population Sciences (IIPS) & ICF, National Family Health Survey (NFHS-5) 2019–21, at 88 (2021).

<sup>1448</sup>Shantha Sinha, Child Labour and Girls' Education: Policy Contradictions in India, 48 Econ. & Pol. Wkly. 33, 37 (2013).

these communities recording the lowest learning levels<sup>1449</sup>. Policy frameworks that address gender and caste in parallel rather than in their intersection consistently fail to reach the most marginalised.

Geographic isolation compounds these disadvantages in ways that have been acknowledged but not yet adequately resolved. In the North-East, the tribal interiors of central India, and the remote districts of Jammu and Kashmir and Ladakh, the physical distance from schools, combined with terrain-related infrastructure deficits and the inadequacy of hostel facilities for girls, creates barriers to educational access that are irreducible to economic poverty<sup>1450</sup>. The Kasturba Gandhi Balika Vidyalaya scheme, while addressing residential schooling for marginalised girls, does not cover the full secondary and higher secondary stage, and the gap between completing Class VIII and accessing a secondary school within reasonable distance remains a structural dropout driver.

The digital divide, which the NEP 2020 seeks to address through its emphasis on digital infrastructure, has acquired renewed urgency in the post-pandemic context. Remote learning during the COVID-19 pandemic disproportionately excluded girls from marginalised households, who lacked access to smartphones, reliable internet connectivity, and the domestic conditions conducive to self-directed study. The ASER 2022 report documents persistent learning loss among rural children, with girls in remote districts recording the deepest learning deficits. The deployment of digital education tools as a substitute for rather than supplement to in-person instruction has, in practice, functioned as an instrument of exclusion rather than equity for these populations.

Sanitation infrastructure continues to function as a critical determinant of girls' school

attendance, particularly at the transition from upper primary to secondary level. While government data indicates significant improvement in the availability of separate girls' toilets following targeted schemes under Samagra Shiksha, the quality, maintenance, and privacy of sanitation facilities remain inadequate in many government schools, contributing to menstruation-related absenteeism and dropout among adolescent girls. This challenge has a clear constitutional dimension: the failure to provide a safe, hygienic, and dignified school environment constitutes a failure of the State's positive obligation under Article 21A, as the courts have implicitly recognised in cases concerning school building safety.

## VII. COMPARATIVE PERSPECTIVE

India's legal obligations with respect to women's education are not merely domestic but extend to binding commitments under international human rights law, and a comparative analysis reveals both the standards India is expected to meet and the diverse institutional strategies through which comparable countries have sought to meet them.

The Convention on the Elimination of All Forms of Discrimination against Women, ratified by India in 1993, imposes specific obligations in Articles 10 and 14 to eliminate discrimination against women in education and to ensure rural women's right to access educational programmes<sup>1451</sup>. Article 10 enumerates a comprehensive set of educational rights including access on a basis of equality between men and women, access to the same curricula and examinations, the elimination of any stereotyped concept of the roles of men and women, and the reduction of female student dropout rates. India's record in implementing these obligations has been the subject of critical commentary from the CEDAW Committee, which has noted the persistence of dropout rates, caste-based discrimination, and

<sup>1449</sup>Annual Status of Education Report (ASER) 2022: Rural India, at 64 (ASER Centre, 2023).

<sup>1450</sup>Neera Burra, *Girl Child and the Family: An Indian Perspective*, in *Girl Child in India* 24, 31 (Lotika Sarkar & B.B. Pande eds., 1994).

<sup>1451</sup>CEDAW, *supra* note 7, arts. 10(a)–(h), 14(2)(d).

inadequate enforcement of laws prohibiting child marriage.

The 2030 Agenda for Sustainable Development commits India and all United Nations member states to achieving Goal 4 (quality education for all) and Goal 5 (gender equality), with specific targets addressing elimination of gender disparities in education and equal access for women and girls to tertiary education<sup>1452</sup>. The Incheon Declaration and its Education 2030 Framework for Action further specify that gender equity must be understood not as mere numerical parity but as the transformation of underlying social norms and institutional structures that reproduce educational disadvantage<sup>1453</sup>. India's Voluntary National Reviews before the High-Level Political Forum have consistently reported progress against SDG education targets while acknowledging the substantial distance remaining to achieve intersectional equity.

Bangladesh presents an instructive comparator, having achieved female secondary enrolment rates surpassing male enrolment a remarkable reversal of historical gender gaps through a combination of conditional cash transfer programmes, the Female Secondary School Assistance Programme, and a unified national curriculum that does not reinforce gender stereotypes<sup>1454</sup>. The Bangladesh experience underlines the catalytic role of direct financial incentives to families for keeping daughters in school beyond the primary stage, an approach that India's scholarship schemes have replicated but at insufficient scale and with inadequate universality of coverage.

South Africa's constitutional framework offers a different lesson, demonstrating the potential of judicially enforceable

socioeconomic rights to compel government action on educational equity. Section 29 of the Constitution of South Africa, 1996, establishes a justiciable right to basic education, and the Constitutional Court has consistently held that this right imposes immediately realisable obligations rather than merely progressive duties<sup>1455</sup>. In *Minister of Basic Education v. Basic Education for All*, the Supreme Court of Appeal ordered the government to deliver textbooks within a specified timeframe, directly enforcing the right to education<sup>1456</sup>. The contrast with India's approach where the justiciability of the RTE Act's provisions has been characterised by judicial deference to governmental resource allocation decisions suggests that the constitutional right to education could be operationalised with considerably greater rigour than Indian courts have thus far been prepared to accept.

#### VIII. RECOMMENDATIONS

The foregoing analysis reveals a legal framework that is normatively ambitious but operationally constrained, and a set of persistent structural and intersectional barriers that require coordinated doctrinal, institutional, and programmatic responses. Six recommendations are advanced.

First, the Right of Children to Free and Compulsory Education Act, 2009, should be amended to extend its coverage to children from fourteen to eighteen years, with specific provisions addressing girls at the secondary stage. The existing limitation of the fundamental right to the elementary stage leaves the most critical dropout-vulnerable phase the transition to secondary schooling outside the Act's protective ambit. An extension, paired with a statutory obligation on States to provide residential schooling facilities for girls in areas where secondary schools are not within accessible distance, would constitute the most

<sup>1452</sup>G.A. Res. 70/1, Transforming Our World: The 2030 Agenda for Sustainable Development, Goals 4, 5 (Sept. 25, 2015).

<sup>1453</sup>UNESCO, Incheon Declaration and Framework for Action for the Implementation of Sustainable Development Goal 4 (2016).

<sup>1454</sup>Government of Bangladesh, Second National Education Policy 2010 (Kudrat-E-Khuda Commission, revised 2010) (establishing a unified primary curriculum with gender-equity guarantees).

<sup>1455</sup>Constitution of South Africa, 1996, §§ 9(3), 29(1) (equality clause and right to basic education justiciable in domestic courts).

<sup>1456</sup>*Minister of Basic Education v. Basic Education for All*, [2016] 2 All SA 596 (SCA) (South Africa) (enforcing constitutional right to education as immediately realisable).

direct legislative response to the documented dropout crisis at the post-elementary stage. Such an amendment would be constitutionally grounded in Articles 21, 15(3), and 46 and would be consistent with the NEP 2020's stated commitment to universal secondary education<sup>1457</sup>.

Second, the Beti Bachao Beti Padhao scheme requires fundamental restructuring to redirect its expenditure profile away from mass media advertising and towards direct programmatic interventions, including conditional cash transfers to families of secondary-school girls, grants to girls' residential schools, and community mobilisation activities with measurable outcomes. Scheme design should incorporate a mandatory gender-disaggregated outcome monitoring framework, with data reviewed annually by a parliamentary standing committee, and release of central funds should be conditioned on the submission of outcome reports rather than merely expenditure statements.

Third, India should enact a comprehensive National Women's Education Rights Act that consolidates and clarifies the State's obligations toward women's education across all levels, from early childhood through higher education, rather than leaving these obligations fragmented across the RTE Act, various scheme guidelines, and aspirational policy documents. Such legislation should incorporate mandatory provisions for gender-sensitive curriculum review, prohibition of discriminatory admission practices at all levels, and establishment of a National Commission for Women's Education with investigative and recommendatory powers. The Commission's mandate should specifically address the intersection of gender, caste, and geographic disadvantage in educational access.

Fourth, the digital divide in education must be addressed through a rights-based

legal framework rather than through ad hoc scheme provisioning. A statutory right to digital educational resources for children from disadvantaged communities operationalised through the mandatory provision of device access and internet connectivity in government schools, and through digital literacy programmes tailored for girls and women would convert the NEP 2020's aspirational commitment to digital education into a justiciable entitlement. States should be required to report annually on gender-disaggregated digital access data, and fund release under Samagra Shiksha should be linked to achieving specified benchmarks.

Fifth, the legislative and administrative framework governing child marriage must be strengthened and better integrated with the education policy apparatus. The Prohibition of Child Marriage Act, 2006, should be amended to create mandatory intersectoral coordination between District Magistrates, Child Protection Officers, and school authorities, so that a girl's removal from school triggers a protection protocol that includes re-enrollment support and family counselling. The proposed increase in the minimum age of marriage for women from eighteen to twenty-one years currently under legislative consideration should be accompanied by a robust, gender-disaggregated monitoring system and adequate enforcement resources, without which the amendment risks remaining aspirational.

Sixth, and most fundamentally, the constitutional and statutory framework should be interpreted and applied by the courts with greater doctrinal rigour to enforce the positive obligations of the State in the domain of women's education. Drawing on the South African model and the Supreme Court's own expansive Article 21 jurisprudence, Indian courts should be prepared to review the adequacy of State expenditure on girls' education, to scrutinise the design of schemes against constitutional equality standards, and to issue structural injunctions compelling compliance

<sup>1457</sup>NEP 2020, supra note 3, at 61–63 (proposing gender inclusion fund and district-level monitoring committees).

with the RTE Act and CEDAW obligations where State performance is manifestly deficient. The development of a robust body of public interest litigation jurisprudence specifically addressing women's educational rights would constitute a significant contribution to the constitutional project of substantive equality.

## IX. CONCLUSION

The constitutional and legislative architecture governing women's education in India is, by any comparative measure, substantively elaborate. From Articles 14, 15, 21A, 45, and 46 of the Constitution to the Right of Children to Free and Compulsory Education Act, 2009, from the Mahila Samakhya Programme to the National Education Policy 2020, the formal frameworks of educational entitlement and state obligation are extensive, ambitious, and, in their doctrinal underpinnings, progressive. Yet the lived experience of millions of women and girls in India characterised by early marriage, caste-based exclusion, geographic isolation, digital deprivation, and the fear of institutional violence stands as a rebuke to the assumption that formal legal frameworks, however well-constructed, can independently deliver substantive equality.

The central thesis advanced in this article is that the gap between constitutional promise and educational reality in India is not primarily a gap of legislative intent but of institutional design, fiscal commitment, and political will. The constitutional framework, as interpreted by the Supreme Court from *Mohini Jain* through *Unni Krishnan* to the RTE Act era, creates strong and expanding normative foundations for the right to education. The judiciary has demonstrated both the capacity and the willingness to deploy constitutional provisions expansively in service of educational equality. The international obligations India has assumed under CEDAW and the Sustainable Development Goals provide additional normative and accountability resources that remain underutilised in domestic legal practice.

What is required is a shift from the politics of scheme announcement to the discipline of rights realisation: a restructuring of flagship schemes to orient expenditure towards direct educational outcomes rather than communicative functions; an extension of the statutory right to education through the secondary stage; the enactment of consolidated legislation that gives legal form to the State's comprehensive obligations to women's education; and a judicial culture willing to hold governments accountable to their constitutional commitments through structural remedies. The stakes of this transition extend well beyond the education sector. In a constitutional democracy, the treatment of women's education is a diagnostic of whether the foundational commitment to substantive equality is a living constitutional value or a textual aspiration. The evidence surveyed in this article suggests the distance between these two conditions remains formidable but not insurmountable.

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ISSN 2583-2344



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