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## Legitimate Provisions And Judicial Contribution Of Education In India

**Dr. Geeta Shrivastava** Professor, Department of Law, Himalayan University, Ita Nagar (Arunachal Pradesh)

**Ms. Tulika** Assistant Professor Department of Legal Studies Usha Martin University, Angara (Jharkhand)

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### Abstract

Education was also considered as a means of ensuring that all citizens have equal opportunities in their social and economic lives. As a result, numerous provisions were placed into the Constitution to ensure that everyone had access to education. The court was unequivocal in its assertion that the primary function of educational institutions is to promote education rather than to generate revenue. Among other things, the state is required to make "effective provision" for schooling, among other things. As a result, state administrators are open to regulating the establishment of private schools in accordance with the educational needs of the region. The Constitution expressly provides for the passage of legislation on education by the competent legislative body. The inclusion of education in the concurrent list under Entry 25 has been made possible by the 40th and second amendments to the United States Constitution. Individuals' personal, educational, social, and economic lives are all impacted by their education to varying degrees. In the same way that quality education has enhanced opportunities in life; an economically active populace improves the foundation of a nation and lends greater strength to democracy in the long run. Even the judiciary took an active interest, concluding that the right to education is a basic right.

**Keywords:** legitimate, provisions, judicial, education, India, etc.

### 1. INTRODUCTION

Throughout India, our Constitution serves as the source of all authority. It is a document that governs not only the administrative machinery, but also the social, economic, and political development of the country, as well as the development of its educational system. According to the National Policy on Education (1986), "The Constitution represents the principles on which the National arrangement of Education is thought about." [14] Every Constitution has a manner of thinking of its own that symbolises the aims, attributes, expectations, and yearnings of its kin."

- **Achieving Justice in Education:** The connotation of achieving justice in education is that "every citizen of India" must "have equal chance" for upliftment, growth, and advancement via education [19]. Furthermore, in order to ensure that justice is served in the field of education, educational institutions should be available to all citizens, with no kind of discrimination allowed.
- **Equality in Education:** "one of the important social objectives of education is to equalise opportunity, enabling the backward or underprivileged classes and individuals to use education as a lever for the improvement of their conditions." This aspect of the Preamble is very clearly expressed by the Education Commission.
- **Freedom of Expression in Education:** It should be stressed that education is a tool that may be used to guide individuals and to ensure that their right to free expression is used properly and scientifically. Education, on the other hand, can guide persons in the effective exercise of their other fundamental rights [20, 21].
- **Fraternity in Education:** Assuring educational fraternity in a country such as India, where there is such a wide range of differences in culture, language, religion, and so on, is of vital importance in order to achieve national fraternity among the country's population. Fraternity entails a sense of brotherhood, as well as the "dignity of the individual and the unity of the nation." This fusion can only be reached via appropriate education.

We were fortunate that the framers of our Constitution were well "conscious of the value of education," not only for the advancement of individuals, but also for the advancement of the entire nation. Education was also considered as a means of ensuring that all citizens have equal opportunities in their social and economic lives. As a result, numerous provisions were placed into the Constitution to ensure that everyone had access to education. In the numerous provisions of the Constitution, the phrase "education" means and includes instruction at all levels, from kindergarten to postgraduate levels, and at all phases of development. Aside from that, vocational training is required.

## 2. ELEMENTARY RIGHTS OF EDUCATION

### 2.1 Right to Equality and Education

Once upon a time, education was reserved for a select few [14]. However, the right to equal opportunity allows everyone to study without discrimination.

Article 14 - "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India"

The concept of equality until the law is a necessary counterweight to the rule of law enshrined in the Indian constitution. Our Constitution's Article 14 establishes that all individuals, whether citizens or noncitizens, are entitled to the fair rights and equality mentioned in the Preamble. Article 14 prohibits any kind of discrimination and assures that all citizens are treated equally before the law. As defined in Articles 14 and 21, gender-based neutrality encompasses the concept of "person," as well as the protection of hijras, who are neither males nor females transgendering. They have the right to legal protection of the law of each other's citizens in all areas of public activity, such as jobs, medical treatment, education, and the equality of civil and nationality rights. This Article ensures equality before the law by prohibiting the state from taking arbitrary and discriminatory action. Essentially, the purpose of Article 14 is to treat all individuals as if they were in the same situation, both in terms of benefits and obligations. Although subjective, the grouping must be equitable, which means it must be centred not just on some attributes or features shared by everyone clustered together and not on others that are excluded, but also on the aim of law in connection to those qualities and features.

## **2.2 The right to life and education the incorporation of Article 21-A**

The right to education was not initially included in the Constitution as a fundamental right, and it should be included as a State Policy Directive under Article 45, which requires the state to make every effort to provide free and mandatory schooling to all children within ten years of the Constitution's inception until they reach the age of fourteen. In the case of *Mohini Jain v. State of Karnataka*, a groundbreaking decision was reached. Known as the "Capital Fee Case," the Supreme Court determined that perhaps the right to education is a fundamental human right under Article 21 of the Constitution [21] and that, in lieu of higher fees recognised as the capitation fee, a person cannot be denied the opportunity to pursue a higher educational degree. Education advantages are granted from the right of birth to the moment of death. The right to life, as stipulated in Article 21, as well as the integrity of a person, cannot be protected unless they are supported by the right to education. This case involves a complaint from a resident of Meerut, Mr. Miss Mohini Jain, who has asked the state of Uttar Pradesh, who has paid tuition fees to private health institutes in that state, to identify those who have paid tuition fees for the purposes of a notice issued by the state under the 1984 Karnataka Educational Institutions Act, to identify those who have paid tuition fees to private health institutes in that state (Ban of capital payments).

The following tuition fees were included in the notification: Candidates accepted Rs. 2,000 per year towards a government employment, Karnataka students 25,000 per year, and students from outside Karnataka accepted Rs. 60,000 per year toward a government position. The applicant was denied admission on the grounds that they were unable to pay the ridiculously high Rs.60,000 annual tuition fee, which was

imposed. The two judges found that, in accordance with Article 21 of the Constitution, the right to education at all levels is a fundamental right, and that charging a capitation fee for admission to academic institutions is illegal and equates to denying the rights of citizens to education, as well as violating Article 14 of the Constitution, which is arbitrary and subjective in nature. Education becomes more inexpensive for those who are less fortunate because of investment payments.

### **2.3 Minorities have the right to an education**

It was one of the challenges faced by the framers of India's constitutional to establish protections for the country's various communities in a society where citizens were segregated on the basis of religion, gender, education, sex, ethnicity, community, and social and economic factors [17], among other factors. Because of the reasoning of majority choice, the interests of minorities, their distinctive identities, and their liberties are sometimes rejected, despite the fact that specific minority considerations are a necessary condition of democracy in such instances.

Article 29(1) of the Indian Constitution provides for the establishment of special provisions to promote the interests of groups that speak a specific language or practise a particular culture.

“Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.”

In the future, as long as educational institutions exist, a minority community will be able to keep their language, writing, and culture. As a result, the right to establish and support organisations of their choosing must be considered in tandem with the right to preserve their own particular terminology, writing, or cultural legacy.

### **3. RECENT LEGAL TRENDS IN EDUCATION**

The Himachal Pradesh High Court ruled in *Independent Schools Association v. State of Himachal Pradesh & Anr* that educational institutions cannot charge fees unilaterally and that commercialization and exploitation of students are not permitted by the institutions of higher learning. The government must implement regulatory measures and give directives in order to maintain control over commercialization. The decision can be regarded a watershed moment in the COVID-19 era. The court was unequivocal in its assertion that the primary function of educational institutions is to promote education rather than to generate revenue. *Federation of Indian Journalists v. Union Territory of Jammu and Kashmir* when it came to the situation in Jammu and Kashmir, where internet connections were suspended, the Supreme Court ordered the formation of a special commission.

The petitioner said that a shortage of services was resulting in an infringement of the fundamental right to education since pupils were unable to learn through online classes. Because of the country's pandemic predicament, it has become even more crucial and important to have connectivity to the outside world. Since the rights of not just regular students, but also students preparing for competitive exams are being violated, the Supreme Court's decision to establish a special committee is upheld as legal. In *Christian Medical College v. Union of India* 117, the Supreme Court stated that the government's interference should be kept to a bare minimum, and that any interference should be backed by a wider public interest and national interest. The topic at hand was minority institutions and the role of the government in directing them, among other things. The Supreme Court of India ruled that, while the Indian Constitution limits the role of the state in interfering with fundamental rights, this is subject to the national interest. In this case, the court's point of view is completely valid and valid. The Supreme Court also ruled that citizens have the right to request from the state any and all of the facilities related to their right to education, subject to the state's ability to provide those services, both financially and economically. The Supreme Court emphasized the importance of this issue and barred the state from claiming inability in the provision of education as an explanation.

#### **4. PRINCIPLES DIRECTIVES FOR STATE POLICY FORMULATION**

Among other things, the state is required to make "effective provision" for schooling [18], among other things. As a result, state administrators are open to regulating the establishment of private schools in accordance with the educational needs of the region. In those instances where the State provided an effective means to secure the right to education by determining land accessible to academic institutions for maximum annual rates, the right to demand the distribution of a specific parcel of land within an academic institution was found to be non-legal or constitutional in the eyes of the courts.

Article 45- "The State shall endeavor to provide early childhood care and education for all children until they complete the age of six years."

Article 45 was repealed and replaced in 2002 when free and compulsory schooling is defined as a fundamental right under Article 21a. Article 45, despite the fact that it has been more than 50 years since the declaration of freedom, the regulation has not yet been fully implemented in Article 45 [20]. Child labour is prevalent in high-risk industries such as the fabrication of explosives, among other things. According to the Supreme Court in the case of *MC Mehta v Tamilnadu*, "the plain reality is that children in our nation, as in many other countries, are a prey to exploitation." As a result of several legislative enactments... forbidding the employment of a child in a variety of industries and applications, child labour has remained an intractable problem even after almost 50 years of our being independent. In this regard, the Court referred to the Child Labor Act

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of 1986, which it described as a "ex ante" courageous step in the right direction. Children are not permitted to work in specific occupations or operations under the terms of the law. In the current instance, the Court issued various recommendations in order to achieve the objectives set forth in Articles 41, 45, 47, 39(e) and (6), and Article 24.

#### **4.1 Fundamental Responsibilities**

There are a variety of "foundational duties" in the Constitution that must be followed during the course of complying with Section 51-A. In accordance with Article 51-A, clause (k) of the Eighty-Sixth Amendment Act of 2002 and Section 21A of the Constitution of the United States were recognised as fundamental rights. According to Section 21A of Article 51-A(k), the state and its inhabitants are responsible for administering a duty; the state is responsible for ensuring that their children receive a free and compulsory education. Between the ages of six and fourteen, every parent or guardian [15] owes a moral obligation to provide his or her child with an education or, when suitable, to be instructed. The state, regardless of its parental responsibilities, has a role to play in ensuring that all children receive a compulsory education. Article 51A(k) does not, on the other hand, criminalise parents or guardians for failing to send their children to college. The application of Article 51-A will be limited to "citizens," in contrast to several fundamental rights articles (such as Article 21), which apply to all "people." When reading faulty laws that acknowledge two systems, the courts will be able to look at essential roles, which will be important.

They are as important as fundamental rights, according to the Supreme Court, which emphasised the significance of constitutional duties enshrined in Section 51-A, while declaring a 33 percent administrative quota in AIIMS, along with a prudent 50 percent quota structure, to be in violation of Article 14 of the Constitution. *AIIMS Students Union v. AIIMS* The ironic aspect of the fundamental tasks is that they cannot be completed through the mail. Legislative approaches are the only way to encourage them. Despite this, there are some hazy sculptures to be seen. If the legality of an act is called into question, the Court might consider Article 51-A to determine whether it should be preserved. These fundamental duties should be emphasised in schools [18] so that students develop an understanding of them and are able to act in a manner that is consistent with them when they get older.

#### **5. EXPERIENCE IN LEGISLATIVE PROFICIENCY**

The Constitution expressly provides for the passage of legislation on education by the competent legislative body. The inclusion of education in the concurrent list under Entry 25 has been made possible by the 40th and second amendments to the United States Constitution. Entries 25 and 26 of the State Constitution did not deprive the legislature of the authority to pass legislation on the subject of "Health," but rather gave

the legislature the authority to adopt legislation on this subject. By virtue of Entry 25 list III, the centre was given the predominance in terms of educational opportunities (Concurring List). In many ways, "Education" has been relocated from the System to the Competitor List, and vice versa. Training will aid in the achievement of the targeted social and economic objectives for the region [19]. Educational standards and curriculum must be consistent across the country, which is critical for national cohesion. Parliament should ensure this. The parliament should work to close the gap between the rates and standards of education in the various states. In List I, the word "subject to" implies that the subject matter included in entries 63 to 66 is chosen from the general category "Education," as indicated by the word "education." Consequently, in the event that something on List I is affected by a topic, it is the sole obligation of the parliament to pass legislation on that topic, even if that topic falls under the broad category of education. Included in this section is the simultaneous interpretation of entries 66, list I and 25 (list III) of the dictionary. In the case of Saurabh Chaudri v Union of India, the court ruled that it is important to note that the term "subject" refers to a specific category within the category "Education," which includes the subject contained in List I entry numbers 63 to 66. This ensures that if any of the 63-66 items in List I is covered by the topic, it is the primary responsibility of the Parliament to legislate on this subject, even though it actually falls within the broader educational field. The interpretations of entry 66, list I, and entry 25, list III, shall be included in the same document at the same time.

## **6. CONCLUSION**

Individuals' personal, educational, social, and economic lives are all impacted by their education to varying degrees [13]. In the same way that quality education has enhanced opportunities in life; an economically active populace improves the foundation of a nation and lends greater strength to democracy in the long run. Even the judiciary took an active interest, concluding that the right to education is a basic right. Aside from constitutional provisions and judicial contributions, India is a signatory to a slew of international conventions [12]. Many international conventions, including those drafted by the United Nations, emphasise the right to education. State legal authorities should teach the general public [16], particularly the illiterate and uneducated, about the legal system. Education is a right, not a privilege, and as a result, it cannot be taken away as a privilege would. Because it is an enabling right, it contributes to the protection of other rights as well. As a result, education must be made available to everyone; accessible not in the sense of having an opportunity, but in the sense of having it as a fundamental human right.

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