



AN ANALYTICAL STUDY ON THE CONSTITUTION (EIGHTY-SIXTH) AMENDMENT ACT IN INDIA

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Abstract

The Constitution (Eighty-sixth) Amendment Act was introduced in India in 2002 to provide free and compulsory education to all children between the ages of six and fourteen. This study aims to provide an in-depth analysis of the Eighty-sixth Amendment Act by examining its key provisions, objectives, and impact on the Indian education system.

The study first provides an overview of the Indian Constitution and the amendment process, followed by a detailed explanation of the Eighty-sixth Amendment Act's objectives and provisions. The impact of the amendment on the Indian education system is then evaluated, including the challenges faced in its implementation, effectiveness in achieving its objectives, and a comparison of the education system before and after the amendment.

Criticism of the amendment is also examined, including its limitations in addressing systemic issues in the Indian education system and suggestions for improving the amendment and its implementation. The implications of the amendment for the right to education in India, its impact on marginalized communities, and its potential for improving the quality and accessibility of education are discussed.

Overall, this study provides important insights into the significance of the Eighty-sixth Amendment Act for the Indian education system and the right to education in India. It also suggests avenues for future research and improvements in the implementation of the amendment.

Keywords: Indian Constitution, Eighty-sixth Amendment Act, Right to Education, Education System, Marginalized Communities.

INTRODUCTION

A. Explanation of the Eighty-sixth Amendment Act

The Eighty-sixth Amendment Act of 2002 is a significant amendment to the Constitution of India, which inserted Article 21A into the Constitution. This amendment provided for the right to education as a fundamental right for all children between the ages of six and fourteen. The amendment aimed to ensure that education is available and accessible to all children in India and to improve the quality of education provided in the country.¹

B. Background and context of the amendment

¹ Tandon, A. (2015). The Eighty-sixth Constitutional Amendment Act: An Analysis of its Implications for the Indian Education System. *International Journal of Humanities and Social Science Research*, 4(1), 11-17.

Before the Eighty-sixth Amendment Act, education was not a fundamental right in India, although it was recognized as a directive principle of state policy in the Constitution. The amendment was introduced to address the issue of the lack of access to education for a large section of the population, particularly children from marginalized and underprivileged communities.² The amendment was seen as a step towards achieving universalization of education and fulfilling the goal of social justice and equality enshrined in the Constitution.

C. Purpose and significance of the study

The purpose of this study is to conduct an analytical examination of the Eighty-sixth Amendment Act in India. The study aims to explore the key provisions and changes brought about by the amendment, its impact on the education system in India, and the challenges faced in its implementation.³ The study also seeks to evaluate the effectiveness of the amendment in achieving its objectives and to assess the criticisms and limitations of the amendment. Finally, the study will examine the implications of the amendment for the right to education in India, its impact on marginalized and underprivileged communities, and its implications for the quality and accessibility of education in the country.

The study is significant because it will contribute to the understanding of the legal framework for the right to education in India and the effectiveness of the Eighty-sixth Amendment Act in ensuring access to education for all children. The study will also provide insights into the challenges and limitations of the amendment and the need for further reforms to improve the quality of education in the country. The study will be relevant to policymakers, academics, and civil society organizations working in the field of education in India.

Understanding the Eighty-sixth Amendment Act

A. Overview of the Indian Constitution and the amendment process

The Constitution of India is the supreme law of the land, which sets out the framework for the governance of the country. It consists of a preamble, 22 parts, and 395 articles, which lay down the fundamental principles and institutions of the Indian state. The Constitution also provides for the amendment process, which allows for changes to be made to the Constitution when necessary.⁴

The amendment process involves the introduction of a bill in either house of Parliament, which must be passed by a two-thirds majority of the members present and voting, and then ratified by at least half of the state legislatures. The bill must also receive the assent of the President of India before it becomes law.⁵

B. Key provisions and changes brought by the Eighty-sixth Amendment Act

The Eighty-sixth Amendment Act of 2002, inserted Article 21A into the Constitution, which provides for the right to education as a fundamental right for all children between the ages of six and fourteen. The amendment made it the duty of the state to provide free and compulsory

² *Id.*

³ *Id.*

⁴ Yadav, B. (2015). The Role of the Eighty-sixth Constitutional Amendment Act in Realizing the Right to Education in India. *International Journal of Research in Social Sciences*, 5(4), 275-283.

⁵ *Id.*

education to all children, and also provided for the establishment of a fund to finance the education of disadvantaged groups.⁶

The amendment also introduced a new clause to Article 51A, which made it a fundamental duty of every citizen of India to provide opportunities for education to their children and to promote literacy.⁷

C. Objectives of the amendment

The Eighty-sixth Amendment Act was introduced with the objective of ensuring that education is available and accessible to all children in India, particularly those from marginalized and underprivileged communities. The amendment aimed to fulfill the goal of universalization of education and to promote social justice and equality in the country. The amendment also aimed to improve the quality of education provided in the country and to ensure that children receive an education that is relevant to their needs and aspirations.⁸

D. Debates and controversies surrounding the amendment

The Eighty-sixth Amendment Act was widely debated and discussed in the Indian parliament and in the public sphere. Some of the key debates and controversies surrounding the amendment included:

1. The scope of the right to education: Some critics argued that the right to education should be extended to cover children up to the age of eighteen, rather than just up to the age of fourteen. They also argued that the right should include access to higher education and vocational training.
2. The financial burden of implementing the right to education: Some critics argued that the cost of implementing the right to education would be too high, and that it would place an undue burden on the state.
3. The quality of education provided: Some critics argued that the focus of the amendment was on access to education, rather than on the quality of education provided. They argued that the amendment did not do enough to ensure that children received an education that was relevant to their needs and aspirations.

Despite these debates and controversies, the Eighty-sixth Amendment Act was passed by Parliament and became a part of the Indian Constitution. The amendment has since been implemented in different parts of the country, with varying degrees of success.

Analysis of the Eighty-sixth Amendment Act

A. Impact of the Amendment on the Indian Education System

The Eighty-sixth Amendment Act brought significant changes to the Indian education system, particularly with regard to the right to education.⁹ The amendment made education a fundamental right for all children between the ages of six and fourteen, which means that the government is obligated to provide free and compulsory education to all children in this age

⁶ *Id.*

⁷ Singh, M. (2013). Right to Education Act and its Implementation in India. *Journal of Education and Practice*, 4(8), 1-9.

⁸ *Supra* note 4.

⁹ Kumari, R., & Yadav, R. K. (2014). Impact of the Eighty-sixth Constitutional Amendment Act on Education for the Scheduled Castes and Scheduled Tribes in India. *International Journal of Education and Psychological Research*, 3(4), 81-84.

group. This has led to an increase in enrollment rates and improved access to education for children from marginalized and disadvantaged communities.

Additionally, the amendment has also led to the establishment of the Right to Education Act (RTE), which provides a legal framework for the implementation of the right to education. The RTE Act mandates the establishment of neighborhood schools, the appointment of trained teachers, and the provision of adequate infrastructure and facilities in schools. It also provides for the reimbursement of fees to children from economically weaker sections who attend private schools.

B. Challenges in the Implementation of the Amendment

While the Eighty-sixth Amendment Act has brought significant changes to the Indian education system, there are several challenges in its implementation. One of the major challenges is the inadequate funding for education, which has led to a shortage of trained teachers, poor infrastructure, and a lack of basic facilities in many schools. This has hindered the effective implementation of the RTE Act and has limited the impact of the Eighty-sixth Amendment Act.¹⁰

Another challenge is the lack of awareness and sensitization among parents, teachers, and other stakeholders regarding the right to education. Many parents from disadvantaged communities are not aware of the provisions of the RTE Act and the right to education, which has led to a low demand for education and low enrollment rates. Additionally, there is a need for effective monitoring and evaluation mechanisms to ensure that the provisions of the RTE Act are implemented effectively.¹¹

C. Evaluation of the Effectiveness of the Amendment in Achieving its Objectives

The Eighty-sixth Amendment Act has been effective in achieving its objectives of making education a fundamental right and improving access to education for all children. The establishment of the RTE Act has provided a legal framework for the implementation of the right to education, and has led to an increase in enrollment rates and improved access to education for children from marginalized and disadvantaged communities.¹²

However, there are still challenges in the effective implementation of the amendment, and more needs to be done to ensure that the provisions of the RTE Act are implemented effectively. There is a need for adequate funding for education, as well as effective monitoring and evaluation mechanisms to ensure that the provisions of the RTE Act are implemented effectively.

D. Comparison of the Indian Education System Before and After the Amendment

The Indian education system has undergone significant changes since the enactment of the Eighty-sixth Amendment Act. Before the amendment, education was not a fundamental right, and there were limited provisions for free and compulsory education. This led to low enrollment rates, particularly among children from marginalized and disadvantaged communities.

¹⁰ Vachhani, H. A., & Patel, H. R. (2014). The Constitutional Amendment for Right to Education in India: Critical Appraisal. *Journal of Law, Policy and Globalization*, 21, 35-42.

¹¹ Arora, S. (2012). Right to Education: An Analysis of 86th Constitutional Amendment Act. *International Journal of Humanities and Social Science Invention*, 1(5), 36-39.

¹² Singh, S. K. (2012). Right to Education: A Step Towards Inclusive Education in India. *Journal of Education and Practice*, 3(9), 77-82.

However, after the enactment of the Eighty-sixth Amendment Act and the establishment of the RTE Act, there has been a significant increase in enrollment rates and improved access to education for children from marginalized and disadvantaged communities. The establishment of neighborhood schools, the appointment of trained teachers, and the provision of adequate infrastructure and facilities in schools has also led to an improvement in the quality of education.

In conclusion, the Eighty-sixth Amendment Act has brought significant changes to the Indian education system, particularly with regard to the right to education. While there are still challenges in the effective implementation of the amendment, it has been effective in achieving its objectives of making education a fundamental right and improving access to education for all children. More needs to be done to ensure that the provisions of the RTE Act are implemented effectively, and that adequate funding is provided for education to further improve the quality

Criticism of the Eighty-sixth Amendment Act

A. Critiques of the amendment by scholars, activists, and policymakers

The Eighty-sixth Amendment Act has been subject to criticism from various scholars, activists, and policymakers for its limitations and weaknesses. Some of the major critiques of the amendment include:

1. Lack of financial resources: The amendment requires the government to provide free and compulsory education to all children aged 6-14 years. However, there has been criticism that the government has not provided adequate financial resources to implement the amendment effectively.
2. Limited focus on quality education: The amendment emphasizes access to education, but critics argue that it does not pay enough attention to the quality of education provided. There are concerns that the lack of focus on quality may lead to a situation where children are enrolled in schools but are not actually learning.
3. Exclusion of marginalized groups: Critics argue that the amendment does not adequately address the issues of exclusion and marginalization faced by certain groups, such as children from low-income families, those with disabilities, and children belonging to minority communities.
4. Insufficient monitoring and accountability mechanisms: The amendment mandates the establishment of various bodies to monitor and ensure the implementation of the provisions of the amendment. However, critics argue that these bodies lack sufficient autonomy and resources to carry out their functions effectively.

B. Limitations of the amendment in addressing systemic issues in the Indian education system

While the Eighty-sixth Amendment Act has brought about significant changes in the Indian education system, it has also been criticized for its limitations in addressing systemic issues.¹³ Some of the major limitations of the amendment are:

1. Unequal distribution of resources: Despite the mandate to provide free and compulsory education to all children, there are still significant disparities in the

¹³ Khanna, A. (2011). The Right to Education Act in India: An Appraisal. *Journal of International and Comparative Law*, 1(1), 99-107.

distribution of resources between different regions and schools in the country. This has resulted in uneven implementation of the provisions of the amendment.

2. Lack of teacher training and accountability: The quality of education is largely dependent on the quality of teaching, but there has been criticism that the government has not provided adequate training and support to teachers. Additionally, there are issues with teacher accountability, which has resulted in low motivation and poor performance among teachers.
3. Inadequate infrastructure: The amendment requires the government to ensure that all schools have adequate infrastructure and facilities. However, there are still many schools in the country that lack basic facilities such as toilets, drinking water, and playgrounds.

C. Suggestions for improving the amendment and its implementation

To address the limitations and critiques of the Eighty-sixth Amendment Act, various suggestions have been made by scholars, activists, and policymakers. Some of these suggestions include:

1. Increased financial resources: There is a need for increased financial resources to implement the provisions of the amendment effectively. The government should allocate more funds for education and ensure that these funds are utilized efficiently.
2. Focus on quality education: While access to education is important, there is a need to focus on quality education as well. This can be achieved by improving teacher training and accountability, promoting innovative teaching methods, and ensuring that schools have adequate infrastructure and resources.
3. Inclusion of marginalized groups: The amendment should pay more attention to the issues of exclusion and marginalization faced by certain groups. This can be achieved by ensuring that all children have access to education regardless of their socioeconomic background, disability, or community.
4. Strengthening monitoring and accountability mechanisms: The monitoring and accountability mechanisms established by the amendment should be strengthened to ensure that they have sufficient resources and autonomy to carry out their functions effectively.

In conclusion, while the Eighty-sixth Amendment Act has brought about significant changes in the Indian education system, it has also been subject to criticism and limitations. There is a need for continued efforts to improve the implementation of the provisions of the amendment and address the systemic issues in the Indian education system.

Implications of the Eighty-sixth Amendment Act

A. Significance of the amendment for the right to education in India

The Eighty-sixth Amendment Act is significant for the right to education in India as it explicitly recognized the right to education as a fundamental right. This amendment also laid the foundation for the Right of Children to Free and Compulsory Education Act, 2009, which provided for free and compulsory education for children aged between 6 and 14 years. The amendment also made it mandatory for the state to provide education to all children,

regardless of their social and economic backgrounds. Thus, the amendment was a major step towards ensuring access to education as a fundamental right for all Indian children.¹⁴

B. Impact of the amendment on marginalized and underprivileged communities

The Eighty-sixth Amendment Act had a significant impact on marginalized and underprivileged communities in India. The amendment recognized that the state has an obligation to provide education to all children, including those from socially and economically disadvantaged backgrounds. As a result, the amendment has helped to increase enrollment rates among marginalized and underprivileged communities. The Right of Children to Free and Compulsory Education Act, 2009, has also provided for the establishment of neighborhood schools and the provision of free textbooks, uniforms, and mid-day meals, which have further helped to improve the access to education among marginalized communities.¹⁵

C. Implications of the amendment for the quality and accessibility of education in India

The Eighty-sixth Amendment Act has had significant implications for the quality and accessibility of education in India. The amendment has ensured that the state is responsible for providing education to all children and has made education a fundamental right. This has led to the establishment of new schools and the improvement of existing schools, resulting in increased accessibility to education. The amendment has also led to the provision of additional resources and funding for education, which has helped to improve the quality of education in India.¹⁶

However, there are still challenges in ensuring the quality and accessibility of education for all children in India. The implementation of the Right of Children to Free and Compulsory Education Act, 2009, has been slow and uneven, and there is a need for further investment in education to ensure that all children have access to quality education. There is also a need to address issues of teacher absenteeism, poor infrastructure, and lack of resources, which continue to affect the quality of education in India.

Overall, the Eighty-sixth Amendment Act has had a significant impact on the right to education in India, and its recognition of education as a fundamental right has paved the way for further improvements in the Indian education system. However, there is still a need for further investment and reforms to ensure that all children in India have access to quality education.¹⁷

Conclusion

A. Summary of Key Findings

This analytical study has provided an in-depth analysis of the Eighty-sixth Amendment Act in India, which aimed to provide the right to education as a fundamental right for all children in the country. The study has examined the background, context, and key provisions of the amendment, as well as the debates, controversies, and critiques surrounding it.

¹⁴ *Supra* note 1.

¹⁵ Tandon, A. (2015). The Eighty-sixth Constitutional Amendment Act: An Analysis of its Implications for the Indian Education System. *International Journal of Humanities and Social Science Research*, 4(1), 11-17.

¹⁶ *Id.*

¹⁷ *Supra* note 4.

The analysis has revealed that the amendment has had a significant impact on the Indian education system, with millions of children gaining access to education as a result. However, the implementation of the amendment has faced several challenges, including issues of funding, infrastructure, and teacher shortages. Moreover, while the amendment has been successful in expanding access to education, it has not adequately addressed the systemic issues that plague the Indian education system, such as inequalities in quality and outcomes.

B. Implications of the Study

The study has important implications for policymakers and stakeholders in the Indian education system, highlighting both the successes and limitations of the Eighty-sixth Amendment Act. The findings of this study suggest that while the amendment has been a significant step towards providing universal access to education, more needs to be done to address the systemic issues that hinder the quality and outcomes of education in India.

Furthermore, the study underscores the need for better implementation of the amendment, with greater investment in infrastructure, teacher training, and community engagement. The study also highlights the importance of addressing the social and economic barriers that prevent marginalized and underprivileged communities from accessing education.

C. Future Research Directions

This study opens up several avenues for future research on the Eighty-sixth Amendment Act and its impact on the Indian education system. One area for future research is to examine the long-term impact of the amendment on education outcomes, particularly in terms of equity and quality. Another important area for future research is to investigate the effectiveness of the government's policies and initiatives aimed at implementing the amendment, including the Sarva Shiksha Abhiyan (SSA) and the Right to Education Act (RTE).

Moreover, there is a need for research on the experiences of marginalized and underprivileged communities in accessing education, and the role of community engagement and participation in promoting education access and quality. Finally, there is a need for research on the role of technology and innovation in improving education outcomes in India, particularly in remote and rural areas.

Overall, this study provides a critical examination of the Eighty-sixth Amendment Act and its implications for the Indian education system. By highlighting the successes and limitations of the amendment, the study offers important insights into the challenges and opportunities for improving education access and quality in India.