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THE INDIAN CONSTITUTION AND EDUCATION

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ABSTRACT:

The Indian Constitution was framed in 1950. It reflected the hopes and aspirations of the people of India, and education found a place in this document. The Indian Constitution, among other ideals, aspires to ensure that all citizens have freedom of thought, word, choice of faith, justice in all social, economic, and political issues, and equal opportunities for all citizens. The principles stated in the Indian Constitution have formed the building blocks of all education policies drafted in the country.[1] It envisaged a social order that is egalitarian. Education should help in this task. We have covered the most important Articles of the Constitution that pertain to education, including the recent ones, like Article 21 A in 2002, endorsing the education of children as a de facto fundamental right, leaving it to the states to enact laws to enforce the same. It may be of interest to note that only in 1976, education became a concurrent subject, enabling central government to legislate acts on education, the recent one being Right to Education (RTE) passed by the Parliament in 2009 and made effective from 1st April, 2010.[2]

Free and Compulsory Primary Education Till 2009:

Article 45 states that free and compulsory education for all children should be provided to all children until they attain the age of 14 years. The task of universal elementary education devolves on both the central and the state governments as well as on the non-governmental voluntary organizations, but the state government has the responsibility of passing the laws tomake this happen. Compulsory Education Acts were passed and enforced in the states. There had been a phenomenal increase in the enrollment of both boys and girls. The programme received major attention in the five-year plans. The Constitution dictated that the universalisation of education should be fulfilled by 1960, but till 2009, the promise remained

[1] Ankit, Basic principles of the Indian constitution, Indian Study Channel (March 20, 2025, 8:00 P.M.), https://www.indiastudychannel.com/resources/123300-Basic-Principles-Indian-Constitution.aspx.

[2] Tanya Singh, Right to Education under the Constitution, Lawlex (March 20, 2025, 8:00 P.M.), Right to Education under the Constitution - LawLex.Org.

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unfulfilled. The Constitution also dictated that as a secular state, every religion should have equal rights to start their religious institutions, and nobody should be discriminated against admission in a government-run school because of one's caste or religion.

Minority Rights:

Articles 29 and 30 guarantee to protection of minority rights,[3] whether minority status is granted on the basis of language or religion. This means that minorities are free to set up educational institutions, avail of grant-in-aid, and enjoy other such benefits provided by the Constitution. Article 99 ensures the rights of the minorities by allowing the citizens to protect and conserve their culture, script, besides ensuring that no citizen is barred from being admitted into any educational institution on the basis of caste, religion, and language. The Constitution stresses that there should be no discrimination of citizens on the basis of sex, section of society, like scheduled tribes and scheduled castes. The readers are advised to read the Constitution of India[4] for details of various Acts and Articles.

Articles of the Indian Constitution of Relevance to Education-Language Issues:

Article	***Provision of the act***	***Significance***
Article 29 Article 30	Protection of minority rights. Minority status can be based on religion, language, or persons belonging to weaker sex (women) SC and ST.	Minorities can set up schools and colleges. No basis for discrimination for allocation of grant-in-aid.
Article29(1)	Freedom to use and conserve own distinct language, script or culture.	
Article 16 (1)	Equality of employment opportunity for all citizens.	
Articles 15, 17, and 46	Protest the educational interest of the socially and educationally	

[3] Deepti, Universalisation of Elementary Education, Slide share (March 20, 2025, 8:00 P.M.), Universalisation of Elementary Education | PPT

[4] Brajabandhu Mahanta, The Preamble: Ideology and Vision of the Indian Constitution, objective IAS (March 20, 2025, 8:00 P.M.), The Preamble: Ideology and Vision of the Indian Constitution

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	backward classes of citizens and Scheduled Castes and Scheduled Tribes.	

Education in Emerging Indian Society: The Challenges and Issues-

Article	*Provisions of the act*	*Significance*
Article 350 A	Provision for learning through their mother tongues or in schools of their language.	Instruction in Mother Tongue: Article 350 A directs, "It shall be the endeavour of every state and every local authority to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups."
Article 350 B	Provision for the appointment of special officers to examine the problems of linguistic minorities	
Article 351	Promotion of Hindi language as the Official Language of India	

Promotion of National Language:

As per Article 351, with a view[5] to ensuring unity among people through a national language, the Constitution tried to promote the Hindi language. It is the special responsibility of the Centre to develop the national language, i.e., Hindi, so that it may serve as a medium of instruction for all elements of the composite culture of India.[6] For various reasons, the care of education is vested not on the Union Government alone, but on the legislative powers of the

[5] SK Jahangir ALI, Cultural and Educational Rights of Minorities: A Human Right and Constitutional Law Perspective, Academia (March 20, 2025, 8:00 P.M.), (PDF) Cultural and Educational Rights of Minorities: A Human Right and Constitutional Law Perspective.

[6] Dr. Bindu Sharma, Constitutional Provision Governing Educational Administration in India: Sharing of Powers, ebook (March 20, 2025, 8:00 P.M.), Constitutional Provision Governing Educational Administration in India: Sharing of Powers – Educational Administration Management & Leadership in School Education.

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state, and some parts of the education system was to be in the joint supervision of both the State and the Centre. These would be known as concurrent list. Our Constitution embodies three legislative lists, namely, the union list, the state list, and the concurrent list. Both the Secondary Education Commission (1952-1953 and the Kothari Commission (1964-1966) have emphasized the use of mother tongue for instruction.

Education of Girls and Women:

The Constitution makes the following provisions under different articles: Article 15(1) provides that the State shall not discriminate against any citizen on the basis of religion, race, caste, sex, or place of birth.[7]

Union List, State List, and Concurrent List:

Union list:

The Centre has the exclusive right to enact registration on certain subjects[8]. The list is as follows:

Entry 62: The National Library, the Indian Museum, the Vitoria Memorial, and other memorials that are regarded as heritage monuments are also legally declared as institutions of national importance.

Entry 63: Banaras Hindu University, Aligarh Muslim University, Delhi University, and other Central Universities of national importance.

Entries 64-65: Institutes of scientific and technical education, professional and technical institutes for promotion of research, institutes of higher education, and institutes in the Union Territories.

State list:

Entry 11 of the state list lays down that education, including Universities, libraries, museums[9], and other similar institutions controlled or financed by the state and historic monuments should be state subjects.

[7] Jyoti Bala, Contemporary India and Education, DDUGU (March 20, 2025, 8:00 P.M.), E_PS834902@6db876eci.pdf

[8] Wikipedia, Seventh Schedule to the Constitution of India - Wikipedia (last visited March 20, 2025).

[9] Constitution of India, List II: State List - Constitution of India (last visited March 20, 2025).

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Concurrent list:

In this list, we find six entries related to education directly or indirectly. There are:

Entry 20: Economic and social planning

Entry 25: Vocational and technical training

Entry 26: Legal, mechanical, and other professions

Entry 27: Charities and charitable institutions

Entry 39: Newspapers, books, and printing presses

Entry 40: Archaeological sites and remains other than those declared by the Parliament to be of national importance.[10]

The Government of India and the state governments have to work jointly in preparing and implementing national plans for education. Some controversies surfaced as to whether education should be placed in the concurrent list[11], but the Education Commission (1964-1966), after much deliberation, observed that it would not be proper to fragment education and put one part in the concurrent list and the other in the state list. Education should be treated as a whole. The inclusion of education in the concurrent list will lead to centralization and rigidity, whereas flexibility and freedom to experiment are essential in fashioning the educational system of the country.

People's educational right is ensured by the Constitution, hence, it is possible to fully exploit the existing provisions and build up a truly robust national system of education. In 1976, the 42nd Amendment brought a change to the Indian Constitution. It brought education, which was so long a state subject, to the concurrent list.

The Swaran Singh Commission argued that there is a need to evolve all-India policies in[12] relation to education because now the Centre can implement directly any policy decision in any state. This will allow the national bodies, such as the University Grants Commission (UGC), National Council of Educational Research and Training (NCERT), and Central Advisory Board of Education (CABE) to use their power to shape the education of the country.

There was a lot of debate on the pros and cons of the situation, but a consensus evolved that the central bodies should take up only some areas of common interest and leave most matters to the States.

[10] Wikipedia, *Supra note 8*, at .
[11] Constitution, *Supra Note 9, at* .
[12] IndianLiberals, reshaping-the-constitution-implications-of-the-swaran-singh-committee-recommendations-n-a-palkhivala-20-july-1976.pdf (last visited March 20, 2025).

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Education for Weaker Sections:

Articles 15,17, and 46 safeguard the educational interests of the weaker sections of the Indian Community, that is, socially and educationally backward classes of citizens and scheduled castes and scheduled tribes. Under Article 46 of the Constitution, the federal government is responsible for the economic and educational development of the Scheduled Castes and Scheduled Tribes.

Secular Education:

India, being a secular country, places a high premium on spirituality irrespective of religion. The Constitution, hence, allows linguistic as well as religious minorities to establish educational institutions. Such institutions are also given constitutional provisions to provide religious instructions without interference from outside. Table 9.2 lists the articles in the Indian Constitution[13] related to secular education.

Articles Related to Secular Education- Indian Constitution:

Article	***Provision of the act***
Article25(1)	All citizens have the right to profess, practice, and propagate any religion with freedom of conscience.
Article28(1)	Government and Corporation schools, as well as other state-funded schools, cannot provide religious instruction.
Article 28(2)	State-administered schools set up under the aegis of a Trust or endowment can impart religious instruction in such institutions.
Article 28(3)	No one can be pressurized to take part in religious instruction in any state-run school or in any school receiving grants from the state.
Article	There should be no discrimination on grounds only of religion, race, caste, language, or any of them. In any school administered by the state or run with state funding.

Equality of Opportunity in Educational Institutions:

[13] India, *Supra note 8*, at .

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Article 29(1) states, "No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds, on grounds only of religion, race, caste, language or any of them."[14]

FREE AND COMPULSORY EDUCATION AS A FUNDAMENTAL RIGHT (ARTICLE 21A OF 2002) AND THE RTE ACT OF 2010:

In 1976, by a special amendment, Education became a concurrent subject. This facilitated the legislation of acts on education to provide equal opportunities to all children. RTE (Right to Education) was passed by Parliament in 2009 and made effective from 1st April, 2010.[15]

Constitutional amendment through Article 21 A, in 2002, endorsing education of children as de-facto fundamental right, leaving it to the states to enact laws to enforce the same reads as follows:

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."

The Right to Education (RTE) Act has its origin in the spirit of the Indian constitution adopted at the time of Independence. This dormant feature gained traction only after the Constitutional Amendment of 2002 that included Article 21 A in the Indian constitution, making education a de facto fundamental right. This amendment, however, emphasized the requirement of a specific legislation to facilitate implementation of the same. A specific Education Bill, popularly hailed as RTE, was finally passed by our Parliament in 2009 and became effective from April 2010.

An initial draft of the Education bill was prepared for discussion in the year 2005. As expected, vested interest opposed the same because of the compulsory provision of 25 % of seats for disadvantaged children in all private schools.[16] This was introduced by the Central Advisory Board of Education (CABE) to make for a more egalitarian system of education in India. The RTE's mandatory provision of 25 % reservation for disadvantaged children in private schools has been put into action in several states since. According to the Supreme Court of India's

[14] Bindu, *Supra note 6*, at .
[15] Tanya, *Supra note 2*, at .
[16] Rahul Bhandari, Private Schools Must Reserve 25% Seats for Disadvantaged Students Under RTE Act, The News Himachal (March 20, 2025, 8:00 P.M.), Private Schools Must Reserve 25% Seats for Disadvantaged Students Under RTE Act.

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ruling in May 2014, the RTE Act is not applicable to the institutions administered by minority communities.

SUMMARY:

The Indian Constitution ensures free and compulsory education for all children up to the age of 14 by the Directive Principle. It calls for no discrimination in admission on the basis of caste, religion, place of birth, or sex. It ensures minorities the right to establish and run schools to preserve their religious and linguistic identities, which are assured by Articles 15, 16, and 30. The Constitution registers three lists: the union list, the state list, and the concurrent list, where the parliament, the state legislature, and jointly the parliament and the states can supervise and control the institutes registered under both the state and the union list. A special amendment of 1976 brought education to the concurrent list.[17] The trigger for free and compulsory education was provided by Constitutional Amendment Article 21A in 2002, endorsing the education of children as a de facto fundamental right, leaving it to the states to enact laws to enforce the same. It may be of interest to note that the special amendment of 1976, listing education as a concurrent subject (earlier, it was only a state subject under our constitution), facilitated central government to legislate acts on education,[18] the recent one being Right to Education (RTE) passed by Parliament in 2009 and made effective from 1st April, 2010. A popular feature of the RTE is 25% reservation in private schools for disadvantaged children, now in force in several states for the last 2 or 3 years.

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[17] Supriya Kaushik, Education Policy – State, Union and Concurrent List, Dhaaramagazine (March 20, 2025, 8:00 P.M.), Education Policy – State, Union and Concurrent List - Dhaara.

[18] Barrazacarlos, 19 Advantages and Disadvantages of a Debate (last visited March 20, 2025)

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