

Article 45 of Indian Constitution, Amendment, Important Judgements

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Article 45 is part of the Directive Principles of State Policy (DPSP) in Part IV of the Constitution. Originally, Article 45 stated that the State shall endeavour to provide free and compulsory education to all children up to the age of 14 years within 10 years from the commencement of the Constitution.

However, since it was part of the Directive Principles, it was non-justiciable. That means it could not be enforced in a court of law. It imposed a moral and constitutional duty on the State, but not a legally enforceable right for citizens. *Article 45 was made non-justiciable because, at the time of Independence, India lacked sufficient financial and administrative resources to immediately guarantee universal education as a legally enforceable right.*

About Directive Principles of State Policy

- The **Directive Principles of State Policy** (DPSPs) are contained in **Part IV (Articles 36-51)** of the Constitution.
- The framers of the Constitution **borrowed** this idea from the **Irish Constitution of 1937**, which had copied it from the Spanish Constitution.

- Dr. B.R. Ambedkar described these principles as **‘novel features’ of the Indian Constitution**.
- They aim to establish a **welfare state** by promoting social and economic justice, reducing inequalities, and ensuring dignified living conditions for all citizens.
- They are **non-justiciable**, which means they are not legally enforceable in a court of law. If the government fails to implement a Directive Principle, a citizen cannot directly approach the court to demand its enforcement.
- However, despite being non-justiciable, they are considered **fundamental in the governance of the country (Article 37)**, and it is the duty of the State to apply these principles while making laws and policies.
- The Directive Principles, though non-justiciable in nature, **help the courts in examining and determining the constitutional validity of a law**. The Supreme Court has ruled many a times that in determining the constitutionality of any law, if a court finds that the law in question seeks to give effect to a Directive Principle, it may consider such law to be ‘reasonable’ in relation to Article 14 (equality before law) or Article 19 (six freedoms) and thus save such law from unconstitutionality.

86th Constitutional Amendment Act.

Article 45 of Indian Constitution was amended by the 86th Constitutional Amendment Act. The amendment brought three major changes:

1. **Inserted Article 21A**, making free and compulsory education for children aged 6-14 years a Fundamental Right.
2. **Modified Article 45** to focus on early childhood care and education for children below six years.
3. **Added Article 51A(k)**, making it a Fundamental Duty of parents/guardians to provide educational opportunities to children between 6-14 years.

To implement Article 21A, Parliament enacted the **Right of Children to Free and Compulsory Education Act (RTE Act, 2009)**.

Present Position of Article 45

After the 86th Amendment, Article 45 of Indian Constitution now states that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years. Thus, Article 45 currently focuses on pre-primary education and early childhood development.

Important Judgements Related to Article 45 of Indian Constitution and Right to Education

- **Mohini Jain v. State of Karnataka (1992)**: The Supreme Court held that the right to education flows from Article 21 (Right to Life). It stated that the State has a constitutional obligation to provide education.
- **Unni Krishnan v. State of Andhra Pradesh (1993)**: The Court clarified that the right to education is a fundamental right under Article 21, but limited it to children up to 14 years of age. The Court directly relied on Article 45 to interpret the scope of this right. This judgement laid the foundation for the 86th Amendment.

- **Society for Unaided Private Schools v. Union of India (2012):** The Supreme Court upheld the constitutional validity of the RTE Act, 2009, including the provision requiring private schools to reserve 25% seats for economically weaker sections.

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