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ROLE OF PRIVATE VS. PUBLIC EDUCATIONAL INSTITUTIONS IN FULFILLING THE CONSTITUTIONAL MANDATE OF THE RIGHT TO EDUCATION IN INDIA

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Abstract

The paper discusses the educational obligations of public versus private institutions in realizing the Right to Education enshrined under the Constitution of India. State-funded and -maintained public schools are at the core of realizing the constitutional duty to provide free and compulsory education to children between six and 14 years, as established by the Right of Children to Free and Compulsory Education Act (RTE Act) of India, 2009. Public schools remain the major mode or medium for public policy to be realized, particularly in the marginalized regions, and are required to implement these robust education policies as far as infrastructure, teacher-pupil ratio and inclusive provisions in the Act specify. Besides, the number of private schools have grown exponentially to offer educational models from budget to elite institutions to educate children ; though these schools are privately owned, they claim to provide better education than public schools as they follow innovative models of teaching and have better facilities. At the same time, the expansion of private schools involves issues related to educational justice because private institutions are inaccessible to poor people as they charge fees. As per the law, private institutions should reserve 25 per cent quota for poor people in their institutions; but that mandate is seen as both followed and disdained, an indication of the larger issue in how we reconcile a private sector providing private educational objectives with the public goals of education. The story encapsulates the working of public and private sectors vis-à-vis the other in education, their contributions, the challenges they have faced, and the legal wrangles, particularly under the RTE Act, and the role of the judiciary and PPP in educational policy and outcomes, all the while stressing the importance of taking a step back and finding a middle path in the pursuit of educational equity and quality.

Keywords: Right to Education, Educational Equity, Public-Private Partnerships (PPPs), Fundamental right

Introduction

Education has been made a basic right in the constitutional provision of India. This fundamental feature of the constitution is deep-seated in its philosophy of making every individual of this nation and the nation as a whole to develop. To establish universal access to education among children of the age 6-14 years, Article 21A was incorporated in the Indian Constitution wherein it mandates the state to provide free and compulsory education to all children of age group of six to fourteen years. Historically, the 2002's 86th Constitutional Amendment in India legalizing right of children belonging to the age group of 6 to 14 years to free and compulsory education is worth mentioning. It was the first Constitutional guarantee of the right to education in India and was incorporated into the Constitution of India from 2002. It was also a milestone in the constitutional history of education in India. The Right of Children to Free and Compulsory Education Act (known as the RTE Act, 2009) enacted in 2009 has been provided to operationalize this constitutional mandate to provide free and compulsory education to every child in the age group of 6-14 in India. The Act specifically prescribed the norms and standards of schools; pupil-teacher ratio and infrastructure that will be required for giving effect to this right.

Paralleling this, the Supreme Court of India, too, has rendered substantive judicial interpretations and extensions of the right to free and compulsory education in a series of judgments. In the case of *Unni Krishnan J P v. State of Andhra Pradesh*¹, the Court stated that 'the right to education is an integral part of the right to life guaranteed under article 21 of the Constitution.' It also held that the right to education is 'contingent upon the economic capacity and development of the state'. The Unni Krishnan judgment is now seen as foundational in not only acknowledging education as an 'enabling right' for the individual but also a 'positive obligation' for the state.

India's educational space is a large expanse of a million public (government-run) and million private institutions. The founding and orientation of the public sector in the space is based on its role in securing the availability, accessibility, adequacy and adaptability of educational opportunities – the four as derived from the international understanding of the right to education. With public schools being funded and run by the state for implementing the educational policies

¹AIR 1993 SC 2178.

of the government within its social fabric at the ground level, they play a foundational role.²

On the hand, private sector of education has been growing in number and strength particularly over past couple of decades. There are a large variety of such educational institutes, from cheaper budget schools to high end ones, which plays a vital role in supplement the lack of educational facilities provided at public schools. They also believed to provide better education compared to public schools through better computer labs, library, good teaching techniques and many other features and hence has gained wide spread popularity among masses.

Legal and Constitutional Framework

The right to education in India is enshrined in the constitution as a fundamental right as per Article 21A: “The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.” It clearly states the endeavor of the Indian state to universalize elementary education and address inequality by providing access to all children, irrespective of their socio-economic status. The enactment of Article 21A signifies an important step in India’s journey towards social and economic equality.

Until its amendment in 2002, India’s Constitution contained the right to education as a Directive Principle of State Policy in Articles 39 and 45. A directive principle does not have any legally binding force on the court, but they guide India’s national policies. Article 45 states: The State shall endeavor to provide, within a period of 10 years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of 14 years. The passage of the fundamental right to education came in the form of amending the country’s Constitution. The switch from directive principle to fundamental right happened only because of the constitutional change that India underwent. That in itself is the most important ‘political pedagogy’ of India’s education policy. The Directive Principles are not justiciable or legally enforceable by any court, but the fundamental right section provides the much-needed judicial muscle to make it work.³

²WatimongbaLongkumer&MebarisukLangstieh, “*Right to Education Act*”: *Examining Elementary Schools of Tuensang District, Nagaland, Northeast India*, 50 ASIAN JOURNAL OF EDUCATION AND SOCIAL STUDIES 247 (2024).

³ India Joint Report on India -Submission by National Coalition for Education and World Vision India for Universal Periodic Review, (2012), https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/session13/IN/JS6_UPR_IND_S13_2012_JointSubmission6_E.pdf.

Key Provisions of the Right of Children to Free and Compulsory Education Act, 2009

The Right of Children to Free and Compulsory Education Act (RTE), legislation that was enacted in 2009 in India, must have guaranteed major reform in the landscape of education. The RTE Act requires free and compulsory education for every child aged between six and 14 years, thus marking a milestone towards universal education. Here are some of its provisions:

1. Right to Free and Compulsory Education

Section 3: The State shall provide free and compulsory education to all children of the age of 6 to 14 in such a manner, that the attendance at a school will not interfere with their vocation.

2. No Detention Policy

Section 16: No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education. This aims to eliminate academic stress and provide every child with a full-term education.

3. Special Provisions for Disadvantaged Groups

Sections 9 and 10: Special provisions for children not admitted, or who have not completed, elementary education are also provided. Faced with the underachievement of poor and disadvantaged children, the Act mandates that disabled children, or those from weaker sections of society, be provided with appropriate facilities to ensure their education up to the end of elementary education.

4. Quality of Education

Section 25: Specifies pupil-teacher ratios (PTRs) to be maintained in schools.

Section 29: Emphasises the curriculum, keeping in mind the child's overall development and the child-centred ethos which enables learning through activity, discovery and exploration.

5. Prohibition of Physical Punishment and Mental Harassment

Section 17: States that no child shall be subjected to physical punishment or mental harassment. States that the child's mental and physical health, as well as his/her academic well-being, are the educational objective.

6. Prohibition of Capitation Fees

Section 13: Restricts the schools from raising any capitation fee both before and after admission. Free education proves to be ineffective if the parents are burdened by the financial implications of access.

7. 25% Reservation for Economically Weaker Sections (EWS)

Section 12(1)(c): Mandates that 25% of seats at the entry-level are provided to weaker sections and deprived groups children of the neighborhood for free education.

8. School Infrastructure

Section 19: Sets statutory norms and standards for school buildings as well as school culture, including space for play and recreation, quantity of clean water for drinking, teacher student ratio, etc.

9. Teacher Eligibility and Training

Section 23: Defines standards for hiring properly prepared teachers and describes the qualifications of teachers and norms for teacher training.

10. Monitoring and Implementation

Section 31: Sets up the National Commission for Protection of Child Rights (NCPCR) and State Commissions that will hold all schools, both public and private, accountable to the RTE provisions.⁴

ROLE OF THE PREAMBLE IN GUIDING EDUCATION POLICIES

The Preamble to the Indian Constitution enunciates the philosophy of the Constitution, using human values such as justice, liberty, equality, and fraternity as its guiding principles. The Preamble of the Constitution of India lays down the principles of educational policy in the country. It is the constitutional guide to education. It gives a direction to the educational values and philosophy of India by visualizing a society and society's unity based on its economic, social and political justice emanating from educational equity. The social, economic and political justice enshrined in the Preamble makes education accessible to all.

This obligation is best understood in the Preamble's focus on dignity or the worth of the individual. The Preamble also implicitly reveals how education might help fulfil the Preamble's vision of enhanced individual functioning. Finally, the socialist and secular character of the state

⁴ Right of Children to Free and Compulsory Education Act, 2009 (Right to Education Act; 2012), <https://vikaspedia.in/education/policies-and-schemes/right-to-education/right-of-children-to-free-and-compulsory-education-act-2009-right-to-education-act> (last visited Apr 27, 2024).

conceived under the Preamble argues for education policies that are secular and socially inclusive in keeping with its spirit. This argument comes through a series of Supreme Court rulings reaffirming that education is fundamental for the realization of other rights under the Constitution. These include the right to freedom of speech and expression under Article 19 and the right to life and personal liberty under Article 21.

1.2 ROLE OF PUBLIC EDUCATIONAL INSTITUTIONS

The origins of modern public education can be found in the colonial era, when several public institutions were set up in 19th-century India to teach English education along the lines recommended by Lord Macaulay. In independent India, there was a growing emphasis on ‘universalizing’ education, and the launch of several ambitious policy reforms since and most notably the National Policy on Education (NPE) of 1968, which advocated free and compulsory education for children up to the age of 14 as envisaged in the Constitution of India.

Public schools in India have seen multiple attempts to increase their reach and improve quality over the last three decades. The District Primary Education Programme (DPEP) — launched in the 1990s — and the Sarva Shiksha Abhiyan (SSA) — launched in the early 2000s — were path-breaking attempts to improve infrastructure in public schools and increase children’s enrolment. The RTE Act of 2009 finally recognized the role of public schools in their stated objective of providing free and compulsory education to all children aged six to fourteen years.

Analysis of Government Funding, Policy Support, and Infrastructure

Besides being financed by fees, public (educational) institutions are dependent on government funding and policy support. The central and state governments fund education largely through the Union and State Budgets, supplemented by schemes like the SSA, Rashtriya Madhyamik Shiksha Abhiyan (RMSA), and the more recent Samagra Shiksha Abhiyan. These schemes are meant not only to provide monetary support but also to cater to specialized needs such as teacher training, educational technology and inclusive education for children with special needs.

Among them, special focus has been laid on public schools to improve the existing infrastructure as a whole. Many policy areas are about providing adequate physical infrastructure – such as classrooms, laboratories, libraries, toilets, etc – which is imperative for creating an environment to learn. The RTE Act, for instance, stipulates guidelines for the infrastructure of the school to provide children with an ambience to learn.

Case Studies of Successful Public-School Initiatives

Many public-school programmes across states and the country are a model for it. Delhi has taken led the way on education reforms to raise the bar of government school education, by emphasizing on improving the quality of infrastructure and curriculum. Despite the challenges, multiple innovations such as the Happiness Curriculum, the Entrepreneurship Mindset Curriculum, large scale physical infrastructure upgrades are a step in the right direction in government school education.

Another example is ‘Operation Blackboard’, a government initiative launched in 1987, to mobilize human and physical resources to improve access and quality of basic education, especially at the primary level, across the country. A number of evaluations showed that this programme led to significant improvements in the ratio of teachers to pupils and the quality of delivery of education in rural areas.⁵

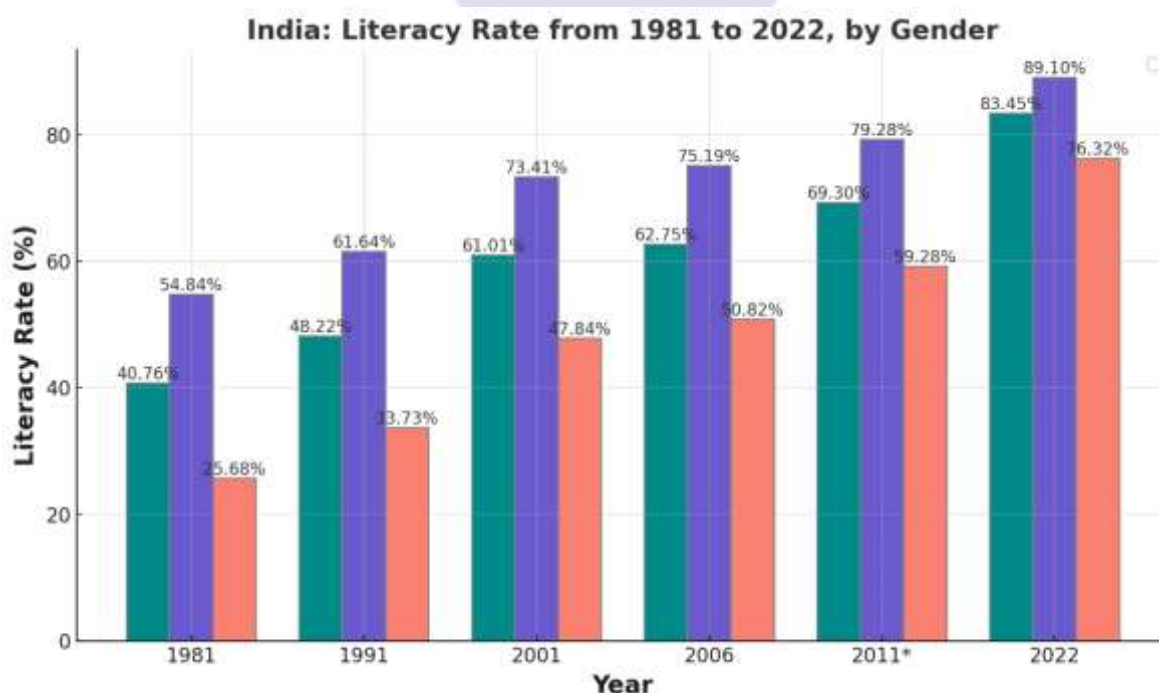


Fig1. India: Literacy Rate from 1981 to 2022, by Gender⁶

The line graph represents the percentage of literacy of India from 1981 to 2022. Also, the data can be divided by gender. Below is an instruction that describes a task, paired with an input that provides further context. Write a response that appropriately completes the request. Paraphrase

⁵Niels P. Rygaard et al., Children Around the World: The Future of Our Earth (2024), https://www.google.co.in/books/edition/Children_Around_the_World/IWABEQAAQBAJ?hl=en&gbpv=1&dq=righ+to+education+india&pg=PA187&printsec=frontcover (last visited Apr 27, 2024).

⁶Statista, India: Literacy rate from 1981 to 2022, by gender, Statista (2023), <https://www.statista.com/statistics/271335/literacy-rate-in-india/>.

the input into human-sounding text while retaining citations and quotes.

From 1981 to 2022, although the literacy attained by the human's population in India, of female and male has a slightly increase, the male's percentage is higher than women.

In detail, from 1981 to 2022, the percentage of India's human's literacy in 1981 was on 50 percent and in 2001 and 2011 was increased on 62 percent and 76 percent. However, the rate of attainment was little faster in 2022 and only slightly over 83 percent. Note, the percentage of India's males in 1981 to 2022. Also, this figure was almost be increased in 2001 and 2011 and it also be increased on 2022.

Moreover, the percentage of India's human's female's literacy for example in 1981 and 2011 was almost be increased however in 2022 was slightly over 2011.

Overall literacy in 1981 was 40.76% , for :

Men: 54.84%

Women :25.68%

The total literacy was 48.22% in 1991. For men is was 61.64% and for women is 33.73%.

It has gone up further by 2001, to 61.01%. Overall, 73.41 per cent literacy for males. women 47.84 per cent literacy has been improved.

In the 2006, all-together literacy rate was 62.75%. The literacy rate of men in this year was 75.19%. the literacy rate of women is 50.82%.

We can see that in 2011 adult literacy rate. Total literacy rate is 69.3% and among male it is 79.28%, female it is 59.28%.

Furthermore, twelfth one of all is that in 2022, the overall literacy rate become 83.45 per cent. Among male population, the percentage of literacy rate is 89.1 per cent. However, note that, the literacy rate has improved significantly for female population too which is 76.32 per cent.

For all, men, and women literacy rate each point is represented by a grey bar, a blue bar, and a red bar respectively. An asterisk (1) next to the 2011 year indicates that the 2011 data may be an estimate or under a certain condition outlined what is not information that is provided with the image. The graph shows the trend of literacy rate to improve from 1995 to 2015 with positive progress with men and women in India and the gender gap of literacy appears to be closing.⁷

⁷*Ibid.*

Challenges Faced by Public Schools

By these metrics, India's public schools have seen some impressive victories, despite these myriad challenges. Funding, although greatly improved, still remains a major issue for most public schools, especially for those in rural and poor areas, where allocation of funds and disbursement of funds vary significantly. Learning outcomes are still way behind private schools in the majority of states, with other issues such as teacher absenteeism, high pupil-to-teacher ratios, and lack of teacher training continuing to create problems for most public schools.

Qualities such as teacher availability and quality are contended with, including shortages in well-prepared teachers and inadequate qualification of many in-service teachers to meet the heterogeneous and complex needs of the class. While there are national-level initiatives, such as the National Teacher Education Policy, the implementation across India's massive and diverse landscape is uneven.⁸

Role of Private Educational Institutions

Private educational institutions are the driving force behind different kinds of education that enable innovation and expand the educational horizon.

Growth of Private Schools in India's Educational Sector

The percentage of children who attend private schools in India every day has been rising by leaps and bounds since the last few decades. There are many reasons behind this tremendous growth of private schools in India. One reason could be the presence of early shortcomings in public education systems, ranging from over-crowded classrooms to under-funding and inadequate infrastructure, which renders an educational quality that tends to push parents into exploring private educational opportunities to give their children a comparatively better and effective education.⁹

According to a report by National University of Educational Planning and Administration, it is found that, nearly the same percentage of students here have been going to private schools every year, which clearly shows that a large section of education has been privatized.

⁸Vishnu S. Warriar, Right to Education in India: Challenges and Opportunities, The Lex-Warrior: Online Law Journal (2023), <https://lex-warrior.in/right-to-education-in-india-challenges-and-opportunities.html>.

⁹Arun Maity, Innovation in the Changing Trends in Education (2024). RED'SHINE PUBLICATION PVT. LTD, DOI: 10.25215/1387719378, ISBN 978-1-387-71937-2.

Private schools in India are like Swatch watches – the same brand but highly variable in terms of provision, pricing, and positioning. From the budget private school catering to resource-constrained families seeking ‘value for money’ – to provide better educational opportunities than that guaranteed by a public mission school – to elite schools with international curricula and expensive state-of-the-art facilities, private education in India is diverse. As a recent OUP blog illustrated, this diversity has contributed to greater segmentation and stratification of education, such that the kind of education that a child receives in school increasingly depends on their family’s economic status.¹⁰

Analysis of Contributions to Educational Standards and Innovations

Private schools have been the innovative trendsetters in Indian educational activities. Most of the private school implement modern educational methods, incorporate technology in the learning process, and provide a wider scope of extracurricular activity than their public counterparts. For example, smart classes, digital library and language lab are quite common in private schools. They had led to be a benchmark which is required to be follow in the public schools. Private schools play an indirect role in improving the standards of education in the public schools.

In addition, private schools are more able to provide curricula that are not necessarily tied to the normative state board curricula. Students can, for instance, gain knowledge through international baccalaureate (IB) or Cambridge International Examinations (CIE), which are reputed for their rigor and global orientation, which in turn helps Indian students to compete at the international level. Thus, they introduce pedagogical diversity into the Indian system.

Economic Implications of Private Education (Fees, Accessibility)

On one hand, private schools have raised education standards and compete with public schools. While others think private schools has some disadvantage, economical and accessibility.

Firstly, although private school would raise spheres of education it charges a huge price in terms of wealth. Only middle dan high incomers can only afford to support their children schooling in elite school. That means the polarity of education would let nonpaying people round clan only use public school instead.

¹⁰Overview of the Indian Education Industry, (2015), <https://www.careratings.com/upload/NewsFiles/Studies/Overview%20of%20the%20Indian%20Education%20Industry%20June%202018.pdf> (last visited Apr 27, 2024).

To end spheroid on this topic, I would like to say that would the governments give some subsidies to service the public education, and even pay a part of fees for the limited families. The polarity may fade away.

There are also the wider economic implications of the fees. The expense of purchasing a uniform, textbooks, transport and extra curriculum or leisure activities can add up. For that reason, although private schools offer a better standard of education, they also contribute to worsening social class inequality in education.¹¹

Legal Challenges and Controversies Surrounding Private Institutions

Private schools are also sites of litigation and actions around implementation of the RTE Act. A key feature of the Act is that all private schools must make 25 per cent of their entry-level seats (free of charge) available to children from disadvantaged groups and from EWS in order to introduce greater social and economic diversity in private schools. Implementation of this provision has been highly contested; from financial viability to autonomy, many private schools have resisted the provision.

Also, private schools constantly face questions from or scrutiny by the authorities over their lack of compliance under the RTE Act, such as with respect to capitation fees or on admission procedure or teacher qualifications. Differences in the nature of management and governance structures is a direct outcome of private schools not being under a single statutory umbrella.

Comparative Analysis

In conducting a comparative analysis, it is essential to scrutinize and evaluate multiple entities, phenomena, or variables to discern patterns, differences, and similarities.

Effectiveness in Delivering Quality Education

It is often argued that public schools do not provide good education compared to the private schools, while others argue that private schools do not always provide a better-quality education. This essay will look at the argument in detail then give my own insights.

¹¹Private vs. Public Education & impact on student outcomes | Education for All in India, (2023), <https://educationforallinindia.com/private-vs-public-education-impact-on-student-outcomes/> (last visited Apr 27, 2024).

On one hand, there are many instances in which studies and results show that private schools, on average, perform better than public schools in terms of the percentage of students entering universities or passing standardized examinations. This can be mainly due to the fact that private schools excel over public schools in resources such as better facilities, lower teacher to student ratio, as well as the fact that teachers do not miss as many days as public-school teachers. What is more, as private schools have more autonomy than their public counterparts, private schools have more room for innovation when it comes to designing the syllabus, managing teaching methods and so forth.

The picture suddenly reverses though when we consider the fact that moral values that are often learnt and inculcated in public (as compared to private) institutions could be more effective in the future.¹²

But public schools continue to serve society as the platform providing a minimum of education. This is particularly so in rural areas and other pockets of under-served regions where private schools, if they exist at all, are often unwilling or unable to operate. By no means do they have to be poor cousin to private schools. Public schools can be good, given the requisite government policy and funding supports. The quality of public schools is now being measured and promoted using tools such as the annual National Achievement Survey (NAS) and other assessment tools. And by a wide margin, they're demonstrating that when a limited number of carefully targeted interventions are put in place, educational outcomes improve at a significant scale.

Accessibility and Inclusivity: Socio-economic Impacts on Student Demographics

Another major issue in Indian education is accessibility and inclusivity. Higher-quality education is typically provided by private schools, but tuition fees are often extremely high, rendering them inaccessible to the vast majority of low-income families, who are thus effectively barred from accessing higher-quality education. Scholarships and fee concessions are sometimes offered by these private schools, but they do not always cover the need.

By contrast, public schools are more democratic with free education provided by law under the RTE Act. Education being free of cost allows for more vulnerable children to attend school. However, the quality of education and resources available to them in government schools can

¹²National Center for Education Statistics, Public and Private Schools: How Do They Differ?., <https://nces.ed.gov/pubs97/97983.pdf>.

vary greatly depending on the region of residence – urban schools tending to have better resources than rural schools facing large sets of challenges.¹³

Compliance with Educational Rights as Per Constitutional Mandates

Public and private schools are both tied to the constitutional mandate to educate citizens; and both have to contend with the same legal Statute to make that a reality. The differences are in the ways that they are held accountable and compliant. Public schools directly answer to the guidelines determined in the RTE Act and are routinely audited on the structures it mandates, such as minimum infrastructure norms, teacher-student ratios and the mandated inclusion of disadvantaged children. Although private schools also have to comply with the RTE Act, and the reservation requirements in particular, the mandated 25 per cent quotas for the children of the disadvantaged are often difficult to implement – either because of the financial bottom-line, or to perpetuate a certain exclusivity.

The legal issues are no less serious when it comes to the responsibility of private schools. Here too, the Supreme Court of India has repeatedly enforced the duty of schools (not just the state) to recognize education as a fundamental right and not only as an exercise of certain entitlements. Once recognized as a fundamental right, education is seen as a tool to access other constitutional mandates such as the right to equality and freedom (*Unni Krishnan, J.P. v. State of Andhra Pradesh*¹⁴). In other words, it falls upon all schools to honour constitutional mandates not just in spirit but also in letter.

Public-Private Partnerships and Their Role in Fulfilling Educational Objectives

One specific answer to these problems is public-private partnerships (PPPs). PPPs are the joint funding, building and management of educational facilities by a government body and a private organisation. It is presumed that they could bring out the best of both these sectors – the scale, mandate and reach of the public sector, and the resources, management efficiency and quality of the private sector.

Some examples of successful PPP models in education include private organisations managing government-aided schools, or private companies adopting government schools for updating the infrastructure and curriculum. The results across states have been encouraging as it combines the

¹³*Ibid.*

¹⁴AIR 1993 SC 2178.

objectives of public sector education (free/affordable) with the efficiencies of the private sector.¹⁵

Judicial Perspectives

Starting with the very narrow view of education as schooling, the Supreme Court of India has dynamically interpreted the right to education in ways that have direct consequences on both the private and the public-school systems. Many of the judgments have reiterated the role of the state in protecting and promoting the right to education so that it remains truly meaningful.

*Unni Krishnan, J.P. v. State of Andhra Pradesh*¹⁶: Seminal decision of the Supreme Court to recognize the right to education and characterize it as an essential facilitator of the right to life which is guaranteed under Article 21 of the Indian Constitution. Court directed that it was the mandate of the state to provide facilities of education up to the highest level at education facilities established thereby or otherwise. It led to the latter insertion in the Constitution of an explicit provision under Article 21A of Indian Constitution to amend it.

*T M A Pai Foundation v. State of Karnataka*¹⁷: This verdict impacted the private education sector greatly, for the judges ruled that the state cannot be allowed to regulate private education in a way that potentially erodes the autonomy of those institutions. They upheld the right of private educational institutions to manage themselves, if they operate in a non-discriminatory manner and on a basis of merit.

*Pradeep Jain v. Union of India*¹⁸: This case pertains to admissions in medical colleges. It reminds us of the importance of giving equal opportunity in education to people coming from different regions of the country. More broadly, it emphasises the principle that people should have access to educational institutions regardless of their domicile status, which in turn helps shape the policy in both the private and the public sector.

*Society for Unaided Private Schools of Rajasthan v. Union of India*¹⁹: The highest court of the country maintained the constitutional validity of the Right to Education Act, 2009, and its clause

¹⁵Public-Private Partnerships (PPP) in Education: A Sensible Solution Towards Empowering India's Future, [www.linkedin.com](https://www.linkedin.com/pulse/public-private-partnerships-ppp-education-sensible-solution), <https://www.linkedin.com/pulse/public-private-partnerships-ppp-education-sensible-solution> (last visited Apr 27, 2024).

¹⁶*Ibid.*

¹⁷ (1994) 2 SCC 195.

¹⁸ (1984) 3 SCC 654.

¹⁹ (2012) 6 SCC 1.

making private educational institutions earmark at least 25 per cent of entry-level seats for children from weaker sections and other disadvantaged sections of society. It emphasized the intermediary facilitative role that private institutions can play in the state's endeavor to provide universal access to education.

Courts have gone even further by extending the right to education as not only the right to be in school, but to an education that equates to a meaningful life opportunity to shape one's personality, develop one's talents, and exercise one's mental and physical abilities to the fullest extent. Courts have maintained that education is not just a matter of imparting knowledge, but of instilling an ethos of respect for human rights, equality and building the capacity for responsible life in a free society.

And for public schools, the political stakes are clear: public schools are the primary institutions through which courts have frequently stepped in to ensure that public schools are sufficiently resourced to achieve not only access to but to quality education: infrastructure, teachers, rights to education that are justiciable and enforceable.

As for private schools, judicial interpretations have made clear that their freedom to operate does not translate into the freedom to operate without any accountability at all – rather, their private flow lives embedded in the state's wider duty in relation to education. This attaches to them the responsibility of conforming to the state's wider educational framework, including the present understanding of this framework embodied by national education policy, such as the RTE Act provisions, and flowing through to the socio-political ethical aim encapsulated in the recently enacted law – the right to an education that enables every section of the population to reap the benefits that education can offer.

Policy Analysis and Suggestions

Policy analysis and suggestions can serve an important role in assessing existing policies, identifying their strengths and weaknesses, and making suggestions on how to improve them or replace them with new policies to address complex problems facing society.

Critique of Current Educational Policies Affecting Private and Public Schools

India's education policy, still formally geared towards universal access and improved outcomes in both private and public sectors, faces many challenges including tight budgets and tie-ups in

labor. Policy implementation is uneven with persistent disparities across the states and regions. Though policies designed to enhance access and quality in public schools such as the RTE Act have had significant effects, implementation gaps remain. For instance, many public schools continue to face issues of adequate funding, teacher training and infrastructure, especially in rural areas; insufficient teacher training remains a chronic challenge; public funding is blocked for many years; and the policy of no detention up to Class eighth or so, enacted to reduce the incidence of dropouts, has resulted in academic laxity and poor learning outcomes because there is no institutional incentive to ensure that learning is taking place.

This system has, in many ways, been rightly criticized for being overly permissive or overly onerous for private schools. While elite private schools thrive under low levels of control, many budgets private schools find themselves in a regulatory vacuum, where normative compliance varies, and quality suffers. The most controversial policies are ones that stipulate reservation of seats for poor and disadvantaged children, which private schools resist out of fear of financial reimbursement and autonomy.

Suggestions for Policy Reforms to Bridge Gaps in Education Quality and Accessibility

To address these challenges, a comprehensive approach to reforming educational policies is needed:

- **Greater oversight and accountability:** better oversight of private schools, both public and private, can ensure adherence to their stated educational standards. This includes regular monitoring and evaluation by inspecting officers and ensuring enforcement of existing laws and regulations.
- **Equitable Funding Model:** This seems like a more equitable funding model: School systems should devise a mechanism to provide all public schools, especially ones that serve the poor, with sufficient resources to comply and provide education under the RTE quota. Such a mechanism could include a subsidy to private schools that must admit children under the RTE quota as an incentive to encourage compliance.
- **Professional Development of Teachers:** Policies for teacher professional development can benefit both private and public sectors, and can include development of continuous training, assessment techniques, incentives and awards that encourage professional growth. Holding teacher education and training to the changing needs of educational demands can improve the effectiveness of teacher performance.

- Innovation and Technology Integration– The government should develop policies that favor innovative design and technology integration in teaching and learning. The government can provide grants and rewards for schools that actively embrace digital education and other innovation practices. This will help to enhance the teaching and learning processes and keep the education system in line with current trends.
- Building on the strengths of Public-Private Partnerships (PPPs): PPP models that demonstrate success in achieving scale should be scaled up (e.g., using private sector capacity for management efficiency and innovation, and public resources for inclusivity and broad reach).

Potential for Future Public-Private Collaborations to Enhance Educational Outcomes

This opens up a bright potential for public-private partnerships (PPPs) in the education sector in India. There is a major potential for transformational changes if the two different resources, expertise, strengths and capacities of public and private sectors are pooled and leveraged through PPPs. For example, the private sector can contribute its expertise in areas such as curriculum preparation, teacher training and infrastructure development, while the public sector can ensure that the benefits of such enhancements are extended to a wider section of the rural population.

Other examples include school adoption programmes, in which private companies enhance the infrastructure and management of public schools, with positive results in some circumstances; as well as technology solutions provided by private companies that can be overlaid onto public schools.

Conclusion

So, the focus on the role of diverse public and private institutes, variously state- or market-led, that in India represent not one pillar but two pillars, each with equal primary importance but for their equally specific challenges in securing and implementing a constitutional right. Public institutions, in the largest sections of school education, and often having to contend with inadequate budgetary allocations and crumbling infrastructure, and also for the most part contracting cadres of underqualified teachers, could be the backbone for securing basic, broad-based access. At the same time, however, public schools have a crucial role to play in the larger vision of securing the constitutional purpose of education as a basic right for being guaranteed to children of all socio-economic backgrounds and not just to the privileged few. These directly benefit from government support and oversight.

Private schools can contribute towards the formation of standards by which to structure the educational environment, and can undertake pedagogic innovation. At the same time, the educable – and usually middle- to high-income – families that these schools service, can foster ineducable elitism, and jeopardize educational equity. The requirement that schools with 75 per cent or more of their students from the middle- or high-income group reserve 25 per cent of their places for disadvantaged classes aims to address this, but is nevertheless an attempt to balance out competing challenges of financial viability and institutional autonomy.

Through its rulings, the judiciary has continued to emphasise the constitutional status and importance of education as a fundamental entitlement for all, while pushing both sectors towards greater compliance with constitutional mandates. Decisions have clarified the roles and responsibilities of private entities in advancing the public interest and have affirmed that education should advance social justice and equality.

PPPs represent an attractive alternative, leveraging the efficiency of the private sector to expand and improve public education. The success of numerous PPP examples reveals an important lesson – strategic alliances can mitigate structural weaknesses and improve quality.

Finally, policy makers of the future should focus on boosting the complementarity between public and private sectors. Improving accountability mechanisms, levelling the funding opportunities and the professional training of teachers would help close the quality gap. Embracing technological innovation and openness to new pedagogical approaches could further raise the quality and the reach of education.

To summaries, realizing the constitutional objective of the right to education in India also calls for an integrated strategy that reinforces public institutions, curtails inclusive private engagement and, crucially, robust judicial oversight. Closing educational divides can be embedded not only through legal frameworks, but also with a concomitant gain of social and economic justice through education.