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## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **“RIGHT TO EDUCATION IN INDIA: A DREAM DEFERRED BY DIGITAL DIVIDE, GENDER GAPS, AND POLICY GAPS”**

AUTHORED BY - RAJNANDA SINGH

## **‘INTRODUCTION’**

### **BACKGROUND INFORMATION**

“Travelling through the cities of Europe and observing in them the comforts and education of even the poor people, there was brought to my mind the state of our people, and I used to shed tears... what made the difference? Education was the answer I got”

- Swami Vivekanand

Education paves the way for the growth of the society managing the country's socio-economic parts. It develops skills, knowledge, and personality which act as a powerful tool to remove poverty from society. Employment opportunities are improved, and values of hard work and discipline are instilled to become better assets for the country.

We can say that there has been great progress made in recent years by shifting from traditional methods to modern methods of learning. However, even after this development there still exist a large number of challenges. The literacy rate is 74% where urban areas still enjoy a much higher literacy rate as compared to rural and economically poor areas.

According to UNESCO reports education is the key through which millions can be brought out of poverty and economic poverty can be reduced significantly. Countries like Germany and Norway are giving free of cost education to achieve high rate of literacy among its citizens, which should be used as a guide to tackle education challenges.<sup>1</sup>

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<sup>1</sup> Urvashi Rana, Why education is important for the development of India, TIMES OF INDIA (Dec. 14, 2021, 14:31 IST), <https://timesofindia.indiatimes.com/readersblog/thinkandgrow/why-education-is-important-for-the-development-of-india-39599/>.

## **PROBLEM STATEMENT**

The initiative focuses on the persistent disparities and challenges in India's Education system despite taking several measures like inclusion of Article 21A and the Right to Education Act 2009 .Major challenges include not including children of age 14-18 years of age in the scope of free education, other issues include severe urban-rural inequalities ,gender inequality ,lack of proper infrastructure ,digital gap crated during covid 19.The are some of the major issues which act a obstacle in our country due to which universal education is still not achieved.

## **OBJECTIVES**

1. To assess the impact of Article 21A and the Right to Education Act 2009
2. To identify the key obstacles to universal education in India
3. To evaluate the efficiency of government policies to eradicate educational disparities

## **METHODOLOGY**

Literature assessment: A comprehensive assessment of scholarly publications, government studies and policy documents on India's Right to Education Case analysis: Examining major court decisions for better understanding of judicial interpretations and their impact on Education system of India Statistical Analysis: An examination of enrolment numbers, dropout rates and educational infrastructure statistics from sources such as the District Information System and UNESCO publications.

## **'ANALYSIS'**

### **HISTORY OF RIGHT TO EDUCATION INDIA**

The initial steps taken to pave a way to an educated India was through Article 45 and 39 (f) of the Constitution. Article 45 of the India Constitution was a part of the DPSP of the Indian Constitution.

As we can see it was set in force to make India a literate country by 1960, however this goal was not met for decades due to failure of implementation.

In 1968, the 1<sup>st</sup> National Commission was created under the leadership of Dr. Kothari.

In 1976, the 42<sup>nd</sup> Amendment in the Constitution led to establishment of education in the

concurrent list which allows both are central as well as state government to make laws on this issue.

National Policy on Education (1968) along with Kothari Commission Report (1966) led to the development of the National Policy on Education in 1986 to check the status of the education system in India to promote the growth of primary schools.<sup>2</sup>

The Ramamurti Committee was established in 1990 under the chairmanship of Acharya Rammurmti .This committee submitted the 1<sup>st</sup> official paper on the Right to Education called ‘Towards an Enlightened and Humane Society’ where it recommended the ban on universities which are below the standards, Universities should not be forced to conduct exams for bachelor degrees in order to allow them to better focus on more advance degrees such as postgraduate ,doctoral and postdoctoral .<sup>3</sup>

#### **Judicial precedents:**

1) Mohini Jain v. State of Karnataka (1992)

The apex Court stated, Constitution does not specifically mention having right to education as a fundamental right, however there are several other provisions from which Right to Education can be derived such as Article 21 of the Indian Constitution where it can be said that Right to education comes under Right to life as education paves way to live life with dignity that is the reason why Government should be obliged to ensure that education is provided to every citizen at all levels.

There are a number provisions in our Constitution that support right to education. Such as article 45 which discusses about early childhood care. The Directive Principles encourage on providing education for all, especially to the disadvantaged sectors. Further Articles 15(5), 350A, 29(1) and 30 also promote giving educational rights to people belonging to minority community and underprivileged groups. Article 51A (f) of our Constitution puts emphasis on protecting the educational heritage.<sup>4</sup>

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<sup>2</sup> Evolution of Right to Education in the Last Decade, KOTHARI LEGAL (2021), <https://www.kotharilegal.com/wp-content/uploads/Evolution-of-Right-to-Education-in-the-Last-Decade.pdf>.

<sup>3</sup> Ankur Sarin & Shrikant Wad, Will More of the Same Help? The Problem of Learning in Government Schools, 50 ECON. & POL. WKLY. 47 (2015), <https://www.jstor.org/stable/pdf/43952178.pdf>

<sup>4</sup> College of Education, Internal Quality Assurance Cell Report, COLLEGE OF EDUCATION (2021), <https://www.collegeofeducation.co.in/iqac/83.pdf>.



2) Unnikrishnan v. State of Andhra Pradesh 1993

The Apex Court laid down right to education is implied in the right to life given under article 21. The court enforced free and obligatory education to be given to children of age 6-14 years which is subject to economic condition of the state.<sup>5</sup>

The Majumdar committee was established in 1999, which recommended providing proper quality education to children belonging to poor and unprivileged section of the society.

It was also suggested that in order education all children of age group 6-14 years, they must be brought in schools for this goal an expenditure of 1.37 lakh crores was suggested for time from 1998-2007

Sarva Shiksha Abhiyan was started in 2000. This flagship campaign helped to help to achieved the educational milestones in India such as the pupil-teacher ratio which increased to 25 in 2015-16 from 32 in 2009-10, Gross Enrolment Ratio increased as per UDISE.

However, there were certain limitations to it such as reluctance and economic inability of parents to send children to school, a shortage of teachers, and poor accountability that led to high dropouts every year. It also led to follow-up legislation to the Right to Education Bill 2008, which culminated in the Right to Education 2009

The 86<sup>th</sup> Amendment of the Indian Constitution was, created in 2002 which gave recognition to the Right to Education part of our Constitution. The article 21 A included in this amendment in article 21A, it declares the right to Education is a basic right for children between age 6-14 years.<sup>6</sup>

### **ARTICLE 21A AND RIGHT TO EDUCATION ACT 2009**

It was the year 2002 when most important development took place for ensuring proper education among the citizens of India. Through the 86<sup>th</sup> constitutional amendment, State brought Right to education as a fundamental right under article 21 A for children aged between 6-14 years.

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<sup>5</sup> Case Analysis: Unni Krishnan J.P. v. State of Andhra Pradesh, CSJMU (2023), [https://gyansanchay.csjmu.ac.in/wp-content/uploads/2023/07/Case-Analysis\\_-Unni-Krishnan-J.P.-v\\_s-State-of-Andhra-Pradesh.pdf](https://gyansanchay.csjmu.ac.in/wp-content/uploads/2023/07/Case-Analysis_-Unni-Krishnan-J.P.-v_s-State-of-Andhra-Pradesh.pdf).

<sup>6</sup> Tapas Majumdar Committee, GK TODAY, <https://www.gktoday.in/tapas-majumdar-committee/> (last visited Aug. 5, 2024).

This further led to the development of Right to Education, 2009 which ensures that proper education free of cost must be given mandatorily to children of age 6-14, the word ‘Compulsory education’ here imposes liability on government to provide free education to children 6-14 age group and by ‘Free’ it means to say that no expenses shall be asked to spend while the child is staying in government education institutions. ‘Free education’ however means that if a child is studying in educational institutions not under the Government support then expenses incurred need to be paid to the education authorities . According to this provision admitting a child in class to get education appropriate of his age and standard. This article discusses all the obligations that Government, local authority and parents have to ensure education of children, the rules and set of norms for maintaining Pupil Teacher Ratios, selecting trained teachers. Physical and mental abuse ,screening procedure ,capitation fee and private tuition by teachers as well as running schools without authority of Government are strictly banned under this new law .It includes 25 percent reservation for disadvantage sections of the society such as SC, ST, OBC and differently abled children .<sup>7</sup>

#### **Positive Impact by RTE Act 2009:**

- Number of children taking admission in primary level (6-8<sup>th</sup> class) increased significantly.<sup>8</sup>
- By removing ‘no detention policy’, it has increased that standard of elementary education and increased accountability.
- Increased awareness regarding importance of education making it more accessible to all.<sup>9</sup>
- Rules and standards set by this act has helped to improve infrastructure of schools especially in rural areas.
- In the table given below, there is an increased rate of children belonging to different socio economic backgrounds now able to get better education.<sup>10</sup>

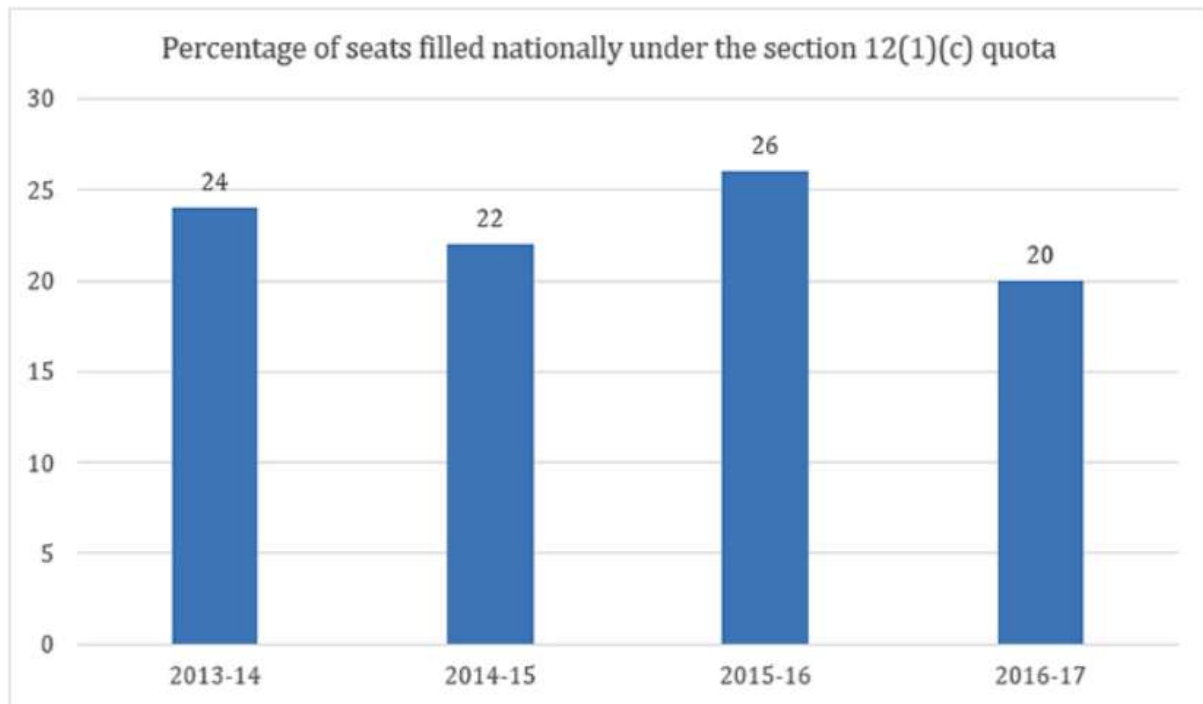
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<sup>7</sup> Right to Education, MINISTRY OF EDUCATION, <https://dse.education.gov.in/rte> (last visited Aug. 5, 2024).

<sup>8</sup> RTE Act 2009: Anomalies and Challenges, SOCIAL ISSUES INDIA (July 17, 2020), <https://socialissuesindia.wordpress.com/2020/07/17/rte-act-2009-anomalies-and-challenges/>

<sup>9</sup> Legal Position and Interpretation of Article 21A, iPLEADERS, <https://blog.iplayers.in/legal-position-and-interpretation-of-article-21a/> (last visited Aug. 5, 2024).

<sup>10</sup> RTE Act 2009: Anomalies and Challenges, SOCIAL ISSUES INDIA (July 17, 2020), <https://socialissuesindia.wordpress.com/2020/07/17/rte-act-2009-anomalies-and-challenges/>



Source: The Bright Spots: Status of Social inclusion through RTE Section 12(1)(c) 2018, Indus Action

#### **Limitations Under RTE Act 2009:**

The major setback of RTE, 2009 is that it only includes children of age group 6 to 14 years, i.e. from I to VIII only while ignoring and excluding children of age group 0-6 years as well as children of age group 14-18 which is against the UN charter India signed which stated that free education should be provided to children up to age 18 years.

A child after passing 8<sup>th</sup> standard cannot continue study due to financial problems and cannot even get a job as according to the Juvenile Justice Act, 2000 a child under the age of 18 cannot be employed, which means it is wasting the crucial 4 years of a child which if were spent in gaining education and skill training then would have led to major development in the child to make him/her self-sufficient and independent in future.

The draft of national education policy 2019 had also suggested that children of age group 3-18 should be provided free and compulsory education by widening the scope of article 21A.

According to the National Survey on Estimation of out of school children, done in 2014 data was collected and it came into the light that around 20.41 crore children aged 6-13 years were going to be out of school, about 60.41 lakh are out of school.

There geographical disparity as out of school children is highest in East India and lowest in South India. There is also gender disparity as out of school girls are much higher than boys. Religious disparity is also found showing highest out of school children from Muslim religion. The RTE Act,2009 also does not take into account children with special needs (CWSN) who form the largest out of school group with around 6,00,000 CWNS of 6-13 years age out of school as stated by the 2014 National Survey of out of school report.<sup>11</sup>

### **ONLINE LEARNING INEQUALITIES**

Covid – 19 led to shutting down of schools as well as universities which forced the introduction a new mode of online learning in place of our traditional physical learning method for which the world was not ready for due to lack of resources and access to platforms, economic inequalities we have to deal with to set up a system suitable for online mode of learning.<sup>12</sup>

Everyone needs to have a digital device, uninterrupted electricity and internet along with digital literacy to use the online resources.

According to the survey conducted in 2017-18, by Ministry of Rural Development, it was found that around 47% of Indian families have access to more than 12 hours of power, while more than 36% of Indian schools are without electricity and that only 24 % Indians hold a smartphone where only 11% hold other digital devices like computers, laptops etc. This problem is not only face by students but also from 84% of teachers on the other side.

Due to the divide of rich a poor, rich students continued their education while it was mostly the Socially and economically disadvantaged students. Other kind of disparity can be seen between rural and urban Indians also as according to Key Indicator of Household Social Consumption on Education of 2017-18 NSSO, around 15% people in rural areas have internet while in urban area around 42 % people have access to internet.<sup>13</sup>

There is also gender inequality when it comes to online education as it has also come into light

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<sup>11</sup> RTE Act 2009: Anomalies and Challenges, SOCIAL ISSUES INDIA (July 17, 2020), <https://socialissuesindia.wordpress.com/2020/07/17/rte-act-2009-anomalies-and-challenges/>

<sup>12</sup> Nida Khanam, E-Learning & the Fate of Right to Education in India, BAR & BENCH (May 31, 2021, 9:00 AM), <https://www.barandbench.com/apprentice-lawyer/e-learning-the-fate-of-right-to-education-in-india>.

<sup>13</sup> Protiva Kundu, Indian Education Can't Go Online – Only 8% of Homes with School Children Have Computer with Net Link, SCROLL.IN (May 5, 2020, 07:30 AM), <https://scroll.in/article/960939/indian-education-cant-go-online-only-8-of-homes-with-school-children-have-computer-with-net-link>.

that because of not able to bear extra expenses of providing online education, parents have shifted their all their remaining sources to support their boy's education. Girls instead getting education are now left to for domestic duties which is triggering rise in child labour and child marriages.<sup>14</sup>

There are however several steps taken by the Government to promote online education especially in rural areas. Some of them include PM e-Vidya as s part of Atma Nirbhar Bharat Abhiyan on 17th May, 2020 which includes a number of schemes such as Diksha which aime to provide efficient easy to access online sources for school education, including to promote goal of one nation, one digital platform. Swayam Prabha TV channel is also created for children studying in class 1 -12 to promote online education. Other than that, efforts have been made educate using community radio, CBSE podcast etc.<sup>15</sup>

Similarly other steps taken include PRAGYATA Guideline on Digital Education which states guidelines on different modes of digital education, Internet access under BHARAT NET SCHEME to improve internet access in rural areas, setting up **Community Radio Stations and s podcast called Shiksha Vani of CBSE**, Continuous Learning Plan (CLP) providing tablets in various states and UTs, Students Learning Enhancement Guidelines (2020) to support learning during covid 19 and many more of such schemes .<sup>16</sup>

### 'CONLCUSION AND WAY FORWARD'

Recognising education as a fundamental right has come a long way now which had have huge impact on citizens of India. Major changes took place in education system of India with the arrival of article 21 A and Right to education 2009. These changes have led to increased enrolment rates, improved infrastructure, and even more increased awareness about important and need to education.

But India is yet to overcome a number of hurdles ahead. The age group of children 6- 14 years of age selected to be educated under RTE 2009 leads to exclusion of children aged 14-18 leading to problems in achieving universal education. Further there are challenged of economic

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<sup>14</sup> How COVID-19 Deepens the Digital Education Divide in India, WORLD ECONOMIC FORUM (Oct. 12, 2020), <https://www.weforum.org/agenda/2020/10/how-covid-19-deepens-the-digital-education-divide-in-india/>.

<sup>15</sup> Press Release, Internet Access under BHARAT NET Scheme, PRESS INFORMATION BUREAU (Feb. 10, 2021), <https://pib.gov.in/PressReleasePage.aspx?PRID=1695152>.

<sup>16</sup> Press Release, PM inaugurates Digital India Week 2022, PRESS INFORMATION BUREAU (July 4, 2022), <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1843182>.

division, gender inequalities and digital divide that are addition to the problems. Due to covid 19 we came across another issue related to online learning where we lack in infrastructure and digital literacy.

Suggestions help to achieve universal literacy in India:

- Expanding the age bracket and inclusion children from 3 - 18 years of age
- Developing the infrastructure by building schools, especially in rural part of India. Electricity, internet etc. should be improved.
- Breaking education barrier to include children with special need to gain education as normal children
- Providing teacher training programs both traditional as well as digital methods of teaching.
- Focusing on holistic learning system using projects, extracurricular activities, field trips etc.<sup>17</sup>

By detecting the issues and taking immediate step on them India will be able to convert itself into an inclusion and effective education system. Making sure that education is reaching to all children regardless of their socio -economic background will pay the way for an educated India.

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<sup>17</sup> 7 Immediate Changes Needed in the Indian Education System, INDIA TODAY (Aug. 9, 2019), <https://www.indiatoday.in/education-today/featurephilia/story/7-immediate-changes-needed-in-the-indian-education-system-1579167-2019-08-09>.

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