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Deprivation of the Right to Education of Street-Connected Children

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Education is a fundamental right and an important instrument for achieving equality, dignity and social inclusion. In India, Article 21A of the Constitution guarantees free and compulsory education to children between six and fourteen years of age. The Right of Children to Free and Compulsory Education Act 2009 ('RTE Act') further establishes a statutory framework for implementing this right. However, children living and working on streets continue to face serious barriers to accessing education. Poverty, homelessness, migration, child labour, lack of parental support, documentation difficulties, discrimination and inadequate access to schools often prevent these children from enrolling in and regularly attending school. The problem is not merely the absence of schools. It involves a wider failure to make educational systems accessible and responsive to children whose lives do not fit within conventional assumptions of stable residence, family support and regular attendance. UNICEF's 2024 Study of Children in Street Situations in India notes that such children are frequently deprived of essential services including education, healthcare, sanitation and safety. This article examines the constitutional and statutory protection available to such children, the factors responsible for their educational deprivation, judicial developments and possible legal and policy measures for ensuring meaningful access to education.

Keywords: *right to education, street-connected children, child labour.*

INTRODUCTION

Education is one of the most important rights of every child because it provides knowledge, opportunities and the ability to participate fully in society. In India, the right to education has been recognised as a fundamental right under Article 21A of the Constitution,¹ and the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) provides a legal framework for ensuring free and compulsory elementary education.² However, the existence of a legal right does not always mean that every child is able to enjoy it equally. Street-connected children are among the most vulnerable groups in this regard. These children may live, work or spend a significant part of their lives on streets and public spaces, often facing poverty, homelessness, child labour, migration, lack of family support and social discrimination. These circumstances make regular school attendance and completion of education particularly difficult.

The RTE Act provides important safeguards, including admission to an age-appropriate class and special training for children who have never attended school or have discontinued their education. The Juvenile Justice (Care and Protection of Children) Act, 2015 also provides mechanisms for the care, protection, rehabilitation and social reintegration of children in need of care and protection. Despite these legal safeguards, a gap continues to exist between the rights guaranteed by law and the actual experiences of street-connected children.³

This article therefore examines the statutory framework governing their right to education, the major barriers preventing access to education, and the extent to which the RTE Act is effectively implemented for this vulnerable group. It also considers the practical measures required to improve educational access and continuity.

The central argument of this article is that providing a legal right to education is only the first step. For street-connected children, meaningful access to education requires a broader approach involving education, child protection, rehabilitation, nutrition, social support and effective implementation. The ultimate objective should be to ensure that a child's circumstances do not determine whether that child gets an opportunity to learn and build a better future.

¹ Constitution of India 1950, art 21A

² Right of Children to Free and Compulsory Education Act 2009

³ Juvenile Justice (Care and Protection of Children) Act 2015

UNDERSTANDING CHILDREN IN STREET SITUATIONS

The expression ‘street children’ has traditionally been used to describe children who live or work on streets. However, the term may oversimplify the diverse circumstances of these children.

The concept of children in street situations (CiSS) provides a broader understanding. Such children may:

- Live on the street with their families;
- Work on streets but return to a family home;
- Spend most of their time on the streets because of economic circumstances;
- Be separated from their families;
- Migrate with families for employment;
- Live temporarily in public spaces due to homelessness; or
- Lack stable access to housing, education and child-protection services.

NCPCR’s Standard Operating Procedure for Care and Protection of Children in Street Situations recognises that such children can remain “hidden” or overlooked because of their lack of stable identity, recognition and social status.⁴ This invisibility creates difficulties in identifying children who are outside the education system. A child who is not enrolled in school may not appear in ordinary school-based databases, while frequent movement between locations can make follow-up difficult. Consequently, educational interventions must recognise the different circumstances of CiSS rather than treating them as a homogeneous group.

CONSTITUTIONAL FRAMEWORK OF THE RIGHT TO EDUCATION

Article 21A: The most significant constitutional provision is Article 21A, inserted by the Constitution (Eighty-Sixth Amendment) Act 2002. It provides that the State shall provide free and compulsory education to all children between six and fourteen years of age in such manner as the State may determine by law. Article 21A transformed elementary education from primarily a Directive Principle into an expressly enforceable fundamental right. The Supreme Court had already recognised the constitutional importance of education before Article 21A was inserted.

⁴ *Standard Operating Procedure for Care and Protection of Children in Street Situations 2020* (National Commission for Protection of Child Rights 2020)

In *Mohini Jain v State of Karnataka*, the Supreme Court connected education with the right to life and human dignity under Article 21.⁵ The Court recognised that education plays an important role in developing an individual's personality and enabling meaningful participation in society.

In *Unni Krishnan, JP v State of Andhra Pradesh*, the Court held that children have a fundamental right to free education up to the age of fourteen years, linking Articles 21, 41, 45 and 46.⁶ These decisions laid important constitutional foundations for the later insertion of Article 21A.

Article 14 and Equality: Article 14 guarantees equality before the law and equal protection of the laws. Children living on streets cannot be excluded from educational opportunities merely because of their economic or social circumstances.

Formal equality, however, may not be sufficient. A child who has no permanent residence, regularly changes location or is compelled to work may require additional support to access the same educational opportunity available to other children. Therefore, the principle of equality should be understood together with substantive equality, under which vulnerable children may require special measures to overcome structural barriers.

Directive Principles: Article 39(e) and (f) direct the State to protect children from abuse and ensure that childhood is protected against exploitation and conditions that are contrary to their development.

Article 45 concerns early childhood care and education, while Article 46 directs the State to promote the educational and economic interests of weaker sections. These provisions demonstrate that the Constitution views children's education as part of a broader obligation of social justice.⁷

JUDICIAL DEVELOPMENT OF THE RIGHT TO EDUCATION

The constitutional right to education developed significantly through judicial interpretation even before Article 21A was inserted.

⁵ *Mohini Jain v State of Karnataka and Ors* (1992) 3 SCC 666

⁶ *Unni Krishnan, JP and Ors v State of Andhra Pradesh and Ors* (1993) 1 SCC 645

⁷ Constitution of India 1950, arts 21A, 14, 39(e), 39(f), 45 and 46

Mohini Jain v State of Karnataka: In *Mohini Jain v State of Karnataka*, the Supreme Court examined the relationship between education and fundamental rights.⁸ The Court recognised the importance of education in enabling individuals to exercise their constitutional rights and connected the right to education with Article 21. The judgment was significant because it treated education as closely connected with the right to life and dignity. For children in street situations, this reasoning is important because education can be viewed as a means through which children develop their capabilities and participate equally in society.

Unni Krishnan, JP v State of Andhra Pradesh: The Constitution Bench in *Unni Krishnan, JP v State of Andhra Pradesh* further examined the scope of the right to education.⁹ The Court held that children up to fourteen years had a fundamental right to free education within the constitutional framework existing at the time. The judgment contributed significantly to the subsequent constitutional recognition of the right through Article 21A. The Supreme Court has subsequently referred to *Mohini Jain* and *Unni Krishnan* while discussing the constitutional development of socio-economic rights.¹⁰

Society for Unaided Private Schools of Rajasthan v Union of India: In *Society for Unaided Private Schools of Rajasthan v Union of India*, the Supreme Court considered the constitutional validity of important provisions of the RTE Act, including section 12(1)(c).¹¹ The case is relevant because section 12(1)(c) seeks to provide educational access to children belonging to weaker sections and disadvantaged groups. For vulnerable children, inclusion within mainstream educational institutions is an important component of substantive equality.

Avinash Mehrotra v Union of India: In *Avinash Mehrotra v Union of India*, the Supreme Court addressed school safety and recognised that the right to education cannot be separated from the requirement of a safe educational environment.¹² This principle has particular significance for children in street situations. Merely enrolling a vulnerable child in school is insufficient if the child is exposed to discrimination, unsafe conditions or other barriers that make continued attendance difficult.

⁸ *Mohini Jain v State of Karnataka and Ors* (1992) 3 SCC 666

⁹ *Unni Krishnan, JP and Ors v State of Andhra Pradesh and Ors* (1993) 1 SCC 645

¹⁰ *Navej Singh Johar v Union of India* (2018) 10 SCC 1

¹¹ *Society for Unaided Private Schools of Rajasthan v Union of India and Anr* (2012) 6 SCC 1

¹² *Avinash Mehrotra v Union of India and Ors* (2009) 6 SCC 398

STATUTORY PROTECTION UNDER THE RTE ACT 2009

The Right of Children to Free and Compulsory Education Act 2009 provides the principal statutory framework for implementing Article 21A.

Section 3 – Right to Free and Compulsory Education: Section 3 provides that every child between six and fourteen years has a right to free and compulsory education in a neighbourhood school until completion of elementary education. Importantly, the right applies to children belonging to disadvantaged groups and weaker sections. The National Commission for Protection of Child Rights (‘NCPCR’) specifically recognises that children belonging to disadvantaged groups have a right to free and compulsory education under section 3.¹³ For street-connected children, this provision is particularly significant because poverty and social vulnerability should not become grounds for exclusion from elementary education.

Section 4 – Special Provisions for Children Not Admitted to School: Section 4 requires children who have not been admitted to school or who could not complete elementary education to receive special training so that they can join an age-appropriate class. This provision is highly relevant to street-connected children because many experience interrupted schooling or have never been enrolled in formal education.

Section 12(1)(c): Section 12(1)(c) requires specified unaided schools to admit at least 25 per cent of the strength of Class I, to the extent provided by the Act, from children belonging to weaker sections and disadvantaged groups in the neighbourhood. The provision is intended to promote social inclusion and provide educational opportunities to children who might otherwise remain outside private schooling.

Grievance Redressal: The RTE framework also provides mechanisms for addressing violations. Complaints may be made to the local authority and appropriate child-rights authorities, including the State Commission for Protection of Child Rights and NCPCR. Thus, deprivation of education is not merely a social problem; in appropriate circumstances it may constitute a violation of legally protected rights.

¹³ Right of Children to Free and Compulsory Education Act 2009, ss 3, 4 and 12(1)(c)

BARRIERS PREVENTING STREET-CONNECTED CHILDREN FROM ACCESSING EDUCATION

Street-connected children face several interconnected barriers that prevent them from accessing and continuing education.

Poverty: Poor families may depend on children's earnings for survival, making regular schooling difficult.

Child Labour: Children engaged in street-based work often have little time for school, resulting in irregular attendance and dropout.

Homelessness and Mobility: Lack of a permanent residence and frequent movement can interrupt schooling and make admission or transfer difficult.

Migration: Families migrating for employment may move children from one school to another, disrupting educational continuity.

Lack of Documentation: Difficulties relating to identity, residence, or other documents may create practical barriers to admission.

Lack of Family Support: Children without stable parental care may lack assistance with enrolment, attendance and studies.

Discrimination and Stigma: Poverty, homelessness and street-based occupations can expose children to discrimination, bullying and social exclusion.

Educational Gaps: Children who have never attended school or have experienced long interruptions may require special training under Section 4 of the RTE Act 2009.¹⁴

Lack of Awareness: Children and families may not know about their legal right to free and compulsory education under Article 21A¹⁵ and the RTE Act.

Weak Institutional Support: Lack of coordination between schools, child-protection authorities, local bodies and welfare agencies can make it difficult to identify and support these

¹⁴ *Ibid* s 4

¹⁵ Constitution of India 1950, art 21A

children. Thus, educational deprivation among street-connected children results not only from the absence of schools but from poverty, mobility, social exclusion and inadequate implementation of existing legal protections.

INTERNATIONAL HUMAN RIGHTS FRAMEWORK

The right to education is also recognised internationally. Article 26 of the Universal Declaration of Human Rights 1948 recognises education as a right and provides that elementary education should be free and compulsory.¹⁶ Similarly, Article 28 of the Convention on the Rights of the Child 1989 ('CRC') recognises the child's right to education and requires States to make primary education compulsory and available free to all.¹⁷

Article 29 of the CRC further emphasises the development of the child's personality, talents and mental and physical abilities. India's obligations under international child-rights law reinforce the constitutional commitment to education and child protection.

MEASURES REQUIRED TO ADDRESS EDUCATIONAL DEPRIVATION

Flexible Admission Procedures: Schools should adopt child-friendly admission procedures that do not unnecessarily exclude children because of unstable residence or documentation difficulties.

Special Training and Bridge Programmes: Section 4 of the RTE Act should be effectively used to provide age-appropriate education to children who have experienced interrupted schooling.

Mobile and Community-Based Education: Where children cannot immediately enter conventional schools, bridge centres, mobile education units and community learning centres can provide transitional educational support.

Coordination Between Authorities: Education departments, municipal authorities, Child Welfare Committees, police, child-protection agencies and NGOs should coordinate their efforts. NCPCR has specifically published a Standard Operating Procedure for care and protection of

¹⁶ Universal Declaration of Human Rights 1948, art 26

¹⁷ United Nations Convention on the Rights of the Child 1990, arts 28, 29

children in street situations, demonstrating the need for a coordinated child-protection approach.

Addressing Child Labour: Educational intervention must be accompanied by measures addressing the economic circumstances that push children towards work.

Residential and Shelter Support: For children without safe family accommodation, shelter and residential care may be necessary to enable sustained participation in education.

Prevention of Discrimination: Schools should provide inclusive environments in which children are not stigmatised because of poverty, homelessness, occupation or family circumstances.

Tracking Out-of-School Children: Local authorities should identify children who are outside the education system and establish mechanisms for follow-up, enrolment and retention.

CRITICAL ANALYSIS

The issue of educational deprivation among children in street situations exposes an important limitation of a purely formal understanding of rights. A legal right becomes meaningful only when the individual has a realistic opportunity to exercise it.

Article 21A guarantees education, but a child who must work throughout the day cannot meaningfully exercise that right without intervention addressing the circumstances surrounding the child's work.

Similarly, admission to school does not automatically ensure educational inclusion. A child may be enrolled but remain effectively excluded because of discrimination, learning gaps, frequent migration or lack of family support. Therefore, the State's responsibility should be understood as extending beyond the establishment of schools. The objective should be meaningful access, continuity and completion.

The UNICEF 2024 study of children in street situations highlights the wider deprivation experienced by such children in rapidly urbanising environments.¹⁸NCPCR's framework

¹⁸ *Study of Children in Street Situations in India* (UNICEF 2024)

similarly reflects the need for coordinated interventions rather than isolated educational measures.¹⁹ A rights-based approach should therefore move from: “Providing a school place” to “Creating the conditions in which a vulnerable child can actually remain in education.” This approach is consistent with the broader constitutional principles of equality, dignity and social justice.

CONCLUSION

The right to education is firmly established within the Indian constitutional and statutory framework. Article 21A and the RTE Act 2009 provide a strong legal foundation for free and compulsory elementary education. However, street-connected children continue to face barriers that prevent them from fully enjoying this right. Poverty, child labour, homelessness, migration, lack of documentation, discrimination and inadequate institutional support can keep children outside the formal education system.

The solution therefore requires more than increasing school enrolment. It requires accessible admission, flexible educational programmes, child protection, social security, rehabilitation, prevention of child labour and continuous monitoring of vulnerable children.

Education should not depend upon whether a child has a permanent home, stable family income or conventional documentation. A genuinely rights-based education system must reach children where they are and address the circumstances that prevent them from remaining in school. Ultimately, protecting the educational rights of street-connected children is not only about providing classrooms. It is about ensuring that every child can exercise the constitutional promise of equality, dignity and opportunity in practice.²⁰

¹⁹ Standard Operating Procedure for Care and Protection of Children in Street Situations 2020 (n 4)

²⁰ *What Drives Changes in Child Labour and Schooling?* (UNICEF 2025)