



A STUDY ON JUDICIAL INTERPRETATION OF THE RIGHT TO EDUCATION UNDER ARTICLE 21 A OF THE INDIAN CONSTITUTION

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Abstract

The Right to Education (RTE) enshrined in Article 21A of the Indian Constitution represents a landmark achievement in securing education as a fundamental right for children aged 6-14 years. However, the bare text of the Article is insufficient to capture the full scope and impact of this right. Judicial interpretation plays a crucial role in breathing life into constitutional provisions, clarifying ambiguities, and ensuring their effective implementation. This paper aims to analyze the key judicial pronouncements that have shaped the understanding and implementation of Article 21A, examining how the judiciary has broadened the scope of the right, addressed implementation challenges, and ultimately contributed to the realization of universal elementary education in India. It explores the evolving jurisprudence, focusing on landmark cases and their implications for the state, educational institutions, and individual beneficiaries.

Keywords: Article 21A, Right to Education, Judicial Interpretation, Elementary Education, Fundamental Right, Compulsory Education, Implementation Challenges, Universal Access, Quality Education.

INTRODUCTION

The Indian Constitution, through its transformative provisions, aims to establish a just and equitable society. Article 21A, inserted in 2002 by the 86th Amendment, marks a significant step in this direction by guaranteeing free and compulsory education as a fundamental right to all children between the ages of six and fourteen years. This amendment was spurred by the recognition that education is not merely a desirable goal but a fundamental prerequisite for individual empowerment, social progress, and national development.

Article 21A, however, is a concise statement. Its true meaning and practical application are heavily reliant on judicial interpretation. The Supreme Court and various High Courts have been instrumental in defining the contours of this right, addressing questions regarding its scope, enforceability, and the obligations placed upon the state and other stakeholders. This paper delves into this crucial area of judicial interpretation, highlighting the key cases that have shaped the landscape of the Right to Education in India.

OBJECTIVE OF THE STUDY

The objective of this paper is to find out the judicial interpretation of Right to Education Article 21 A in India.

**REVIEW OF LITERATURE**

Jitendra Gowda and Kailash Chandra Das (2013) in their paper “Education in private and Government School” have identified the differences between the government schools and private schools in terms of infrastructure, the fee charged including the performance of the students. The authors have also assessed the role of infrastructure, cost on the performance of children. The research paper reveals that there is a colossal difference in the standard and quality of education provided by public schools and private schools. The literature offers solutions related to improving the conditions of the teachers and on providing better infrastructure.

Ravi Kumar (2004) in his research paper entitled, Free and Compulsory Education for children has been written by the author after the 93rd Constitutional Amendment 2002 was passed and the Free and Compulsory Education for Children, Bill 2004 was pending. The author argues that the target set by Article 4577 of the constitution could be achieved only through well planned and suitably designed programmes. The author traces the process of a shift in the idea of education, from “education” to “learning”. The author emphasizes the point that ‘education’ has been placed to cater to the needs of capitalism and the system of education is trying to institutionalize the inequality which is already existing in the Indian society for centuries. The author also articulates on the important point that, India being the signatory to the Child Right Convention (CRC) has failed to act upon it and has made the constitutional amendment, making education free and compulsory to children only in the age group of 6 to 14 years.

Gouda, J and K. C. Goli (2013) in their article, “Difference between government and private school with special reference to learning” have tried to identify, compare and contrast the differences between the government schools and the private schools in terms of learning outcome, physical infrastructure and the schooling costs. They have also tried to study the impact of having good infrastructure and the schooling costs on the performance of the children in school. The authors have used the India Human Development Survey (IHDS, 2005) data for assessing the infrastructure facilities and schooling cost and the performance of the children in government and in private schools in India. The IHDS survey includes a national representative sample of 41,554 households located from all the states and union territories of India and it includes both urban and rural sample.

Karthik Muralidharan (2013), In this paper ‘greater input will automatically improve the learning outcomes in children’ has made policy recommendation which is based on the study of high-quality empirical research done in the past and has also given the suggestions to implement the 12th five-year plan. The findings of the author are that there is very little evidence to support. The author finds that better management by focusing more on teacher performance and by innovative teaching method, specially designed to match the learning level of children will have a positive impact o at government school. The author also suggests that innovative techniques of classroom teaching and proper school management would improve the quality of teaching.



Adarsh Sharma, Rekha Sharma Sen and Reny Gulati (2008) emphasize in their paper “The importance of early childhood education and analysis various developmental policies and programmes on early childhood education in India”. The authors have written this article by making documentary analysis and literature review to appreciate the development of policy and programme on early childhood development in India. They make the finding that the changing economic and social condition has broken down the traditional mechanism of the early childhood care system in India. Further, the authors find that the disparity between the rich and the poor has put the children in the vulnerable condition.

The article reveals that the policy and programmes relating to Early Childhood Development (ECD) has gradually evolved from Welfare to Development to Rights. the Constitution and the United Nations Convention on the Right of the Child (UNCRC) are the basis and the guiding force to drafting the policies and programmes for early childhood development.

JUDICIAL INTERPRETATION OF RIGHT TO EDUCATION ARTICLE 21 A

The judiciary has played a crucial role in affirming the Right to Education, linking it to the concept of human dignity and the right to life enshrined in Article 21 of the Indian Constitution. The courts have further emphasized that the fundamental right (Part III) should be interpreted in conjunction with the Directive Principles of State Policy (Part IV), thereby limiting the free and compulsory availability of this right to children up to the age of fourteen. The responsibility of the State to provide free education beyond this age was determined by its economic capacities.

Judicial Influence on RTE:

The judiciary was instrumental in realizing the vision of a compulsory and free public education system, as envisioned at the time of the Constitution's promulgation. The recognition of the Right to Education as a fundamental right increased the State's responsibility to enact the RTE Act. This statute has given a comprehensive structure to the country's educational system.

The legislation is carefully designed and incorporates principles of fairness, equality, accessibility, and quality. It outlines the rights of children and the responsibilities of monitoring bodies, the government, schools, and parents or guardians :

This legislation categorizes schools as government, aided, unaided, and specified. Schools established by minorities are included within the legislation's scope, while respecting their constitutional rights. Government schools offer free education, while other schools can charge fees, but not capitation fees, as stipulated by the Act. Schools and teachers are responsible for delivering the curriculum and fostering the overall development of children. Additionally, elementary schools are expected to provide a quality learning environment with good infrastructure.



The Constitution's Preamble emphasizes principles of equality and social justice. The 25% reservation for children in unaided schools reflects these values :

School Management Committees oversee school infrastructure, finances, and programs like mid-day meals. Ultimately, the government and local authorities are responsible for maintaining records of all children and providing free education to all, without any discrimination.

Education is a vital tool for individual and national progress, fostering freedom, awareness, equality, and social justice :

The Right to Education is enshrined in Article 21A of the Indian Constitution, added through the 86th Amendment in 2002. The government considered this a landmark achievement, signaling a new era for citizens' rights. Prior to this, the Right to Education was mentioned in Articles 45 and 39(f). In 1955-56, the government prioritized education, allocating over 1% of the GDP to the sector. However, student enrollment decreased from 42 million in 2002 to 13 million by 2005.

The Sarva Shiksha Abhiyan, launched in 2000, dedicated 2% of central tax revenue towards education, paving the way for the 86th Amendment :

Article 45 originally directed the state to provide free and compulsory education to children up to 14 years old within ten years. Article 39(f), before its amendment, emphasized the protection of children and youth from exploitation.

86th Constitutional Amendment

The 2002 amendment introduced free and compulsory education for children aged 6 to 14 years. To achieve this goal, three provisions were added: Article 21A stating the state's responsibility to provide free and compulsory education for children aged 6-14, as determined by law; a revised Article 45 directing the state to ensure early childhood care and education for all children up to six years; and Article 51A(k) making it a parental duty to ensure the education of their children between 6 and 14 years.

Series of Events

- In **1950**, Article 45 was included in the Directive Principles of State Policy to ensure education was part of the system.
- The **First National Commission**, led by Dr. Kothari, was formed in **1968**.
- The **42nd Amendment in 1976** designated education as a concurrent subject, allowing both central and state governments to legislate on it.
- The **Right to Education was recognized as part of the Right to Life under Article 21** in the Mohini Jain case (1992) and the Unnikrishnan case (1993).



- The **86th Amendment** made the Right to Education a Fundamental Right under Article 21A.
- In **2005**, the Central Advisory Board Committee submitted a report to introduce the Right to Education Bill.
- The **Right to Free and Compulsory Education to Children Act** was enacted in **2009**.

The Right of Children to Free and Compulsory Education Act, 2009

The Right of Children to Free and Compulsory Education Act of 2009, a parliamentary act proposed on August 4, 2009, emphasizes the importance of free and compulsory education for all children in India between the ages of 6 and 14. With this legislation, India became the 135th country to recognize education as a fundamental right, enshrined in Article 21A of its Constitution. The Act came into effect on April 1, 2010.

This right to education obligates governments to ensure basic learning needs are met for all children. These encompass both essential learning tools, such as literacy, numeracy, oral expression, and problem solving, alongside core learning content, encompassing the knowledge, skills, values, and attitudes necessary for individuals to thrive. As stated by the World Declaration on Education for All of 1990, these elements allow people to survive, develop their full potential, live and work with dignity, contribute to development, improve their quality of life, and make informed decisions.

After a thorough drafting and revision process, the Right to Education Act was enacted to fulfill the primary demand of ensuring social justice for all children. The policy is built upon the 4As framework, outlining the intended scope of the legislation:

- **Availability:** Education must be free and funded by the government. It requires qualified and expert teachers in their respective fields, as well as adequate infrastructure to support the learning process.
- **Accessibility:** Education must be available to everyone without discrimination, with a specific focus on supporting the most vulnerable members of society.
- **Acceptability:** The quality of education must be appropriate and culturally relevant, free from discrimination. The school environment must be safe, with appropriately qualified teachers.
- **Adaptability:** Education must be dynamic, evolving in response to the changing needs of society and its people, and it must contribute to eliminating disparities, including gender discrimination.

CONCLUSION

Judicial interpretation has been instrumental in shaping the understanding and implementation of the Right to Education under Article 21A of the Indian Constitution. Through landmark judgments, the judiciary has clarified the scope of the right, addressed



implementation challenges, and emphasized the importance of quality education. While challenges remain, the judiciary's proactive role has undeniably contributed to the progressive realization of universal elementary education in India.

However, the journey is far from over. The judiciary must continue to play a vigilant role in ensuring that the state fulfills its constitutional obligation to provide free and compulsory education to all children, regardless of their socio-economic background. Furthermore, there is a need for continuous dialogue and collaboration between the judiciary, the legislature, the executive and civil society organizations to address the remaining challenges and to ensure that the right to education becomes a reality for every child in India. The unfolding tapestry of judicial interpretation offers a roadmap, guiding the nation towards a future where education empowers every citizen and contributes to a more just and equitable society.

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