

Reviewing Right To Education In India: With Special Reference To National Education Policy 2020

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Abstract

The Right of the Child Free and Compulsory Education Act, 2009 is one of the government's significant decisions or initiatives to make education free and mandatory for all children aged 6 to 14. The main objective of this act is to improve education by reaching out to underserved segments of the population. Following that, India was chosen as one of the nations to declare education a fundamental right for all children worldwide. This act greatly improved the effectiveness, accessibility, and quality of education by, among other things, raising enrolment rates and lowering dropout rates. Some changes must be made to the Right to Education Act to bring it into line with the current educational system in light of the National Education Policy 2020. One of the proactive steps the Indian government has taken to reshape the country's educational sector is NEP 2020. It took the place of the NEP 1986 and was a revolutionary decision that made education more adaptable and skill focused. The present paper seeks to review the RTE ACT, 2009 in light of National Education Policy 2020. Furthermore, the paper seeks to analyse the changes required in RTE ACT, 2009 for effective implementation of the goals of NEP 2020.

Keywords: RTE ACT 2009, NEP 2020, Article 21A, Education, Free and Compulsory Education.

1. Introduction

The Indian educational system has a rich past that transforms itself through several cultural and socio-political changes. In ancient times, the Gurukul system was one of the first organised educational systems in India, and education there was primarily religious and comprehensive.¹ This approach placed a strong emphasis on the oral transfer of knowledge and the individual's holistic growth. However, the Indian educational system saw a dramatic change with the arrival of British colonial power. The focus switched to a curriculum focused on European knowledge and English as the medium of instruction with the introduction of Western education.² This change paved the way for India's current educational system, which brought with it both new possibilities and difficulties, such as the marginalisation of traditional knowledge systems. In order to better serve its citizens, the Indian government realised after independence that the education system needed to be reformed and nationalised. As a result, several education policies were created, beginning with the National Policy on Education (NPE) in 1968, which placed a strong emphasis on fostering regional languages and a unified system of education.³ The subsequent NPE of 1986 further advanced the cause of universal education and aimed at addressing disparities in access to education, a challenge

¹ R. Gupta, *The Gurukul system of education: Ancient roots and modern relevance*, 55 IJHS 159, 159-174 (2020)

² K. Kumar, *Colonial and India's transition to modernity*, 40 EPW 4023, 4023-4030 (2005)

³ MHRD (Ministry of Human Resource Development) Government of India (1968), *National Education Policy 1968*. India Available at https://www.education.gov.in/sites/upload_files/mhrd/files/document-reports/NPE-1968.pdf (Accessed on August 1, 2025, 10:AM)

that continues to persist.⁴ The Indian educational system still faces many obstacles in spite of these policy initiatives. These include significant differences in educational achievements across various socioeconomic groups, a lack of teachers, and inadequate infrastructure.⁵ The necessity for a thorough reform of the educational system to make it more inclusive, relevant, and able to meet the demands of the twenty-first century has been further highlighted by the rapid advancement of technology and the global transition to knowledge-based economies.⁶ The Indian government unveiled the New Education Policy (NEP) 2020 in response to these persistent issues. In order to bring India's educational system into line with international standards, NEP 2020 seeks to make it more adaptable, multidisciplinary, and based on Indian values.⁷ With its emphasis on early childhood education, holistic learning, and the use of technology into the classroom, this policy marks a substantial shift from earlier ones.

2. Constitutional and Legal Foundations for the Right to Education

2.1 Constitutional Provisions Before Eighty-Sixth Constitutional Amendment

When the Indian Constitution was enacted and adopted on January 26, 1950, Article 45 featured a directive principle that promised all children free and compulsory education until they turned the age of fourteen within ten years.⁸ However, over the next fifty years, the state that was in charge of carrying out the constitutional guarantee of free and compulsory education for all children up to the age of fourteen was unable to do so. According to the Article 45, by 1960 AD, the state must make every effort to offer free and mandatory primary education to children aged 6 to 14. However, a lack of resources has prevented us from realising this ideal for many more decades. The Indian Constitution acknowledged the necessity of free and compulsory education following independence. Apart from, article 45 the framers of the constitution also drafted other provisions in the constitution which focuses on education such as article 29 and 30. Both the provisions provides educational as well as cultural rights to the citizens.⁹

There were a number of events between 1950 and Judgement of Unnikrishnan vs State of AP.¹⁰ From 1964 to 1966, the Indian Education Commission (also known as the Kothari Commission) examined the status of education in India and offered suggestions. The proposal for a Common School System, which aimed to abolish educational disparities, was the most significant of them. The first document demonstrating the Indian government's commitment to elementary education was the National Policy on Education, 1968.¹¹ The policy addressed the issue of educational opportunity equality and mandated the adoption of a single school system to foster social cohesion. During the Emergency in 1975, the central government

⁴*Id.* at 3

⁵ G.G. Kingdon, *The progress of school education in India*, 23 OREP 168, 168-195(2007) ,(2) (2007)

⁶ D.B. Rao, *Indian education in the globalized era: Challenges and opportunities*, 45 JIE 1, 1-12 (2019)

⁷ MHRD (Ministry of Human Resource Development) Government of India (2020), *National Education Policy 2020*. Available at https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf (Accessed on August 2, 2025 , 11:AM)

⁸INDIA CONST. art. 45 Available at <https://nationalarchives.nic.in/constitution-india> See also <https://nationalarchives.nic.in/sites/default/files/2025-06/06/THE%20CONSTITUTION%20OF%20INDIA.pdf> (Accessed on August 4, 2025, 10:PM)

⁹INDIA CONST. art. 29, 30.

¹⁰ 1993 AIR 2178

¹¹*Supra note 3*

placed primary education under the "Concurrent List" with 42nd amendment to the constitution, placing responsibility for basic education on both the state and the center.¹²

Although the goal of universalizing basic education was reiterated in National Policy on Education 1986, the "Right to Education" was not acknowledged.¹³ Another major criticism of the 1986 program is that it brought non-formal education to India. The 1992 revision of the National Policy on Education was influenced by the 1990 Acharya Rammurti Committee study of the 1986 policy.¹⁴ The Acharya Rammurti committee suggested that right to education must be included in part III of the constitution as a fundamental right. Nevertheless, this suggestion was not immediately put into practice.

A significant legal breakthrough was witnessed when the Supreme Court of India ruled in *Mohini Jain vs State of Karnataka*¹⁵ that every citizen has a constitutionally guaranteed "right to education" and that this right is concurrent with fundamental rights guaranteed by part III of the constitution. The aforesaid judgment was re-examined by the Supreme Court in another landmark judgement of *Unnikrishnan vs. State of Andhra Pradesh*.¹⁶ Despite not being explicitly mentioned as a fundamental right, the court (majority judgment) found that the right to education must be interpreted in the context of the constitution's Directive principles since it is implied in and flows from the right to life protected by Article 21. As far as the right to education is concerned, there are many articles labelled as DPSP under part IV which specifically talks about it. Article 41 state that "the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want."¹⁷ Article 45 state that "the State shall endeavor to provide, within a period of ten years from the commencement of this constitution, for free and compulsory education for all children until they complete the age of fourteen years".¹⁸ Article 46 states that "the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation....."¹⁹ Among other things, the aforementioned objective is intended to be accomplished via the three Articles 45, 46, and 41. Accordingly, the right to education as defined by Articles 45 and 41 means that: (a) all children and citizens of this nation are entitled to free education until they turn fourteen; and (b) after they turn fourteen, their right to an education is limited by the state's economic capacity and level of development.

2.2 Eighty-Sixth Constitutional Amendment

¹²The Constitution (Forty-Second Amendment) 1972, Available at <https://legislative.gov.in/the-constitution-amendment-acts/page/2/See> also <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/03/2023030290.pdf> (Accessed on August 4, 2025, 10:PM)

¹³MHRD (Ministry of Human Resource Development) Government of India (1986), *National Education Policy 1986*. India. Available at https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/npe.pdf (Accessed on August 4, 2025, 10:PM)

¹⁴*Id.* at 13

¹⁵ 1992 SCC (3) 666

¹⁶ 1993 AIR 2178

¹⁷INDIA CONST. art. 41

¹⁸*Supra* note 8

¹⁹INDIA CONST, art. 46

A number of public interest litigation petitions were filed to various High courts in an attempt to obtain admission to schools and uphold the Unnikrishnan ruling. A proposal to amend the constitution to make the right to education a fundamental right was made in 1996 as a result of the intense pressure this put on the parliament.

In light of this, the Eighty-third Constitution Amendment was introduced in the Rajya Sabha in July 1997. The bill proposed that Article 21-A should be inserted in the Indian constitution, which would establish a fundamental right to education for children aged 6 to 14, the deletion of Article 45, which established a directive principle on free and compulsory education at the time, and the introduction of Article 51-A (k), which would establish a basic duty on parents.²⁰

The change in government between 1997 and 2001 hampered the eighty-third constitution amendment bill 1997 and it got lapsed. In November, however, the Ninety-third constitution amendment bill was introduced with a change that Article 45 should not be deleted altogether rather instead of deleting it should be amended as provide for early childhood care and education.²¹

The Ninety-third Constitution amendment bill was passed in 2002 as the Eighty-Sixth Constitution Amendment Act 2002. Article 21A was added to the Constitution which ensures right to Primary education as fundamental right in India. Article 21A imposes obligation on the parliament to enact a central legislation to give effect to 86th Constitutional amendment. Article 21A confers duty on states to deliver free and compulsory. The parliament to give effect 86th constitutional amendment 2002 pass “The right of children to free and compulsory Education Act, 2009” (Hereinafter referred as RTE Act 2009). The said Act came into force on 1st April 2010. It is the most recent act on right to education. However, the road to RTE Act has not been easy. The said Act contains 7 chapters, which include 38 sections. It imposes the responsibility on the central government, state governments, teachers, parents, and SMCs members to ensure the proper implementation of the said Act and also confirm that no children between age group of 6 to 14 years will be deprived of their right to free and compulsory elementary education.

The important provisions of the RTE Act are as mentioned below: -

- (i) Appropriate governments and local authorities have a responsibility to establish neighborhood schools.²²
- (ii) The financial and other responsibilities will be shared between the central and state governments.²³
- (iii) Provisions for the Restriction on capitation fees and screening procedures of students and parents at the time of admission as well as restriction on detention, expulsion, and corporal punishment.²⁴
- (iv) The description of norms and standards for infrastructure of schools and other facilities, such as libraries, toilets, teaching-learning equipment etc.²⁵

²⁰The Constitution (Eighty-Third Amendment) Bill 1997. Available at https://rsdebate.nic.in/bitstream/123456789/26328/2/ID_194_27112001_7_p221_p226_12.pdf (Accessed on August 4, 2025, 10:PM)

²¹The Constitution (Ninety-Third Amendment) Bill, 2001 Available at <https://www.educationforallinindia.com/page166.html> (Accessed on August 4, 2025, 10:PM)

²² THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009, s.6, No. 35, Act of Parliament, 2009 (India)

²³Supranote 22, at s.7

²⁴Supranote 22, at s.13

²⁵Supranote 22, at s.19

(v) The Act also applies to children with disabilities and those from minority groups. It states that according to the RTE Act of 2009, every child has the right of satisfactory and equitable quality of elementary education in a formal school that meets certain essential norms and standards.²⁶

(vi) The Act also prescribes the Pupil-teacher ratio (PTR) as 30:1.²⁷

(vii) The Act requires that all untrained teachers in the schools be trained within five years of the implementation of this Act. The remainder of the provisions must be implemented immediately.²⁸

3. Overview of National Education Policy 2020 and School Education

(i) Ensuring Universal Access in Schools at All Educational Levels

Increasing access to education at all levels is a top priority for NEP, 2020. The NIOS offers open education for third, fifth, and eighth graders through "National Institute Open Schooling" and "State Open Schools" (SOS), secondary education programs (equivalent to grades 10 and 12), vocational education programs, a dropout reintegration program, student progress tracking, the facilitation of multiple learning pathways that combine formal and informal learning methods, and partnerships between social workers or counsellors with the necessary training. More than two crore youngsters who are not enrolled in school would be reintegrated into society as part of NEP 2020.²⁹

(ii) New Curricular and Pedagogical Framework in Early Childhood Care & Education

The present 12th Structure of school curricula, which follows pupils from ages 3 to 8, then from 8 to 11, 11 to 14, and ultimately from 14 to 18, will be replaced by a 5+3+3+4 curricular framework with an emphasis on ECCE. The school curriculum will now cover the hitherto undiscovered age span of three to six years, which is generally acknowledged as the crucial time for a child's brain development. Twelve years of formal education will follow three years of Anganwadi, or preschool, under the new system.

For kids under eight, the "National Council of Educational Research and Training" will create the NCPFECCE. Preschools and Anganwadis will be part of a greatly enhanced and extended network of centers that will offer ECCE. Teachers and Anganwadi employees will receive training in ECCE curriculum and methodology. To create and implement ECCE, the Ministries of HRD, Tribal Affairs, and Women and Child Development (WCD) will work together with "Health and Family Welfare" (HFW).

(iii) Attaining Foundational Literacy and Numeracy

Under NEP 2020, which acknowledges Foundational Literacy & Numeracy as a vital and essential prerequisite to learning, Ministry of HRD will create the National Mission on "Foundational Literacy" and Numeracy. In order to achieve universal basic reading and numeracy in all primary schools for all students by grade 3, states will create an implementation plan by 2025. It is necessary to create a national book promotion policy.³⁰

(iv) Reforms in school curriculum and pedagogy

School curriculum and pedagogy will strive to thoroughly educate kids by giving them crucial 21st-century skills, minimizing the quantity of material presented in the classroom to

²⁶Supranote 22, at s.1

²⁷Supranote 22, at s. 25

²⁸Supranote 22, at s. 24

²⁹MHRD (Ministry of Human Resource Development) Government of India (2020), *National Education Policy 2020*, 10-11. Available at https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf (Accessed on August 2, 2025, 11:AM)

³⁰Supra note 29, at 8-9

focus more on critical thinking and vital learning, and placing an emphasis on experiential learning. Students will have greater flexibility and access to more academic possibilities. There won't be any distinct lines separating the arts from science or from academic and vocational courses.³¹

(v) From 6th grade, schools will provide internships and vocational education

A new, all-inclusive "National Curriculum Framework for School Education" (NCFSE 2020–21) will be developed by NCERT.³²

(vi) Language power and multilingualism

According to the policy, education should be conducted in the home tongue, local language, or regional language at least until Grade 5, but ideally until Grade 8 and beyond. Sanskrit will be offered as an elective to secondary and postsecondary students under the three-language paradigm. Other Indian classical languages and literature will also be available. No student will be forced to speak a language. In Grades 6–8, students can take part in an enjoyable project or activity about "The Languages of India," such as through the "Ek Bharat Shrestha Bharat" campaign. At the secondary level, a number of foreign languages will also be available. For the benefit of students with hearing impairments, Indian Sign Language (ISL) will be standardized nationwide, and state and national curricular materials will be created.³³

(vii) Assessment Reforms

Under NEP 2020, assessments of higher-order abilities such as critical thinking, conceptual clarity, and analysis will occur more frequently and in a way that is more formative, competency-based, and conducive to learning and development. Every student in Grades 3, 5, and 8 will take exams, which will be overseen by the relevant authorities. The boards for the tenth and twelfth grades will remain in place, but they will be assessed with the goal of producing more well-rounded pupils. To establish criteria, a brand-new national assessment center named PARAKH ("Performance Assessment, Review, and Analysis of Knowledge" for Holistic Development) would be created.³⁴

(viii) Equitable and Inclusive Education

NEP 2020 states that no kid should be denied the opportunity to learn and achieve because of their background or birth circumstances. The "Socially and Economically Disadvantaged Groups" (SEDGs), which encompass people with disabilities as well as gender, sociocultural, and regional identities, would receive particular attention. This strategy calls for underprivileged learning areas and a gender inclusion fund. From elementary school onward, students with disabilities would be able to fully participate in the regular educational system with the support of resource centers, cross-disability training, assistive devices, appropriate technology-based tools, accommodations, and other support systems tailored to their needs. "Bal Bhavans," a cutting-edge type of daytime boarding school that blends education with extracurricular activities like play and artistic expression, will be open to kids from all over the nation. The establishment of "Samajik Chetna Kendras" may be made possible by using the free public-school foundation.³⁵

(ix) Robust Teacher Recruitment & Career Path

To hire new teachers, we'll follow thorough, open procedures. There will be pathways to jobs as teacher educators and educational administrators, merit-based promotions, and multisource monthly performance reviews. Following consultation with educators, SCERTs, NCERT, and

³¹*Supra note 29*, at 11

³²*Supra note 29*, at 17

³³*Supra note 29*, at 13-16

³⁴*Supra note 29*, at 17-18

³⁵*Supra note 29*, at 24-27

professional groups from different regions and levels, the National Council for Teacher Education would have developed a set of universal "National Professional Standards for Teachers" (NPST) by 2022.³⁶

(x) School Governance

To ensure that all resources, including academic libraries, infrastructure, and a strong team of highly qualified teachers, are available, schools might be arranged into clusters or complexes that serve as the main administrative unit.³⁷

(xi) Standard-setting and Accreditation for School Education

NEP 2020 envisions clear, discrete systems for issues pertaining to operations, regulation, government, and academics. Each state and UT will create its own "State School Standards Authority." Transparent public self-disclosure of all the essential regulatory information, as required by the State School Standards Authority, will be used for broad public monitoring and accountability. The SCERT will develop a "School Quality Assessment and Accreditation Framework" (SQAAF) after consulting with all relevant parties.³⁸

4. NEP 2020 and its alignment to RTE ACT, 2009

The realisation of the demographic dividend is contingent upon the youthful people receiving sufficient education and developing 21st century skills. Indians are 25 to 30 years old on average, which is only positive if their educational institutions are strong. Subsequent governments have recognised the gap and implemented strategies to close it. The Right to Education Act of 2009 was by far the most successful piece of legislation for achieving academic equity. It has played a crucial role in guaranteeing the impoverished have access to high-quality education. However, the RTE's implementation clashes with the private institutions' viability and independence.

Since the NEP 2020 addresses the three key components of education delivery—teachers, students, and parents—it theoretically reinforces the RTE. The curriculum for teacher training is being evaluated and revised, and the teachers will receive better training. The development of technology abilities will be emphasised, and the students will be taught using contemporary pedagogies. Particularly in remote areas, parents will have the authority to choose the best schools for their children's education.

The RTE was created in 2009 in response to a perceived disparity between the population's planned and actual access to education. Although the Sarv Siksha Abhiyaan, the universal education program, had reached some noteworthy milestones in terms of gross enrolment rate by that point, dropout rates and the availability of education for girls remained unsatisfactory. In 1990, the average number of years that girls attended school was a pitiful 1.7%; by 2018, that number had risen to 4.7%. The NEP seeks to improve the educational infrastructure in rural areas, whereas RTE seeks to ensure that all people have fair access to high-quality education. The goal of equitable education distribution will become more achievable if small towns and rural communities are able to educate their residents on their own. When we examine the reports from ASER and National Achievement Surveys, it becomes evident how important RTE is and how much seat reservation it requires. By establishing a system for teacher training and implementing the National Curriculum Framework, the NEP seeks to address the low learning outcomes that persist in government schools and even many private

³⁶*Supra* note 29, at 20-22

³⁷*Supra* note 29, at 28-30

³⁸*Supra* note 29, at 30-32

ones. Ten years later, the necessity for RTE in 2019 to reevaluate policy priorities and prioritise higher education is becoming apparent. NEP will strengthen the RTE and is a step in that direction.

Here is a quick summary of RTE laws as they relate to NEP:

- I. Children from 6 to 14 are required to attend school, though the age range may be changed to 3–18.
- II. With the exception of certain minority colleges, a 25% reservation is granted for SC, ST, and OBC students in both aided and unaided institutions.
- III. Education is essentially a state matter, and the centre is getting more involved in it.
- IV. To provide access to high-quality education in rural areas, emphasis has been placed on optimising the teacher training program, school infrastructure, and the pupil-teacher ratio (PTR).
- V. The RTE sought to end child labour, but NEP adds a new dimension by equipping students with the skills necessary to succeed in the workforce.
- VI. In the interest of children's psychological health, RTE outlawed corporal punishment; NEP supports this principle with a number of its measures, such as requiring counsellors to be present in classrooms. Additionally, RTE had a key role in reducing unlicensed coaching and unrecognised schools.
- VII. NEP goes one step further and suggests updating evaluation frameworks and competitive tests to examine coaching culture. RTE also played a significant role in reducing unrecognised schools and uncontrolled coaching.

5. Conclusion

The RTE Act and NEP 2020 both seek to modernise the Indian educational system by advancing equity, inclusivity, quality, and universal access to education. The RTE Act focuses on basic education, whereas the NEP covers a holistic strategy that covers all subjects. Both policies strive to ensure that no one is left behind, despite their differing purviews. Even if NEP 2020 hasn't been fully implemented yet, the RTE Act still has to be changed to better meet changing educational requirements. The RTE Act can be strengthened and modified to help realise the goal of NEP 2020, which is to create a more comprehensive and inclusive educational system.