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From Colonial Educational Policy to Fundamental Right: A Historical Analysis of the Evolution of Children's Right to Education in India

Dr. Karan Singh¹

Abstract

Education occupies a central position within the framework of child rights because it contributes not only to intellectual development but also to social participation, personal dignity, and equal opportunities. However, the recognition of education as a legal right in India was neither immediate nor automatic. It emerged through a long historical process shaped by colonial educational policies, nationalist thought, constitutional developments, judicial intervention, and legislative reform. This paper examines the historical evolution of educational rights in India from Wood's Despatch of 1854 to the enactment of the Right of Children to Free and Compulsory Education Act, 2009. The study traces the foundations of modern educational administration during the colonial period and analyses how measures such as Wood's Despatch, the Hunter Commission, and Gopal Krishna Gokhale's efforts contributed to educational expansion without recognising education as a child right. It further explores the contribution of nationalist leaders, particularly Mahatma Gandhi and Rabindranath Tagore, who redefined education as an instrument of social transformation and child development. The paper also examines the constitutional commitment to universal education through Article 45, the role of educational policies after independence, and the significance of judicial decisions that linked education with the right to life and human dignity. The study finds that the Right to Education Act, 2009 represents the culmination of a century-long movement from administrative provision to legal entitlement. While significant progress has been achieved in expanding educational access, contemporary challenges relating to quality, inclusion, and digital inequality continue to affect the effective enjoyment of educational rights. The paper concludes that the future of child rights in India depends upon ensuring not only access to education but also equitable and meaningful learning opportunities for every child.

Keywords: Child Rights; Right to Education; Wood's Despatch; Educational Reform; Colonial India; RTE Act, 2009.

¹ Ph. D. Scholar, Department of History, Panjab University, Chandigarh. Email: rcl.karansingh@gmail.com

Introduction

The idea that every child should have access to education is now widely accepted across the world. However, the recognition of education as a legal and human right is the result of a long historical process rather than an automatic social development. In India, the journey from limited colonial educational policies to the recognition of education as a fundamental right reflects significant changes in political thought, social reform movements, constitutional values, and international human rights standards. The history of educational rights in India demonstrates how the understanding of childhood itself evolved from viewing children as dependents of families to recognising them as individuals entitled to rights and opportunities for development.

Child rights generally refer to the set of protections, freedoms, and opportunities that are necessary for the survival, growth, dignity, and participation of children in society. These rights include access to health care, protection from exploitation, identity, participation in decision-making processes, and most importantly, education. Education occupies a unique position among child rights because it enables the enjoyment of many other rights. A child who receives quality education is better equipped to participate in society, access economic opportunities, and exercise democratic freedoms.²

The international community has also increasingly recognised education as a basic human right. The Universal Declaration of Human Rights, 1948 declared that everyone has the right to education and emphasised the importance of free elementary education for all.³ Later international instruments strengthened this commitment and placed greater emphasis on the educational rights of children. The United Nations Convention on the Rights of the Child, 1989 recognised education as essential for the full development of the child's personality, talents, and abilities.⁴ These international developments influenced educational policy and legal reforms in many countries, including India.

This paper examines the historical development of education as a child right in India from the mid-nineteenth century to the early twenty-first century. It seeks to trace the major milestones that shaped educational policy and child welfare, analyse the changing understanding of educational rights, and evaluate how historical developments contributed to the recognition of education as a fundamental right. The study adopts a historical and analytical approach based on books, government reports, constitutional materials, judicial decisions, and international instruments relating to child rights and education.

Colonial Foundations of Educational Policy in India (1854–1919)

The modern educational system in India largely emerged during British rule. Prior to the nineteenth century, education was mainly provided through indigenous institutions such as pathshalas, gurukuls, makhtabs, and madrasas. These institutions varied in quality and accessibility but played an important role in local communities. With the consolidation of

² J.P. Naik, *Elementary Education in India: The Unfinished Business* 12 (Allied Publishers, New Delhi, 1979).

³ Universal Declaration of Human Rights, 1948, art. 26.

⁴ The United Nations Convention on the Rights of the Child, 1989, arts. 28 and 29.

British administration, education gradually became an area of governmental concern. However, colonial educational policies were primarily designed to meet administrative and economic needs rather than to promote the rights and welfare of children. The period between 1854 and 1919 witnessed several important developments that laid the foundation of modern educational administration in India.

A. Wood's Despatch, 1854

Background

By the middle of the nineteenth century, the British government felt the need for a more organised educational policy in India. Earlier debates regarding the medium and purpose of education had created uncertainty about the direction of educational development. In response, Sir Charles Wood issued the famous Wood's Despatch in 1854, which is often regarded as the starting point of a systematic educational policy in British India.⁵

Objectives

The Despatch sought to create a structured educational system covering different levels of instruction. It recommended the establishment of universities, teacher-training institutions, government schools, and a system of grants-in-aid for private institutions. The policy aimed to expand educational opportunities while also creating a class of educated Indians capable of assisting the colonial administration.⁶

State Responsibility for Education

One of the most important contributions of Wood's Despatch was its acceptance of governmental responsibility in educational development. The Despatch recommended the creation of Departments of Public Instruction in different provinces and encouraged active state involvement in educational planning. Although this responsibility was limited in scope, it marked a departure from the earlier approach where education largely depended upon private and missionary efforts.⁷

Impact on Children's Education

The Despatch recognised the importance of primary education and encouraged its expansion. Nevertheless, educational opportunities remained limited and unequal. The colonial administration viewed education primarily as a means of administrative efficiency rather than as a right belonging to every child. As a result, large sections of Indian children continued to

⁵ S. Nurullah and J.P. Naik, *A History of Education in India (1800–1961)* 78-82 (Macmillan, Bombay, 2nd edn., 1964).

⁶ Government of India, *Selections from Educational Records, Part I (1840–1859)* 364-372 (National Archives of India, New Delhi, 1965).

⁷ Krishna Kumar, *Political Agenda of Education: A Study of Colonialist and Nationalist Ideas* 11-15 (Sage Publications, New Delhi, 3rd edn., 2005).

remain outside formal educational institutions despite the establishment of a modern educational framework.⁸

B. Hunter Commission, 1882

Expansion of Primary Education

The Indian Education Commission of 1882, popularly known as the Hunter Commission, was appointed to review the progress made since Wood's Despatch. The Commission devoted considerable attention to elementary education and recommended greater efforts to expand primary schooling, particularly in rural areas.⁹

Local Responsibility

A major recommendation of the Commission was the transfer of greater responsibility for primary education to local bodies such as district boards and municipalities. The idea was that local authorities would be better positioned to understand educational needs and mobilise resources.¹⁰

However, this policy produced mixed results. While some areas witnessed educational expansion, others lacked sufficient financial and administrative capacity. Consequently, educational opportunities remained uneven, and universal access to schooling remained a distant objective.

C. Indian Universities Act, 1904

Educational Administration Reforms

The Indian Universities Act of 1904 was introduced during the tenure of Lord Curzon. The legislation focused mainly on higher education and sought to improve academic standards through greater governmental supervision. Universities were reorganised, administrative structures were strengthened, and official control over educational institutions increased.¹¹

Although the Act did not directly address children's education, it reflected the growing importance of educational administration within colonial governance. The legislation demonstrated that the British government considered education significant for administrative purposes, yet it continued to view educational institutions largely as instruments of governance rather than mechanisms for securing social rights.

D. Gopal Krishna Gokhale's Compulsory Education Bill, 1911

Historical Significance

⁸ Anil Sadgopal, "The Constitution, Education and the State: Alternative Perspectives" 36 *Social Scientist* 15, 18-19 (2008).

⁹ Indian Education Commission, *Report of the Indian Education Commission, 1882* 412-418 (Government Central Press, Calcutta, 1883).

¹⁰ *Id.* at 430.

¹¹ Aparna Basu, *The Growth of Education and Political Development in India, 1898–1920* 52-61 (Oxford University Press, Delhi, 1974).

A significant shift in educational thinking emerged through the efforts of Gopal Krishna Gokhale. In 1911, he introduced a Bill in the Imperial Legislative Council proposing compulsory primary education for children. The proposal represented one of the earliest organised attempts to place educational responsibility upon the state and to expand access to schooling beyond privileged groups.¹²

Reasons for Failure

Despite its moderate nature, the Bill failed to secure official support. Colonial authorities cited financial limitations, administrative difficulties, and concerns regarding implementation. However, the rejection also reflected the unwillingness of the colonial state to accept a legal obligation towards universal education.¹³

The failure of the Bill was historically important because it exposed the limitations of colonial educational policy. While the government was willing to regulate and administer education, it was reluctant to recognise education as a social entitlement requiring active state commitment.

Historical Argument

The period from 1854 to 1919 established the institutional foundations of modern education in India. Wood's Despatch created an administrative framework, the Hunter Commission promoted primary education, the Universities Act strengthened educational governance, and Gokhale's efforts introduced the idea of compulsory schooling. Yet these developments remained largely administrative in character.

Nationalist Vision and Educational Rights (1919–1947)

The period between 1919 and 1947 marked a significant shift in the understanding of education in India. During the colonial era, educational policies were largely designed to serve administrative requirements and produce a limited class of educated individuals who could assist in governance. Nationalist leaders, however, began to view education from a broader social perspective. They considered education essential for personal development, national awakening, social equality, and democratic participation. As a result, educational discussions during the freedom movement increasingly focused on the needs of children and the responsibility of society towards their development.

A. Gandhi's Basic Education (Wardha Scheme)

Nai Talim

Mahatma Gandhi strongly criticised the colonial system of education for being disconnected from Indian society and everyday life. According to him, education should not merely prepare individuals for examinations or government employment. Instead, it should help children develop practical skills, moral values, and social responsibility. These ideas were

¹² Bipan Chandra, Mridula Mukherjee, et.al., *India's Struggle for Independence* 111-113 (Penguin Books, New Delhi, 1989).

¹³ Supra Note. 4 at 2.

formally presented through the Wardha Scheme of Basic Education in 1937, commonly known as Nai Talim.¹⁴

Education and Child Development

A notable feature of Gandhi's educational philosophy was its emphasis on the overall development of the child. He argued that education should address intellectual, physical, emotional, and moral growth simultaneously. Rather than treating children as passive recipients of information, Gandhi viewed them as active participants in the learning process.¹⁵

B. Tagore's Educational Philosophy

Child-Centric Learning

Rabindranath Tagore offered another influential vision of education during the nationalist period. Through his educational experiments at Santiniketan, Tagore challenged rigid classroom practices and examination-oriented learning. He believed that education should encourage creativity, curiosity, and independent thinking.¹⁶

C. Zakir Husain Committee

The practical framework for implementing Gandhi's Basic Education was developed by the Zakir Husain Committee. Established in 1938, the Committee examined the principles of Nai Talim and suggested methods for introducing them within schools.¹⁷

D. Sargent Plan, 1944

Universal Compulsory Education

Towards the end of British rule, educational planning became more systematic. In 1944, the Central Advisory Board of Education presented the Sargent Plan, which outlined a long-term programme for educational development in India.¹⁸

One of the most important recommendations of the Plan was the gradual introduction of universal, free, and compulsory education for children. The proposal recognised that elementary education should eventually become available to all children irrespective of social or economic background. Although financial and administrative limitations prevented immediate implementation, the Plan represented a major step towards recognising educational access as a public responsibility.

E. Educational Ideas in the Freedom Movement

¹⁴ M.K. Gandhi, *Basic Education* 3-8 (Navajivan Publishing House, Ahmedabad, 1951).

¹⁵ Krishna Kumar, *Political Agenda of Education: A Study of Colonialist and Nationalist Ideas* 58-69 (Sage Publications, New Delhi, 3rd edn., 2005).

¹⁶ Rabindranath Tagore, *Personality* 101-108 (Macmillan and Co., London, 1917).

¹⁷ Zakir Husain Committee, *Report of the Committee on Basic National Education* 12-24 (Hindustani Talimi Sangh, Wardha, 1938).

¹⁸ Central Advisory Board of Education, *Post-War Educational Development in India (The Sargent Report)* 5-15 (Government of India Press, New Delhi, 1944).

Education as Social Justice

Educational thought during the freedom movement was not confined to specific commissions or policy proposals. Nationalist leaders increasingly linked education with social transformation and national development. They argued that poverty, illiteracy, caste discrimination, and social inequality could not be effectively addressed without expanding educational opportunities.¹⁹

For many reformers, education was viewed as a tool for empowering disadvantaged groups and creating a more equitable society. Access to schooling was increasingly connected with ideas of citizenship, participation, and human dignity. These discussions gradually shifted attention away from colonial administrative objectives and towards broader concerns of social justice and public welfare.

Constitutional Vision and the Emergence of Educational Rights (1950–1992)

India's independence marked the beginning of a new phase in the history of education. Unlike the colonial administration, which viewed education primarily through the lens of governance and administration, the leaders of independent India regarded education as essential for democracy, social justice, and national development. The Constitution created a framework that gradually expanded the role of the State in educational development. Although education was not immediately recognised as a fundamental right, constitutional provisions, educational policies, and judicial decisions steadily strengthened its status. Between 1950 and 1992, education evolved from a developmental objective into a constitutional entitlement closely connected with human dignity and equality.

A. Constituent Assembly Debates

Educational Aspirations

The Constituent Assembly recognised that the success of Indian democracy depended upon an educated population. During the debates, members repeatedly expressed concern over widespread illiteracy and the lack of educational opportunities available to ordinary citizens. Education was viewed not only as a means of acquiring knowledge but also as a tool for social transformation and national integration.²⁰

B. Article 45

Directive Principle

The commitment to educational development found expression in Article 45 of the Constitution. The provision directed the State to endeavour to provide free and compulsory

¹⁹ Bipan Chandra, Mridula Mukherjee, et.al., *India's Struggle for Independence* 512-518 (Penguin Books, New Delhi, 1989).

²⁰ VII, Constituent Assembly Debates, 289-294.

education for all children until they completed the age of fourteen years within ten years from the commencement of the Constitution.²¹

C. Early Educational Policies

Kothari Commission

The decades following independence revealed that achieving universal education would require comprehensive planning and substantial institutional reforms. In this context, the Education Commission of 1964–66, popularly known as the Kothari Commission, became a landmark in the history of Indian education.²²

The Commission emphasised that education should play a central role in national development and social equality. It observed that disparities in educational access contributed to broader social and economic inequalities. Accordingly, the Commission recommended the expansion of elementary education, improvement in educational quality, increased public expenditure, and the creation of a common school system capable of reducing social divisions.

National Policy on Education, 1968

Many of the Kothari Commission's recommendations were incorporated into the National Policy on Education, 1968. This was the first comprehensive national education policy adopted after independence.²³

The policy reaffirmed the objective of universal elementary education and stressed the need to reduce regional and social inequalities. It also highlighted the importance of improving educational standards and strengthening the educational infrastructure across the country.

D. National Policy on Education, 1986

The National Policy on Education, 1986 represented another important stage in the evolution of educational rights. By the 1980s, it had become increasingly evident that mere expansion of schools was insufficient to achieve meaningful educational access. Large numbers of children, particularly girls and members of disadvantaged communities, continued to face barriers to schooling.²⁴

E. Judicial Recognition

Mohini Jain v. State of Karnataka

A major turning point occurred when the judiciary began examining educational issues through the framework of constitutional rights. In *Mohini Jain v. State of Karnataka*, the

²¹ The Constitution of India, art. 45.

²² Education Commission, *Education and National Development: Report of the Education Commission (1964–66)* 1-15 (Ministry of Education, Government of India, New Delhi, 1966).

²³ Government of India, *National Policy on Education, 1968* 2-10 (Ministry of Education, New Delhi, 1968).

²⁴ Government of India, *National Policy on Education, 1986* 7-20 (Ministry of Human Resource Development, New Delhi, 1986).

Supreme Court considered the legality of capitation fees charged by private educational institutions.²⁵

While deciding the case, the Court observed that education occupied a central place in the constitutional scheme and was closely connected with the right to live with dignity under Article 21. The judgment suggested that meaningful enjoyment of fundamental rights would be impossible without access to education. Although the decision generated debate regarding its scope, it significantly elevated the constitutional status of education.

Unni Krishnan v. State of Andhra Pradesh

The Supreme Court further clarified its position in *Unni Krishnan v. State of Andhra Pradesh*. The Court held that children up to the age of fourteen years possessed a constitutional right to free education derived from the combined reading of Article 21 and Article 45.²⁶

This judgment represented a major development in the history of educational rights in India. What had previously existed as a Directive Principle was now linked directly with a fundamental constitutional guarantee. Although practical challenges remained, the decision laid the foundation for later constitutional amendments and legislative reforms.

Core Argument

The period between 1950 and 1992 witnessed the gradual constitutionalising of education in India. The Constituent Assembly established educational development as a constitutional aspiration through Article 45. Subsequent educational policies expanded the State's commitment towards universal schooling and equal opportunity. Finally, judicial intervention transformed education from a welfare objective into a constitutional entitlement linked with dignity, equality, and citizenship.

The Right to Education Act, 2009: Realising the Child's Educational Right

The recognition of education as a legal right in India was not an isolated legislative development. Rather, it was the result of a long historical process that began with colonial educational reforms, gained momentum during the nationalist movement, and gradually evolved through constitutional commitments, policy initiatives, and judicial intervention. By the beginning of the twenty-first century, there was a growing consensus that educational access should no longer depend upon governmental discretion or economic circumstances. Instead, every child should possess an enforceable right to elementary education. This understanding ultimately led to the enactment of the Right of Children to Free and Compulsory Education Act, 2009, commonly known as the Right to Education (RTE) Act.

A. 86th Constitutional Amendment

Article 21-A

²⁵ *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858.

²⁶ *Unni Krishnan v. State of Andhra Pradesh*, AIR 1993 SC 2178.

A major turning point occurred with the Constitution (Eighty-Sixth Amendment) Act, 2002. This amendment inserted Article 21-A into the Constitution and formally recognised the right to free and compulsory education for all children between six and fourteen years of age.²⁷

Article 21-A transformed the constitutional status of education. Earlier, educational access was primarily associated with Article 45, which formed part of the Directive Principles of State Policy. Although Article 45 reflected the aspirations of the Constitution, it did not create an enforceable right. Through Article 21-A, education became directly linked with the fundamental rights framework of the Constitution.

The amendment also revised Article 45 and introduced Article 51A(k), which placed a responsibility upon parents and guardians to provide educational opportunities to their children. Together, these changes reflected a broader commitment towards universal education and child development.²⁸

B. Salient Features of the RTE Act

Free Education

The RTE Act, enacted in 2009 and implemented from 2010, sought to operationalise Article 21-A. One of its most important features is the guarantee of free elementary education. No child within the prescribed age group can be denied schooling on the ground of inability to pay fees or other educational expenses.²⁹

Compulsory Education

The Act also places responsibility upon the State to ensure that every eligible child is enrolled in school and completes elementary education. The burden of securing educational access is therefore shifted from the child and family to public authorities. This provision reflects a rights-based approach rather than a welfare-oriented approach.

Neighbourhood Schools

To improve accessibility, the Act promotes the establishment of neighbourhood schools. The objective is to reduce geographical barriers that often prevent children, particularly those living in rural or disadvantaged areas, from attending school regularly.³⁰

No Detention Policy

The legislation initially introduced a no detention policy at the elementary level. The idea was to prevent children from leaving school due to repeated academic failure and to create a more supportive educational environment. Although later amendments modified certain aspects of this policy, its original objective was to encourage retention and reduce dropout rates.

²⁷ The Constitution (Eighty-Sixth Amendment) Act, 2002, art. 21A.

²⁸ The Constitution of India, arts. 21A, 45 and 51A(k).

²⁹ The Right of Children to Free and Compulsory Education Act, 2009 (Act 35 of 2009), ss. 3 and 8.

³⁰ *Id.*, s. 6.

Twenty-Five Percent Reservation

One of the most widely discussed provisions of the Act is the requirement that private unaided schools reserve twenty-five percent of entry-level seats for children belonging to economically weaker sections and disadvantaged groups.³¹ This provision seeks to promote social inclusion and reduce educational segregation by enabling children from different social backgrounds to study together.

C. Achievements

Increased Enrolment

More than a decade after its implementation, the RTE Act has contributed significantly to expanding access to education. School enrolment levels have increased considerably, and elementary education has become more accessible than at any previous stage in Indian history. Government initiatives undertaken alongside the Act have helped bring millions of children into the formal educational system.³²

Reduction in Dropouts

Another important achievement has been the gradual reduction in dropout rates at the elementary level. Improved enrolment drives, mid-day meal programmes, free textbooks, and greater public awareness have contributed to keeping more children within the educational system.³³

D. Continuing Challenges

Learning Outcomes

Despite improvements in enrolment, concerns regarding learning outcomes continue to attract attention. Several educational surveys have indicated that many students struggle with basic reading, writing, and arithmetic skills despite attending school for several years.³⁴ This suggests that access alone cannot guarantee meaningful education.

Infrastructure Gaps

Educational infrastructure remains uneven across different regions. While many schools have benefited from improved facilities, others continue to face shortages of classrooms, sanitation facilities, libraries, and learning resources. Such disparities affect the quality of education available to children.

³¹ Id., s. 12(1)(c).

³² Ministry of Education, Government of India, *Educational Statistics at a Glance 2022* 45-52 (2022).

³³ Government of India, *Unified District Information System for Education Plus (UDISE+) Report 2021–22* 18-24 (Ministry of Education, New Delhi, 2023).

³⁴ Annual Status of Education Report (ASER), *Annual Status of Education Report 2023* 32-40 (ASER Centre, New Delhi, 2024).

Digital Divide

The growing importance of digital learning has exposed another challenge. Access to computers, internet connectivity, and digital devices remains unequal across social and economic groups. The disruptions caused by the COVID-19 pandemic highlighted how digital inequalities can limit educational opportunities for many children.³⁵

Teacher Shortages

Teacher availability and teacher training continue to be important concerns. Many schools face shortages of qualified teachers, while others struggle with issues related to professional development and classroom effectiveness. Without addressing these challenges, the objectives of universal quality education may remain difficult to achieve.³⁶

Central Argument

The Right to Education Act, 2009 represents the culmination of a century-long struggle to transform education from a policy objective into a legally protected right. Beginning with early debates on compulsory education during the colonial period, continuing through nationalist educational thought, constitutional commitments, and judicial recognition, the idea of educational rights gradually gained strength within Indian society.

Conclusion

The historical development of educational rights in India demonstrates that the recognition of education as a legal entitlement was the result of a long and gradual process rather than a single legislative achievement. From the middle of the nineteenth century to the early twenty-first century, educational thought in India underwent a remarkable transformation. The journey from Wood's Despatch of 1854 to the Right of Children to Free and Compulsory Education Act, 2009 reflects changing ideas about the role of the State, the position of children in society, and the relationship between education and citizenship. The study reveals that colonial educational policies primarily focused on administrative efficiency and institutional development. Measures such as Wood's Despatch, the Hunter Commission, and the Indian Universities Act created important educational structures, yet they did not recognise education as a right belonging to every child. Access to schooling remained dependent upon governmental priorities and social conditions rather than legal entitlement.

The Constitution of India laid the foundation for this transformation by recognising universal education as a constitutional objective through Article 45. Subsequent educational policies, particularly the recommendations of the Kothari Commission and the National Education Policies of 1968 and 1986, strengthened the State's commitment towards educational expansion and equality. Judicial decisions further accelerated this process by interpreting education as an essential component of human dignity and the right to life.

³⁵ United Nations Children's Fund (UNICEF), *The State of the World's Children 2021* 85-92 (UNICEF, New York, 2021).

³⁶ Ministry of Education, Government of India, *Performance Grading Index Report 2021–22* 61-67 (2023).

The introduction of Article 21-A and the enactment of the Right to Education Act, 2009 completed a historic transition from welfare-oriented educational policy to a rights-based legal framework. For the first time, elementary education acquired the status of an enforceable right, reflecting more than a century of educational reform, constitutional development, and social advocacy.

At the same time, the history of educational rights suggests that legal recognition alone cannot guarantee educational justice. Contemporary challenges such as unequal learning outcomes, digital exclusion, infrastructure deficiencies, and barriers faced by disadvantaged groups continue to affect the effective enjoyment of educational rights. Future reforms must therefore focus not only on access but also on quality, inclusion, and meaningful participation.

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