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## CONSTITUTION AND LEGAL ASPECTS OF EDUCATION REGULATION.

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### ABSTRACT :

The governance of education is inextricably linked to constitutional and legal mechanisms that guarantee the right to education, equality, and preservation of standards in institutions. This paper discusses the constitutional provisions governing education, more so the right to education as a fundamental right, and the distribution of powers between central and state governments. It also analyzes important legal considerations, such as laws related to education, judicial decisions, and the role of regulatory agencies in determining educational policy and enforcing compliance. Knowledge of these legal and constitutional factors is important for developing a fair, equitable, and well-governed education system.

**KEYWORDS:** Right to Education (RTE), Constitutional Provisions on Education, Article 21A, Education Law in India, Educational Rights, Legal Framework for Education, Education Policy and Constitution

### INTRODUCTION

Indian education is regulated by a clearly defined constitutional and legal framework that provides for accessibility, quality, and equity. The Indian Constitution identifies education as a right under Article 21A and delineates the functions of the central and state governments in regulating it. Several legal provisions, landmark judgments, and statutory authorities play a role in shaping and regulating the education system. These legal and constitutional dimensions not only protect the rights of students but also offer a systematic framework to policy-making, institutional administration, and education reforms in the nation.

### Constitutional Provisions Related to Education

**Article 21A:** Article 21A of the Indian Constitution was added by the 86th Amendment Act, 2002. It provides that "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." This provision declares education a fundamental right for children within the given age group, deeming it a necessary aspect of personal growth and national development. It stresses the role of the state to provide access to elementary education to all children without any fee, paving the way for learning and empowerment for a lifetime. This article caused the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), to be legislated, establishing the legal requirement to implement this right and enforce standards of school infrastructure, teaching qualifications, and student rights at school.

The Directive Principles of State Policy in Part IV of the Indian Constitution serve as crucial guidelines to the government towards forming a just and equitable system of education for the nation. While not legally binding, they are essential in the governance of the nation and assist in policy formulation in education. Some of the key provisions relating to education are:

**Article 41:** Mandates the State to make effective provision for securing the right to education, among other rights, within the limits of its economic capacity.

**Article 45:** Initially mandated the State to provide free and compulsory education for all children up to the age of 14 years. Following the 86th Amendment, this article now requires early childhood care and education for all children below the age of six years.

**Article 46:** Compels the State to enhance the educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections, and protect them from social injustice and every form of exploitation.

- In the Indian Constitution, the basic duty concerning education is stated in Article 51A, where the Fundamental Duties of citizens are enumerated. Particularly, the **Article 51A (k)**: It states that It is the duty of every citizen of India who is a parent or guardian to give opportunities for education to his child or, as the case may be, ward between the ages of six and fourteen years. This responsibility was inserted by the 86th Constitutional Amendment Act, 2002, which further established education as a Fundamental Right under Article 21A.
- Union List (List I):** Matters on which *only Parliament (Union Government)* can legislate. Contains subjects of *national importance*.

**Entry 66** – Coordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

- Concurrent List (List III):** Matters on which *both Parliament and State Legislatures* can make laws. In case of conflict, *Central law prevails*.

Entry 25 – Education (Due to the 42nd Amendment Act, 1976, which moved "education" from State List to Concurrent List). \

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## Historical Evolution of Educational Law in India

- Ancient & Pre-Colonial Period (Prior to British Rule)
- Informal and usually taught in gurukuls, madrasas, and pathshalas. Major emphasis on religion, philosophy, languages (Sanskrit, Persian, Arabic). Patronage of the kings and local rulers; no formal legislative machinery.

### ● Colonial Period (British Period)

**Charter Act of 1813:** First formal acknowledgment of the responsibility of the state for education. Granted ₹1 lakh towards promoting education in India.

**Wood's Despatch (1854):** Applauded as the "Magna Carta of English Education in India."

Hierarchical organization: primary → secondary → university. Establishment of universities (e.g., in Bombay, Calcutta, Madras). Facilitated English as the medium of instruction.

**Indian Universities Act, 1904:** Governing university operation. Increased state control over universities.

**Government of India Act, 1935:** Education under Provincial List. Laid the foundation for decentralization of education administration.

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## Regulatory Framework of Education in India

**UGC (University Grants Commission):** Founded under the University Grants Commission Act, 1956. It functions for the coordination, determination, and upkeep of higher education standards. Disbursal of grants to colleges and universities. Recognition of universities

**AICTE (All India Council for Technical Education):** Founded under AICTE Act, 1987. It functions to Regulate and accreditate of technical education (engineering, management, architecture, etc.). Planning and development of technical education system.

**NCTE (National Council for Teacher Education):** Founded under NCTE Act, 1993. It functions to regulate and ensure quality in teacher education and accreditate teacher training institutions.

**NCERT (National Council of Educational Research and Training):** Set up in 1961 (autonomous organization under Ministry of Education). Functions in development of curriculum and textbook preparation and education research and school-level education training.

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## Significant Statutory Acts

### The Right of Children to Free and Compulsory Education (RTE) Act, 2009

-Enforces Article 21A of the Constitution.

-Ensures free and compulsory education to the children in the age group of 6–14 years.

-Prescribes norms for: School infrastructure, Teacher-student ratio, Admission of economically weaker sections (25% reservation in private schools).

### UGC Act, 1956

-Grants legal power to the UGC for regulating higher education.

-Empowers the UGC to declare institutions as deemed universities.

### NCTE Act, 1993 & AICTE Act, 1987

-Empower these councils to regulate their respective educational sectors.

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## Judicial Interpretation and Education

The Supreme Court and High Courts have been instrumental in widening the ambit of educational rights, resolving disputes, and interpreting legislation regarding education. Courts have elevated the right to education from a directive principle to an enforceable fundamental right. They focused on emphasized equity, merit, and autonomy in education, balanced institutional freedom with state regulation and played a critical role in enforcing social justice in education.

### 1. Unni Krishnan v. State of Andhra Pradesh (1993)

In this historical case, the Supreme Court interpreted the Right to Education as a component of the Right to Life under Article 21 of the Constitution. The court ruled that all children until the age of 14 years have the fundamental right to free education, and this responsibility is with the state. The Court held that education is not a fundamental right but can be restricted by the financial ability of the state. This ruling resulted in Article 21A being added to the Constitution by amendment in 2002, which provided for free and compulsory education to children of the age group 6 to 14 years.

### 2. Mohini Jain v. State of Karnataka (1992)

The Supreme Court, in the present case, ruled that the charging of capitation fees by private schools was unconstitutional and violative of Article 14 (Right to Equality) and Article 21 (Right to Life). The Court ruled that education is a fundamental human right and the government is responsible for

making it accessible and affordable to all children, particularly to disadvantaged sections. This case established that private institutions, while they were entitled to charge fees, could not financially exploit students under the guise of education.

### **3. T.M.A. Pai Foundation v. State of Karnataka (2002)**

This case pertained to the autonomy of private educational institutions, especially in admissions, fees, and management. The Supreme Court of India recognized the right to set up and run educational institutions under Article 19(1)(g) and Article 30 (Right of minorities to establish and administer educational institutions). At the same time, the Court also decided that private institutions are subject to reasonable controls at the hands of the state for maintaining quality standards and just practices. This decision established the balance between institutional autonomy and the interest of state regulation.

### **4. P.A. Inamdar v. State of Maharashtra (2005)**

This case was concerned with the constitutionality of policies of reservation in private unaided institutions. The Supreme Court held that private unaided institutions are free to admit students on a merit and capacity basis but also remain bound by some standards of regulation. The Court maintained the autonomy of minority institutions to have their own admission standards, while non-minority private institutions were not given the right to impose quotas. It clarified that the state could regulate but not control private institutions entirely, thereby safeguarding their administrative autonomy.

### **5. Society for Unaided Private Schools v. Union of India (2012)**

The Supreme Court upheld the constitutionality of the Right to Education (RTE) Act, 2009, which mandates that private unaided schools must reserve 25% of seats for children from economically disadvantaged backgrounds. The Court ruled that this provision applies only to non-minority institutions, ensuring that private schools contribute to social justice by providing opportunities to underprivileged children. But the decision permitted minority institutions to be exempted from this requirement, confirming their right to control admissions in accordance with their own criteria under Article 30 of the Constitution.

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## **Analysis of the New Education Policy (NEP) 2020**

### **Major Features of NEP 2020**

**-Curriculum Reforms:** Holistic and Multidisciplinary Learning: The curriculum will encourage whole-rounded learning, with the inclusion of subjects like sports, arts, vocational studies, and life skills in addition to conventional academics.

**-Decreasing Rote Learning:** The policy is aimed at minimizing rote learning and developing a concept-based learning approach with increased focus on application and analysis.

**-Early Childhood Care and Education (ECCE):** Introduces pre-school education within the formal system, and emphasizes the significance of the early years of a child's life.

**-Language Policy: Mother Tongue and Multilingualism:** Mother tongue or local languages are advocated for students to be taught till at least grade 5 as a measure promoting multilingual learning and India's respect for her linguistic diversity.

### **Higher Education Reforms**

**-Multidisciplinary Education:** Introducing multidisciplinary courses at the university level, where students can pursue disciplines across disciplines without adhering to one single stream.

**-National Research Foundation (NRF):** Policy suggests introducing NRF to facilitate research and innovation among universities and institutions.

**-Regulatory Changes:** Designation of one single self-governing organization for higher educational institutions (other than law and medical colleges) to facilitate streamlining accreditation and regulation procedures.

**-Funding of Higher Education:** The policy further demands an expansion of public financing of higher education so that it becomes more affordable and accessible for students.

### **Equity and Inclusion**

**-Gender Parity:** The policy focuses on gender parity, providing education to girl children, particularly in rural areas.

**-Special Education Zones:** Suggests establishing special education zones for backward areas to narrow the gap between urban and rural education.

**-Inclusive Education:** Provides inclusive education to children with disabilities, suggesting tailored curricula and learning processes.

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## **Centre-State Relations and Education Governance Federal challenges in implementing educational reforms**

The Centre-State relationship in education management, especially in federal set-ups such as India, poses intricate problems to the deployment of education reforms. They are founded on the division of powers, varying priorities, and regional variations. The subsequent analysis addresses the principal federal impediments to the enforcement of educational reforms, specifically in the Indian context, where education is a Concurrent List item in the Seventh Schedule of the Constitution, enabling both the Centre and the States to enact and administer educational affairs.

### **Key Federal Challenges in the Implementation of Educational Reforms**

#### **(1) Division of Powers and Jurisdictional Conflicts:**

**-Constitutional Framework:** The 42nd Amendment of 1976 moved education to the Concurrent List, and legislative powers were given to the Central and State governments.

**-Policy Implementation:** National programs like the National Education Policy (NEP) 2020 and schemes like Sarva Shiksha Abhiyan (SSA) require

State cooperation for successful implementation. However, States can delay or modify these policies to suit local political or cultural conditions, leading to differential outcomes. For instance, some States have opposed the NEP's support for a uniform curriculum framework or certain language policies (like the three-language formula) because of their linguistic diversity.

**-Illustration:** The implementation of the Right to Education (RTE) Act, 2009 was hindered as States struggled with funding needs (like the 25% reservation in private schools) and infrastructure requirements, usually complaining of lack of support from the central government.

## **(2)Regional Diversity and Local Needs:**

**-Cultural and Language Differences:** The immense diversity in India—covering linguistic, cultural, and socio-economic dimensions—makes a one-size-fits-all approach to educational reform more or less ineffective. For instance, the emphasis of the National Education Policy (NEP) 2020 on mother tongue-based education is problematic in multilingual states like Maharashtra and Assam, where the incorporation of local languages with Hindi or English is a politically charged matter.

**Rural-Urban Disparity:** States with high rural populations, like Bihar and Uttar Pradesh, face major challenges in implementing reforms that require digital infrastructure, such as the online learning platforms envisioned under the NEP, because of poor internet connectivity and power supply. Policies framed with urban contexts in mind might not be applicable to rural areas.

**-Illustration:** The effort to expand vocational training under the NEP mandates that states develop curricula that cater to industry requirements; however, for states with indigenous tribal economies, such as Odisha and Jharkhand, it proves challenging to implement national schemes so that local needs for skills can be met.

## **(3)Political and Administrative Discrepancies:**

**-Political Differences:** Education is a very politicized subject, and variations in ideologies between state governments and the central government can hinder reform. For example, opposition party-ruled states might oppose central efforts to ensure political independence, as evidenced by West Bengal's initial reluctance to adopt NEP 2020 in its entirety.

**-Bureaucratic Issues:** Efficient coordination between state and central education departments is often hindered by bureaucratic obstacles, ambiguous communication, and overlapping responsibilities. Having several agencies like NCERT in the country and SCERTs in every state can lead to divergent instructions.

**-Example:** The implementation of teacher training reforms under the National Initiative for School Heads' and Teachers' Holistic Advancement (NISHTA) was delayed in some states because of poor coordination and resistance from teachers' unions.

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## **Role of NITI Aayog vs. state planning commissions**

The NITI Aayog, being the Indian government's central think tank on policy, has a strategic and joint function in formulating national development plans, fostering cooperative federalism, and guiding policymaking through data-driven research and innovation. Differing from the erstwhile Planning Commission and the current State Planning Commissions, NITI Aayog does not dispense funds but rather works to promote Centre-state partnerships, promotes best practice exchange, and inspires long-term reform. State Planning Commissions focus mainly on regional implementation and planning, local priority setting, and aligning it with national priorities. Collectively, State Planning Commissions and NITI Aayog seek to promote balanced and inclusive growth with NITI Aayog playing the facilitator and mentor role, and states assuming the responsibility of planning and implementation within their context.

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## **Coordination with Central Government**

Also, they coordinate with the central government in terms of national development priorities.

In short, NITI Aayog creates a strategic framework and provides advisory assistance at the national level, whereas State Planning Commissions focus on the implementation of development programs at the state level.

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## **Disputes and cooperation mechanisms**

**Negotiation:** This method entails face-to-face negotiations between the parties, where they can negotiate and come up with a mutually acceptable solution. It is normally the first step in conflict resolution.

**Mediation:** Here, a neutral third party helps to facilitate communication between the parties and lead them towards an agreement without deciding for them.

**Arbitration:** In this case, a third-party arbitrator acts as a judge would, making a binding ruling based on the evidence and arguments heard from both sides.

**Litigation:** This classic approach is resolving conflicts via the legal system.

**Collaboration:** Here, parties collaborate on cooperative work towards creating solutions for all concerned that are mutually acceptable and allow mutual understanding of the issues.

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### Private Sector and Legal Aspects of Education Constitutional limitations on commercialization

The private sector is contributing substantially to the Indian education sector by increasing access, bringing in innovation, and contributing to addressing the increasing need for quality education. Private institutions function at all levels—school through higher education—and frequently complement state efforts in areas where state capacity is weak. But with this, questions also arise regarding equity, affordability, and quality, hence making legal regulation important.

Constitutionally, education in India is a not-for-profit pursuit under Article 21-A and backed by the directive principles, which stress the responsibility of the state to provide equitable access. The Supreme Court has consistently held that education is not a business and cannot be commercialized. Private institutions can operate but have to do so within a regulatory environment that does not allow profiteering and capitation fees, so that their operation is in line with larger social objectives.

Legal regimes, such as state education laws and regulatory authorities such as UGC and AICTE, mandate rules to ensure transparency, accountability, and minimum standards compliance. These regimes aim to control commercialization of education while facilitating private sector participation to flourish within constitutional and ethical limits. The challenge, therefore, is in achieving a balance between private initiative and public interest, so that education continues to be an instrument for empowerment and not a commodity for profit.

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### Comparative Constitutional Perspectives on Education as a constitutional right in other countries

#### United States:

**(1)Constitutional Status:** The U.S. Constitution does not specifically acknowledge education as a fundamental right. Nevertheless, the Equal Protection Clause of the 14th Amendment has been interpreted to provide equal access to education. The case *Brown v. Board of Education* (1954) held that racial segregation in public schools was unconstitutional, focusing on equal educational opportunities.

#### **(2)Key Features:**

- Decentralized system with high level of state and local control.
- Funding inequalities based on dependence on local property taxes, culminating in legal cases.
- Focus on equity through federal legislation such as the Every Student Succeeds Act (ESSA).

**(3)Challenges:** Unequal funding, differential quality of education between states, and controversy around school choice and privatization.

#### South Africa:

**(1)Constitutional Status:** Section 29 of the South African Constitution (1996) clearly enshrines the right to basic education, including adult basic education, and further education, which the state must progressively provide. This is among the most progressive constitutional provisions in the world.

#### **(2) Key Features:**

- Education is a court-enforceable right, whereby citizens can approach the courts against infringements.
- Prioritized redress against past inequalities under apartheid, policy supporting multilingual education and accommodation of marginalized communities.
- Free compulsory education for disadvantaged children from low-income households funded by government subsidy.

**(3)Challenges:** Resource gaps in implementation because of shortages in resources, teachers, and infrastructure, especially in rural regions. Public-private inequality still exists.

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### Education and Social Justice: A Constitutional Mandate

Education and social justice are intrinsically linked in the Indian Constitution as a basic mandate for the state to develop a fair and inclusive society. Social justice and education are closely intertwined within the constitutional tradition, particularly in democratic states where education is seen not just as a basic right but also as a strong tool for attaining equity and inclusivity. The Constitution, by means of provisions like the Right to Education and the policies of equality and non-discrimination, requires the state to guarantee that all people, irrespective of caste, gender, religion, or socio-economic status, access quality education. This requirement serves to remove inherited injustices and structural obstacles so that marginalized communities are empowered, and an enlightened, participative citizenry is promoted. Finally, education becomes a tool to promote social justice, allowing people to reach their full potential and contribute positively to a just and fair society.

## Role of education in achieving substantive equality

Education is an important catalyst for achieving substantive equality by equipping people with the knowledge, skills, and critical thinking abilities required to overcome systemic barriers and participate in society. It empowers marginalized groups by enhancing their socio-economic opportunities, fostering self-knowledge and empowerment, and enabling them to claim their rights and challenge discriminatory conduct. By promoting inclusivity and understanding, education is a vital tool in eliminating prejudices and creating a more level playing field where people can excel based on merit and not on background. Affirmative action and reservation policies in educational institutions aim to correct historic inequities by providing preferential entry to underrepresented or disadvantaged groups. Such policies, which come in many different forms across the globe (affirmative action in America and caste-based reservations in India), set off constitutional debates based on the tension between merit and social justice.

## Digital Education

**Data privacy:** Students are more susceptible to data collection and potential abuse because of their increasing use of internet platforms. The legal framework protecting the digital data of children remains inadequate because of the absence of a comprehensive data protection law, even after the passing of the Digital Personal Data Protection Act, 2023. There are concerns regarding ed-tech companies' sharing of third-party data, consent, and spying. The Ministry of Education would, as per the NEP, set up a dedicated e-education department to take care of digital content development, technical support, and expansion of virtual learning environments. In addition to expanding opportunities for people living in far-flung areas and underprivileged sections of society through digital inclusion, the approach would also look to bridge the divide between the urban and rural regions. Legal Concerns relating to Privacy of Data, Digital Access, and the Digital Divide Digital education comes with prospects, but with it come a series of legal concerns.

**Digital Access and the Divide:** The right of children between the ages of 6 and 14 to receive an education is assured in Article 21A of the Constitution. Yet, this right is often not uniformly enforced by digital learning, especially by marginalized populations without access to devices, the internet, and digital skills. Fulfilling constitutional promises is challenging as there is no legal guarantee yet for equal access to digital tools.

**Cyber security and Harassment:** Though cyber threats find some mention under the Information Technology Act of 2000, there are no specific regulations concerning digital learning platforms. The need for such laws has been brought to the forefront by cases of impersonation, cyberbullying, and illegal recordings in virtual classes.

## CONCLUSION

In conclusion, the law and constitution of education regulation form the basis of a fair, equitable, and accountable education system. They make education not only an inherent right but also a tool for advancing equality, democratic ideals, and social empowerment. A structured legal framework obliges the state to deliver accessible, equitable, and quality education while protecting the interests of all parties. These legal provisions maintain the values and standards of transparency and fairness to ensure that education serves as an instrument for national development and personal growth within the scope of constitutional provisions.

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