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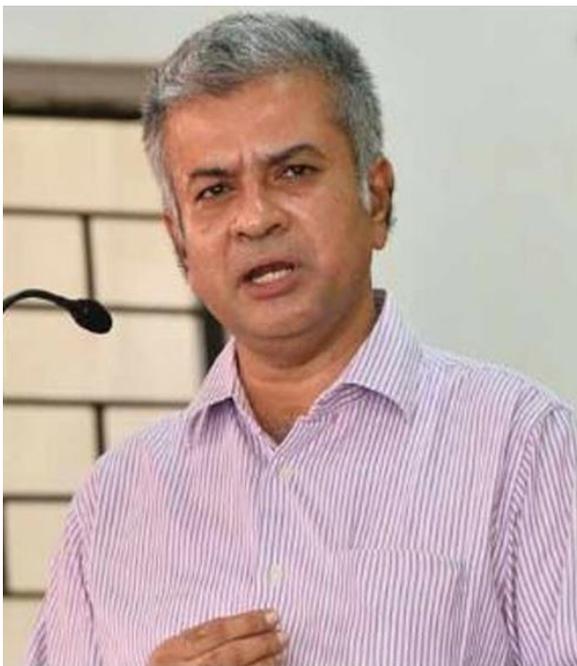
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With this thought, we hereby present to you

RIGHT TO EDUCATION, COMMERCIALIZATION OF EDUCATION AND ITS IMPACT

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ABSTRACT

Education is universally recognized as a fundamental human right and a key driver of social, economic, and political development. However, the increasing commercialization of education has raised concerns about accessibility, affordability, and equity, challenging its status as a right rather than a privilege. This paper explores the legal framework governing the right to education, analyzing international conventions, constitutional provisions, and judicial interpretations. The study examines the impact of commercialization on education, including its influence on education quality, socio-economic disparities, and ethical concerns. Landmark case laws such as *Unni Krishnan v. State of Andhra Pradesh* (1993), *Mohini Jain v. State of Karnataka* (1992), and *Society for Unaided Private Schools of Rajasthan v. Union of India* (2012) provide judicial insights into the evolving balance between education as a public good and a private enterprise. The paper also identifies challenges in implementing educational rights, such as economic barriers, gender disparities, and the digital divide, and suggests policy measures to ensure equitable and high-quality education for all. Finally, recommendations such as public-private partnerships (PPPs), regulation of private institutions, and increased public funding for education are proposed to maintain a sustainable balance between commercialization and the fundamental right to education.

Keywords

Right to Education, Commercialization of Education, Educational Inequality, Public-Private Partnerships, Judicial Interpretations, Educational Policy, Socio-Economic Barriers, Digital Divide, Education as a Human Right.

1. INTRODUCTION

"When education becomes a privilege rather than a right, inequality deepens and democracy weakens."

Education is universally recognized as a fundamental human right and a key driver of social, economic, and political development. It serves as the foundation for an informed and progressive society, empowering individuals with knowledge, skills, and critical thinking abilities. However, the increasing commercialization of education has raised significant concerns regarding accessibility, affordability, and equity, often challenging the very essence of education as a right rather than a privilege. This assignment delves into the right to education, the growing commercialization of the education sector, and its legal and social implications.

1.1. BACKGROUND OF RIGHT TO EDUCATION

The Right to Education (RTE) is enshrined in various international human rights instruments, including the Universal Declaration of Human Rights (Article 26) and the International Covenant on Economic, Social and Cultural Rights (Article 13). Recognizing education as a public good, numerous countries have incorporated it into their national constitutions and legal frameworks, making primary and, in some cases, secondary education free and compulsory. The RTE Act, 2009 in India, for instance, mandates free and compulsory education for children between the ages of 6 and 14. Despite such legal frameworks, disparities in educational access persist due to economic constraints, systemic inefficiencies, and the increasing privatization of educational institutions.

1.2. IMPORTANCE OF EDUCATION IN SOCIETY

Education plays a crucial role in nation-building, social mobility, and economic growth. It fosters democratic values, equality, and empowerment, ensuring individuals have the ability to exercise their rights and responsibilities effectively. Beyond individual benefits, education is vital for reducing poverty, promoting gender equality, and driving innovation. A well-educated population leads to a productive workforce, enhanced civic participation, and the overall advancement of a nation. However, when education becomes commercialized, it often prioritizes profit over accessibility, leading to exclusionary practices, student debt burdens, and compromised quality standards.

1.3. OBJECTIVE OF THE RESEARCH

This paper aims to critically analyze the legal, economic, and social dimensions of the Right to Education and the commercialization of education. It explores the tensions between market-driven education models and state obligations to provide free and equitable learning opportunities. Furthermore, it examines the impacts of commercialization on education quality, affordability, and social justice. Through a comparative legal analysis and policy evaluation, this study seeks to propose sustainable solutions for balancing private sector participation in education while safeguarding fundamental educational rights.

2. RIGHT TO EDUCATION

2.1 DEFINITION AND CONCEPT

The Right to Education (RTE) is a fundamental human right that guarantees access to free, quality, and compulsory education for all individuals, particularly children. It is recognized under various international human rights instruments and national legal frameworks, ensuring that education remains accessible, available, acceptable, and adaptable to the needs of society¹.

The concept of the right to education is rooted in the "principle of equality", aiming to eliminate disparities in learning opportunities due to economic, social, or geographical barriers². Education empowers individuals, promotes democracy, and fosters economic and social development.

2.2. LEGAL FRAMEWORK AND INTERNATIONAL PERSPECTIVE

2.2.1. Legal Framework of Right to Education

1. International Perspective

The right to education has been widely recognized as a fundamental human right in various international treaties and conventions.

❖ Universal Declaration of Human Rights (UDHR), 1948 and Article 26 of the Universal Declaration of Human Rights (UDHR) states that:

- Everyone has the right to education.
- Education shall be free, at least in the elementary and fundamental stages.
- Elementary education shall be compulsory.

¹ UNESCO, Education and the 4A Framework: Availability, Accessibility, Acceptability, Adaptability, (2005).

² Katarina Tomaševski, Human Rights Obligations in Education: The 4-A Scheme (2006).

- Higher education shall be equally accessible to all on the basis of merit.

The UDHR recognizes education as a key factor in promoting human dignity and fundamental freedoms³.

❖ International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

- The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides a legally binding commitment for states to progressively achieve the full realization of the right to education.
- Article 13 of ICESCR mandates:

Primary education shall be compulsory and available free to all. Secondary and higher education shall be made accessible by progressive introduction of free education. Fundamental education shall be encouraged for those who have not received or completed primary education⁴.

❖ UNESCO's Role in Education

The United Nations Educational, Scientific and Cultural Organization (UNESCO) plays a crucial role in advancing the right to education through:

- Advocacy and policy development.
- Monitoring compliance with international education agreements.
- Supporting governments in implementing inclusive and equitable education policies⁵.

2. Constitutional Provisions in India

The right to education in India has evolved through constitutional amendments, judicial pronouncements, and legislative enactments.

- Article 21-A: Right to Free and Compulsory Education.

The Constitution (Eighty-Sixth Amendment) Act, 2002 inserted Article 21-A, which states:

"The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine."

This provision made education a fundamental right, enforceable by law.

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

⁴ International Covenant on Economic, Social and Cultural Rights, 1966, Article 13

⁵ UNESCO, "Right to Education: Global Framework and Principles," available at UNESCO.org.

Case Law: Mohini Jain v. State of Karnataka⁶ - The Supreme Court held that the right to education flows directly from Article 21 (Right to Life) and is essential for a dignified existence.

Case Law: State of Tamil Nadu v. K. Shyam Sunder⁷- The Supreme Court emphasized that quality education should not be compromised due to commercialization, and states must ensure that private schools adhere to proper educational standards.

- Directive Principles of State Policy (DPSP)

Though not enforceable by courts, the following Directive Principles of State Policy (DPSP) emphasize the importance of education:

Article 39(f): The State shall ensure that children are given opportunities to develop in a healthy manner.

Article 41: The State shall make effective provision for securing the right to education within its economic capacity.

Article 45: The State shall endeavor to provide early childhood care and education for all children until they complete the age of six years.

Article 46: The State shall promote the educational interests of weaker sections, particularly Scheduled Castes (SCs) and Scheduled Tribes (STs)⁸.

- Fundamental Duties – Article 51A (k)

Introduced by the 86th Constitutional Amendment Act, Article 51A (k) states:

"It shall be the duty of every parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years."

This provision places a responsibility on parents to ensure that their children receive an education⁹.

2.3. JUDICIAL INTERPRETATION OF RIGHT TO EDUCATION

1. Unni Krishnan v. State of Andhra Pradesh¹⁰- The Supreme Court held that education up to the age of 14 years is a fundamental right under Article 21.

⁶ Mohini Jain v. State of Karnataka, AIR 1992 SC 1858.

⁷ State of Tamil Nadu v. K. Shyam Sunder (2011) 8 SCC 737

⁸ Constitution of India, Part IV, Directive Principles of State Policy.

⁹ Constitution of India, Article 51A(k), inserted by the 86th Amendment Act, 2002.

¹⁰ Unni Krishnan, J.P. v. State of Andhra Pradesh, AIR 1993 SC 2178.

The ruling played a key role in prompting the government to introduce Article 21-A.

2. T.M.A. Pai Foundation v. State of Karnataka¹¹- The Supreme Court upheld the autonomy of private educational institutions while emphasizing the State's role in regulating education for public welfare.
3. P.A. Inamdar v. State of Maharashtra¹²- The Court ruled that the State cannot impose reservations in private unaided educational institutions.
4. Krishna Kumar v. State of Bihar¹³- The Court ruled that education is not a business and that private institutions cannot deny admission based purely on financial constraints.
5. Action Committee Unaided Pvt. Schools v. Director of Education¹⁴- The Supreme Court held that private schools must follow government-mandated guidelines for fee regulation and fair admission policies to prevent arbitrary commercialization.

2.4. RIGHT TO EDUCATION IN DIFFERENT COUNTRIES

Different countries have adopted diverse approaches to implementing the right to education, balancing constitutional mandates, legislative frameworks, and policy initiatives:

1. India

The Right of Children to Free and Compulsory Education Act, 2009 mandates free and compulsory education for children aged 6–14 years¹⁵. The Supreme Court of India upheld the Right to Education as a fundamental right under Article 21-A in Mohini Jain v. State of Karnataka (1992)¹⁶.

2. United States

The U.S. Constitution does not explicitly recognize the right to education, but courts have interpreted equal protection principles to safeguard educational rights. In *Brown v. Board of Education*, 347 U.S. 483 (1954), the Supreme Court held that racial segregation in schools violated the Equal Protection Clause¹⁷.

¹¹ T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481

¹² P.A. Inamdar v. State of Maharashtra, (2005) 6 SCC 537.

¹³ Krishna Kumar v. State of Bihar (1998) 5 SCC 643

¹⁴ Action Committee Unaided Pvt. Schools v. Director of Education (2018) 10 SCC 1

¹⁵ Right of Children to Free and Compulsory Education Act, No. 35 of 2009, § 3 (India).

¹⁶ Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666 (India).

¹⁷ Brown v. Board of Education*, 347 U.S. 483 (1954).

3. South Africa

The Constitution of South Africa (1996), Section 29, guarantees the right to basic education. In **Governing Body of the Juma Masjid Primary School v. Essay*, the Constitutional Court affirmed that education is an immediately enforceable right.

4. United Kingdom

The Education Act 1944 established universal free primary and secondary education¹⁸. The Human Rights Act 1998 incorporates Article 2 of Protocol 1 of the European Convention on Human Rights (ECHR), ensuring the right to education¹⁹.

2.5. CHALLENGES IN IMPLEMENTING THE RIGHT TO EDUCATION

Despite the recognition of the Right to Education as a fundamental human right, its implementation faces significant obstacles across different regions. These challenges arise from economic, social, political, and infrastructural barriers that limit access to free, quality education. This section explores the major obstacles preventing universal education, supported by legal frameworks, international reports, and case studies.

2.5.1. Economic Barriers and Lack of Public Funding

One of the primary challenges in implementing the Right to Education is the lack of adequate public funding for education. In many developing countries, education systems suffer due to insufficient government budgets, leading to a lack of infrastructure, poor teacher salaries, and inadequate learning materials.

According to UNESCO's Global Education Monitoring Report, more than 260 million children worldwide remain out of school due to economic barriers²⁰.

Many low-income families struggle with indirect costs such as transportation, uniforms, and learning materials, even when education is officially free. Countries that allocate less than 4% of their GDP to education tend to face severe challenges in ensuring free and compulsory schooling²¹.

¹⁸ Education Act, 1944, c. 31 (U.K.).

¹⁹ Human Rights Act 1998, c. 42 (U.K.), Sch. 1, Art. 2 of Protocol No. 1.

²⁰ UNESCO Global Education Monitoring Report (2022).

²¹ United Nations Sustainable Development Goals (SDG 4, 2023).

In contrast, countries like Finland and Germany, which allocate more than 6% of their GDP to education, have successfully implemented free and high-quality education for all²².

The failure to prioritize educational budgets results in a widening gap between public and private institutions, forcing many students into low-quality government schools or costly private alternatives.

2.5.2. Privatization and Commercialization of Education

The privatization of education has led to the commoditisation of learning, where access to quality education is increasingly based on economic privilege rather than merit.

Private institutions often charge exorbitant tuition fees, making education inaccessible to lower-income groups.

Many developing countries have witnessed the rise of for-profit schools, reducing state responsibility in providing free and equitable education.

The high cost of higher education, particularly in countries like the United States and the United Kingdom, has led to a severe student debt crisis, discouraging many from pursuing university education²³.

The Right to Education Act, 2009 in India mandates 25% reservation in private schools for economically weaker sections, but enforcement remains weak, with elite schools resisting inclusion policies²⁴.

Without strong regulatory policies, privatization continues to widen educational inequalities.

2.5.3. Gender Disparities in Education

Despite progress, gender inequality remains a major barrier to the Right to Education, particularly in developing nations.

²² Finland Ministry of Education Policy Paper (2020).

²³ Student Loan Debt Crisis, US Department of Education (2022)

²⁴ Right to Education Act, 2009 – Government of India

According to UNICEF, nearly 130 million girls worldwide are out of school, with higher dropout rates due to early marriage, gender discrimination, and societal norms²⁵. Countries like Afghanistan, Nigeria, and Sudan face significant gender disparities, where girls are discouraged from pursuing education.

In some rural areas, cultural norms and safety concerns prevent girls from traveling long distances to school²⁶. Efforts like Malala Yousafzai's campaign for girls' education have highlighted the importance of ensuring equal educational opportunities, yet systemic barriers remain.

Nations must implement gender-sensitive policies, including free sanitary facilities, female teachers, and safe transportation, to encourage female education.

2.5.4. Digital Divide and Technological Barriers

The COVID-19 pandemic highlighted the global digital divide, where access to technology and the internet became essential for learning.

Over 1.5 billion students faced educational disruptions during school closures due to limited access to online learning platforms²⁷. In low-income countries, only 20% of students have access to internet connectivity and digital devices, further widening educational disparities²⁸. Rural schools often lack electricity and infrastructure needed for e-learning, putting students at a severe disadvantage²⁹.

Governments must invest in digital infrastructure and affordable internet access to bridge the education gap between urban and rural learners.

3. COMMERCIALIZATION OF EDUCATION

Education, traditionally viewed as a fundamental right and a public good, has increasingly become a profit-driven sector. The commercialization of education refers to the process where educational institutions, particularly private schools, colleges, and universities, operate with a

²⁵ UNICEF Report on Girls' Education (2023).

²⁶ World Economic Forum – Gender Gap Report (2023).

²⁷ UNESCO – COVID-19 Impact on Education (2020).

²⁸ Digital Divide Report – ITU (2022).

²⁹ World Bank Report – Rural Education Infrastructure (2023).

business-oriented approach, prioritizing revenue generation over quality and accessibility. This shift often leads to educational inequalities, where access to quality education depends on an individual's financial capacity rather than merit. The right to education, as enshrined in international treaties such as the Universal Declaration of Human Rights (Article 26) and the International Covenant on Economic, Social and Cultural Rights (Article 13), is compromised when education becomes a commodity rather than a social equalizer³⁰.

3.1. MEANING AND DEFINITION

The commercialization of education can be understood as the transformation of education from a public service to a market-oriented commodity. Scholars like Christopher Bjork and Henry Levin define it as the process where educational institutions prioritize financial motives over academic excellence and equal access³¹. This trend is evident in the rise of private schools, tuition centers, expensive coaching classes, and corporate-funded universities, where students are seen as consumers rather than learners. Commercialization often results in higher tuition fees, profit-driven curriculum designs, and the exploitation of students through financial burdens such as education loans and overpriced learning materials.

3.2 FACTORS CONTRIBUTING TO THE COMMERCIALIZATION OF EDUCATION

Several factors have contributed to the commercialization of education. One of the primary reasons is the increasing demand for quality education in a globalized job market. With government institutions failing to meet educational standards, private players have emerged to fill the gap, making education a competitive industry rather than a social right. Economic liberalization and privatization policies, particularly in developing countries, have encouraged private investors to establish fee-based educational institutions, often without strong regulatory frameworks.

Another contributing factor is the rising cost of public education and budgetary constraints on government-funded schools and universities. As government funding decreases, many educational institutions turn to corporate sponsorships and tuition hikes to sustain themselves, further reducing accessibility for economically disadvantaged students. In many cases,

³⁰ Universal Declaration of Human Rights, Article 26.

³¹ Christopher Bjork & Henry Levin, *Marketization of Education and its Implications* (2020).

educational quality is sacrificed to accommodate cost-cutting measures, such as hiring under qualified faculty, reducing research funding, and prioritizing income-generating courses over fundamental academic disciplines³².

Technological advancements and digitization of education have also accelerated commercialization. The rise of online education platforms, e-learning subscription models, and ed-tech companies has introduced a profit-driven approach to education, making learning resources available only to those who can afford them³³. While technology has revolutionized education, it has also created economic disparities, where students from lower-income backgrounds are unable to afford expensive online courses, digital devices, and high-speed internet.

3.3 ROLE OF PRIVATE INSTITUTIONS

Private institutions play a pivotal role in the commercialization of education. While some elite private universities and schools provide high-quality education, they do so at exorbitant costs, making them exclusive to wealthy individuals. The Harvard and Yale model, where institutions charge excessive tuition fees but provide limited financial aid, has become a global trend, restricting access to higher education³⁴. Many private schools and colleges in developing nations function without proper government oversight, setting arbitrary tuition fees and implementing strict entrance policies that favor financially privileged students over meritorious ones³⁵.

A significant concern regarding private institutions is their profit-maximization strategies. Many higher education institutions, particularly in India, China, and the United States, have been accused of exploiting students through excessive fees, mandatory expensive textbooks, and high-priced accommodation services. In India, the case of *TMA Pai Foundation v. State of Karnataka* (2002)³⁶ is a landmark judgment addressing the issue of private education institutions misusing their autonomy to impose unjustified fees on students. The Supreme Court ruled that while private institutions have the right to autonomy, they must not function as commercial enterprises. However, in practice, many institutions continue to charge

³² International Journal of Educational Development (2021).

³³ World Economic Forum – EdTech Impact Report (2023).

³⁴ Harvard University Tuition Policy Report (2022).

³⁵ Government of India – Higher Education Regulatory Framework (2023).

³⁶ *TMA Pai Foundation v. State of Karnataka*, Supreme Court of India (2002).

capitation fees under different legal loopholes.

Another issue with private education is its tendency to exclude marginalized communities. Since education is often linked to financial capability, students from low-income backgrounds, racial minorities, and rural communities find it increasingly difficult to access elite private education. Despite scholarship programs, the social divide in education continues to widen, reinforcing systemic inequality.

3.4 GOVERNMENT REGULATIONS AND POLICIES

Government intervention plays a critical role in curbing the negative impacts of commercialization and ensuring that education remains a fundamental right rather than a privilege. Various countries have introduced policies to regulate private educational institutions, but enforcement remains a challenge.

In India, the Right to Education Act (2009) mandates that private schools reserve at least 25% of seats for economically weaker sections, aiming to ensure social inclusion in education³⁷. However, many private schools circumvent this regulation by imposing additional costs, hidden charges, or claiming infrastructural limitations. Similarly, in the United States, policies such as Title IV of the Higher Education Act (1965) regulate student financial aid, yet the country still faces a student debt crisis due to the uncontrolled tuition fee hikes in private universities³⁸.

Another effective regulatory measure can be seen in Germany and Finland, where higher education is tuition-free, even for international students. These countries prioritize public investment in education, ensuring that quality education is accessible to all, irrespective of socioeconomic status. By heavily regulating private educational institutions, they have successfully prevented the excessive commercialization of education.

International organizations such as UNESCO, the World Bank, and the United Nations have also advocated for strict governmental oversight to prevent the exploitation of students through overpriced tuition fees and education-related services³⁹. Many experts argue that governments

³⁷ Right to Education Act, 2009, India.

³⁸ Higher Education Act (1965), USA.

³⁹ UNESCO Policy on Education Equity (2023).

must impose price ceilings on tuition fees, introduce strict quality control measures, and enhance public education funding to counteract the negative effects of commercialization⁴⁰

4. IMPACT OF COMMERCIALIZATION ON EDUCATION

The commercialization of education has had far-reaching consequences, influencing the accessibility, affordability, quality, and ethical dimensions of learning. While some argue that private investment in education enhances infrastructure, technology, and teaching methods, others contend that it exacerbates social inequalities, turning education into a luxury rather than a right. The impact is particularly evident in developing nations, where the privatization of schools and universities has widened the gap between rich and poor students. Several legal cases and government policies have attempted to balance privatization with regulation, but challenges remain in ensuring equitable access to quality education⁴¹.

4.1 ACCESSIBILITY AND AFFORDABILITY ISSUES

One of the most critical impacts of the commercialization of education is its effect on accessibility and affordability. As private institutions prioritize profit, tuition fees have surged, making quality education inaccessible to economically disadvantaged students. According to a UNESCO report (2023), in many developing countries, private schools charge tuition fees 5–10 times higher than public institutions, leaving low-income families with limited educational choices.

The Right to Education Act (2009) in India attempted to address this issue by mandating that private schools reserve 25% of their seats for economically weaker sections (EWS)⁴². However, many elite private schools circumvent this law by imposing hidden fees, discriminatory admission processes, or claiming capacity constraints. A landmark case, *Society for Un-aided Private Schools of Rajasthan v. Union of India* (2012), upheld the constitutional validity of the RTE Act and reaffirmed that private schools must adhere to inclusive admission policies⁴³.

In the United States, the commercialization of higher education has resulted in a student debt

⁴⁰ Public vs. Private Education Funding Study (2022).

⁴¹ UNESCO Report on Privatization of Education (2023).

⁴² Right to Education Act, India (2009).

⁴³ *Society for Un-aided Private Schools of Rajasthan v. Union of India*, Supreme Court (2012).

crisis. The case of National Collegiate Student Loan Trust v. Washington (2019) exposed predatory lending practices, where students were burdened with high-interest loans, making education a financial liability rather than an opportunity⁴⁴. Many universities in the U.S. operate like corporate entities, increasing tuition fees annually without significant improvements in educational quality⁴⁵.

4.2 QUALITY OF EDUCATION: IMPROVEMENT OR DECLINE?

The impact of commercialization on the quality of education is complex and can be both positive and negative. The following table summarizes the potential improvements and declines associated with commercialization:

Aspect	Potential Improvement	Potential Decline
Infrastructure	Enhanced facilities and resources due to increased funding from tuition and private investments.	Overemphasis on profit may lead to cost-cutting in essential areas, compromising the quality of infrastructure.
Curriculum Development	Introduction of market-relevant courses that align with current industry demands, potentially increasing employability.	Curriculum may become overly focused on profitable disciplines, neglecting fundamental academic fields and critical thinking skills.
Teaching Quality	Ability to attract qualified educators through competitive salaries funded by higher tuition fees.	Pressure to maximize profits may result in larger class sizes and overworked faculty, diminishing the quality of instruction.
Student Services	Enhanced student services, including career counselling and extracurricular activities, funded by increased revenues.	Services may become accessible only to those who can afford additional fees, creating disparities in student experiences.
Access to Technology	Investment in modern educational technologies and digital learning platforms, enhancing learning	Technological resources may be allocated based on profitability, leading to unequal access among

⁴⁴ National Collegiate Student Loan Trust v. Washington (2019).

⁴⁵ U.S. Department of Education Report on Student Debt (2022).

	experiences.	students from different socioeconomic backgrounds.
Institutional	Competitive market dynamics may	Marketing strategies may prioritize
Reputation	drive institutions to improve their reputation through quality enhancements.	image over substance, leading to superficial improvements aimed at attracting students rather than genuine educational quality.
Diversity and Inclusion	Potential for specialized programs targeting diverse populations, funded by increased revenues.	High costs may exclude underrepresented groups, reducing diversity and perpetuating social stratification within educational institutions.
Long-term Educational Goals	Focus on immediate market needs may lead to the neglect of long-term educational objectives, such as fostering critical thinking and civic responsibility.	Short-term profit motives can undermine the development of well-rounded individuals prepared to contribute to society beyond economic roles.

This table illustrates that while commercialization can lead to certain improvements in educational quality, it also poses significant risks of decline in various areas, necessitating careful regulation and oversight to balance profit motives with educational integrity.

4.3 SOCIOECONOMIC DISPARITIES IN EDUCATION

The commercialization of education tends to widen socioeconomic disparities. As private institutions set higher tuition fees, students from affluent backgrounds can afford better educational opportunities, while those from lower-income families may be relegated to underfunded public institutions or excluded altogether. This dynamic perpetuates cycles of poverty and limits social mobility, as education a key driver of economic advancement becomes increasingly inaccessible to disadvantaged groups. A report noted that the commercialization of education contributes to the privatization of the education system, making it less accessible to those who cannot afford to pay.

The case of Ashok Kumar Thakur v. Union of India (2008) is a significant legal precedent in addressing educational inequality in India. The Supreme Court upheld affirmative action

policies, emphasizing that privatized education must also ensure social justice by reserving seats for marginalized communities⁴⁶. However, many private institutions have resisted these policies, often implementing backdoor mechanisms to favor wealthier students⁴⁷.

4.4 ETHICAL CONCERNS AND EDUCATION AS A FUNDAMENTAL RIGHT

Education, recognized as a fundamental right under international human rights law, is at risk when profit motives overshadow its social purpose. The Universal Declaration of Human Rights (Article 26) and the International Covenant on Economic, Social and Cultural Rights (Article 13) emphasize that education must be accessible, equitable, and free from commercial exploitation⁴⁸. However, commercialization has introduced ethical concerns, such as:

1. Exploitation of students through high fees and student debt – Many institutions have been accused of charging exorbitant fees without guaranteeing academic success, leading to high dropout rates⁴⁹.
2. Compromised academic integrity – Private institutions, in pursuit of rankings and profit, sometimes inflate grades, manipulate research findings, or engage in unethical recruitment practices⁵⁰.
3. Faculty exploitation – Many privatized institutions hire faculty on contractual or part-time bases, paying them lower wages while charging students high tuition fees⁵¹.
4. Lack of government accountability – When education is privatized, governments often abdicate their responsibility to provide free and quality education, shifting the burden onto private players.

5. BALANCING THE RIGHT TO EDUCATION AND COMMERCIAL INTERESTS

As education systems face increasing commercialization, it becomes crucial to balance profit-driven models with the fundamental right to education. Governments, public-private partnerships, and sustainable policies play a vital role in ensuring equitable access to quality education while addressing commercial interests.

⁴⁶ Ashok Kumar Thakur v. Union of India (2008).

⁴⁷ Indian Education Inequality Report (2022).

⁴⁸ Universal Declaration of Human Rights, Article 26.

⁴⁹ U.S. Student Loan Crisis Report (2022).

⁵⁰ Higher Education Ethical Concerns Study (2023).

⁵¹ Faculty Exploitation in Private Universities, India (2023).

5.1 ROLE OF GOVERNMENT IN ENSURING EQUITABLE EDUCATION

Governments are the primary custodians of the Right to Education and must implement strong regulatory frameworks to prevent excessive commercialization. Constitutional provisions and international treaties (e.g., Article 26 of the Universal Declaration of Human Rights and Article 13 of the International Covenant on Economic, Social and Cultural Rights) mandate free and compulsory education⁵². Governments should:

- Regulate tuition fees in private institutions to prevent exploitative practices.
- Strengthen public education systems by increasing funding and improving infrastructure.
- Implement scholarship programs to support underprivileged students.
- Enforce quality standards through accreditation and regular audits.

Case Law: T.M.A. Pai Foundation v. State of Karnataka (2002) - The Supreme Court of India ruled that while private institutions have autonomy, they cannot commercialize education at the cost of fundamental rights⁵³.

5.2 PUBLIC-PRIVATE PARTNERSHIPS IN EDUCATION

Public-Private Partnerships (PPPs) can enhance access to education while leveraging private sector efficiency⁵⁴. Governments collaborate with private entities to:

- Develop low-cost schools in underserved areas.
- Introduce technology-driven learning solutions for remote education.
- Fund research and skill-based training to align education with market needs.
- Improve teacher training programs and capacity-building initiatives.

Case Law: Unaided Private Schools of Rajasthan v. Union of India (2012) - The Supreme Court upheld the Right of Children to Free and Compulsory Education Act (RTE Act), 2009, mandating private schools to reserve seats for economically weaker sections under PPP models⁵⁵.

Case Law: Mohini Jain v. State of Karnataka (1992) - The Supreme Court ruled that education is not a commodity and that the state must ensure affordable access to higher

⁵² UNESCO, Right to Education: Global Perspectives and Challenges (2021).

⁵³ TMA Pai Foundation v. State of Karnataka, Supreme Court of India (2002).

⁵⁴ World Bank, Public-Private Partnerships in Education: Best Practices and Lessons Learned (2018).

⁵⁵ Unaided Private Schools of Rajasthan v. Union of India, (2012) 6 SCC 1.

education⁵⁶.

6. SUGGESTIONS AND CONCLUSION

6.1. SUGGESTIONS

1. Strengthening the Right to Education

- **Universal Implementation of RTE Laws:** Governments should ensure stricter enforcement of Right to Education (RTE) laws, mandating equal access to quality education for all children.
- **Increased Public Funding:** More budget allocation to public schools can improve infrastructure, teacher quality, and accessibility.
- **Bridging the Digital Divide:** Providing free or subsidized digital devices and internet access can ensure education equity in remote and underprivileged areas.
- **Inclusion of Marginalized Communities:** Special initiatives should be introduced to bring children from socio-economically weaker sections and differently-abled students into the mainstream education system.

2. Addressing the Challenges of Commercialization of Education

- **Regulating Private Institutions:** Governments must introduce policies to control tuition fee hikes, ensure transparent admission processes, and prevent profit-driven education models.
- **Public-Private Partnerships (PPPs):** Encouraging responsible collaborations between private and public institutions can help improve education quality while maintaining affordability.
- **Corporate Social Responsibility (CSR) in Education:** Encouraging businesses to fund scholarships, vocational training, and school development can make private investment more inclusive.

3. Mitigating the Negative Impact of Commercialization

- **Affordability Measures:** Governments can introduce student loan reforms, scholarships, and fee regulations to ensure private education remains accessible to all.
- **Quality Assurance Mechanisms:** National and international accreditation

⁵⁶ Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666 (India).

standards must be strictly followed to maintain education quality despite commercialization.

- **Ethical and Value-Based Education:** Educational institutions should balance market-oriented courses with value-based education, research, and social responsibility.

These recommendations aim to strike a balance between commercialization and the fundamental right to education, ensuring that education remains accessible, equitable, and of high quality.

6.2. CONCLUSION

The Right to Education is not just a legal entitlement but a fundamental necessity for social and economic progress. Education empowers individuals, reduces inequalities, and fosters innovation. However, the commercialization of education has created a dual challenge it has improved infrastructure, technology, and opportunities, but at the same time, it has deepened social disparities by making quality education a privilege rather than a right. If education continues to be treated as a commodity rather than a public good, millions will be deprived of the opportunities they deserve, leading to long-term societal and economic imbalances.

As Dr. B.R. Ambedkar profoundly stated,

“Education is the milk of a lioness; he who drinks it will roar”

This highlights the transformative power of education, which should be available to all, not just to those who can afford it. Governments must ensure strong regulatory frameworks, increased public funding, and fair access policies to bridge the gap between affordability and quality. Public-Private Partnerships (PPPs) should be designed to enhance educational opportunities while ensuring inclusivity, accountability, and ethical governance.

Moreover, as Malala Yousafzai rightly said,

“One child, one teacher, one book, and one pen can change the world” Education is the cornerstone of democracy and development, and it must remain a right, not a privilege. By adopting a balanced approach where private sector efficiency is leveraged without compromising the fundamental right to education societies can create an education system that is sustainable, inclusive, and transformative for future generations.