

Social-Legal Study of the Right to Education with Special Emphasis on Girls' Education

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Abstract

The recognition of education as a fundamental right under Article 21A of the Constitution of India marked a transformative constitutional shift. The enactment of the Right of Children to Free and Compulsory Education Act (RTE Act) operationalized this guarantee. However, despite legislative progress, gender disparities continue to obstruct girls' access to quality education. This paper adopts a socio-legal approach to evaluate constitutional provisions, statutory mechanisms, judicial interpretation, and ground realities affecting girls' education in India. It argues that legal reform without social transformation results in incomplete justice.

I. Introduction

Education is intrinsically linked to dignity, equality, and empowerment. In India, educational rights evolved through judicial interpretation before receiving constitutional status. Despite progressive legal developments, socio-economic and cultural barriers disproportionately affect girls. A socio-legal study requires examining not only the law on paper but also the lived realities of its beneficiaries.

II. Constitutional and Judicial Evolution

The 86th Constitutional Amendment Act, 2002 inserted Article 21A, mandating free and compulsory education for children aged 6–14 years.

In *Mohini Jain v. State of Karnataka*, the Supreme Court recognized education as flowing from Article 21 (Right to Life). This principle was refined in *Unni Krishnan v. State of Andhra Pradesh*, where the Court limited but affirmed the constitutional status of the right.

The statutory framework was established through the Right of Children to Free and Compulsory Education Act, which mandates:

- Free education in neighborhood schools
- 25% reservation in private unaided schools for economically weaker sections
- Prescribed infrastructure and teacher qualifications

III. Statistical Position of Girls' Education in India

According to the Unified District Information System for Education (UDISE+) 2022–23 Report, the Gender Parity Index at the elementary level has improved and is close to 1.0, indicating near parity in enrollment. However, dropout rates remain higher for girls at the secondary level.

The National Family Health Survey (NFHS-5, 2019–21) reports that early marriage continues to affect approximately 23% of women aged 20–24 who were married before 18 years, significantly impacting educational continuation.

The female literacy rate, as per Census 2011, stood at 65.46%, compared to 82.14% for males. Though improvements are visible, the gender gap remains concerning.

IV. Social Barriers Affecting Girls' Education

A. Poverty and Economic Bias

Families often prioritize boys' education due to perceived economic returns.

B. Child Marriage

Early marriage remains a major cause of school dropout among girls.

C. Infrastructure Deficiency

Lack of functional toilets and menstrual hygiene facilities directly impacts adolescent girls' attendance.

D. Digital Divide

Post-COVID-19, online education highlighted disparities in access to smartphones and internet connectivity, particularly for rural girls.

V. Government Initiatives

The Government introduced schemes such as:

- Beti Bachao Beti Padhao
- Kasturba Gandhi Balika Vidyalaya
- Mid-Day Meal Scheme

While these initiatives aim at retention and access, implementation gaps persist due to funding irregularities and lack of monitoring.

VI. Critical Evaluation

The RTE framework reflects constitutional morality; however, three structural concerns remain:

- Quality Deficit – Learning outcome surveys reveal low foundational literacy and numeracy levels.
- Enforcement Weakness – Non-compliance with infrastructure norms continues in several states.
- Intersectional Inequality – Girls from Scheduled Castes, Scheduled Tribes, and minority communities face compounded discrimination.

From a socio-legal perspective, the law serves as a normative framework, but transformation requires dismantling patriarchal structures and ensuring substantive equality.

VII. Conclusion

The Right to Education represents a constitutional promise of equality and dignity. However, gender justice in education demands more than statutory guarantees. It requires social reform, administrative accountability, and cultural transformation.

Educating girls is not merely a developmental strategy but a constitutional imperative aligned with Articles 14, 15, and 21 of the Constitution.

My Views on Right to Education with Special Emphasis on Girls' Education

1. Law is Strong, Society is Weak

India has given constitutional protection under Article 21A and enacted the Right of Children to Free and Compulsory Education Act. On paper, this is a powerful legal guarantee. However, law alone cannot change deep-rooted patriarchy. Girls continue to drop out due to poverty, child marriage, domestic responsibilities, and safety concerns.

2. Access is Not Equal to Empowerment

Government reports show that enrollment of girls has improved. But enrollment does not mean empowerment. Many girls do not complete secondary education, receive poor quality education, lack digital access, and are not encouraged to pursue higher education.

3. Formal Equality vs Substantive Equality

Indian law guarantees equality under Articles 14 and 15. But equality on paper is different from real equality. Girls from rural backgrounds, Scheduled Castes, Scheduled Tribes, and minority communities face multiple layers of discrimination.

4. Education as a Tool of Constitutional Morality

Education is not charity—it is dignity. Girls' education contributes to reduction in child marriage, economic independence, political participation, and health improvement.

5. Implementation Concerns

Major issues include infrastructure gaps, teacher quality, curriculum limitations, and weak monitoring of schemes.

Strong Academic Stand

- The Right to Education should extend beyond 14 years and include secondary education.
- Budgetary allocation for girls' education must be constitutionally prioritized.
- Digital access must be recognized as part of educational rights.
- Gender-sensitive infrastructure should be mandatory and strictly monitored.

Final View

The Right to Education is not merely a welfare policy—it is a constitutional revolution. However, unless it dismantles structural gender inequality, it will remain a legal right without social justice.

Important Case Laws on Right to Education

1. Mohini Jain v. State of Karnataka (1992) 3 SCC 666
2. Unni Krishnan v. State of Andhra Pradesh (1993) 1 SCC 645
3. Society for Unaided Private Schools of Rajasthan v. Union of India (2012) 6 SCC 1
4. Avinash Mehrotra v. Union of India (2009) 6 SCC 398
5. Vishaka v. State of Rajasthan (1997) 6 SCC 241
6. Independent Thought v. Union of India (2017) 10 SCC 800

Bluebook Style References

INDIA CONST. art. 21A.

The Right of Children to Free and Compulsory Education Act, No. 35 of 2009 (India).

Mohini Jain v. State of Karnataka, (1992) 3 SCC 666.

Unni Krishnan v. State of Andhra Pradesh, (1993) 1 SCC 645.

UDISE+ Report 2022–23.

National Family Health Survey (NFHS-5) 2019–21.

Census of India 2011.