

# DILUTION OF THE RIGHT TO EDUCATION: A CRITICAL ANALYSIS OF UTTAR PRADESH'S SCHOOL MERGER POLICY

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## **Abstract**

*India's constitutional commitment to universal, equitable, and free elementary education culminating in Article 21A and the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the "RTE Act") stands at a crucial crossroads. While historically the Indian state moved from the civilized legacy of inclusion to a post-independence welfare model ensuring access to schools for every child in the country, contemporary policies in the name of administrative efficiency appear to reverse this trajectory of growth and inclusion. The Uttar Pradesh state government introduced one such policy. Uttar Pradesh's school merger policy seeks to consolidate small government schools on the grounds of administrative efficiency. The policy has faced significant legal and social concern, especially after constitutionally sensitive litigation in the Sitapur district. The single-judge decision by Justice Pankaj Bhatia, together with the subsequent special appeal proceedings before the Division Bench led by the Honourable Chief Justice, Arun Bhansali, of the Allahabad High Court, raises new questions about the dilution of the welfare statute and RTE's structural guarantees.*

*This paper argues that the merger policy risks reversing centuries of progress to make education a fundamental right. Relying on historical evolution, constitutional jurisprudence, and statutory frameworks, it argues against the merger policy and highlights the conflict between administrative efficacy and a child's fundamental right to education. The analysis also inculcates the perspectives of the petitioner's counsel, Dr Lalta Prasad Mishra, whose years of experience in constitutional law offer invaluable insights into the constitutional stakes of the controversy. Finally, the paper aims to demonstrate incompatibility between consolidation-driven reforms in other legal systems and India's constitutional vision of equitable, proximate and child-centred schooling.*

**Keywords:** child rights, right to education, school merger policy, article-21a

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## Introduction

India has long been a country deeply rooted in culture, tradition, and shared social values. Its societal framework has therefore consistently placed special emphasis on education as a means of transmitting these values across generations. Traditionally, education was viewed as a means through which individuals could develop moral character, intellectual capacity, and an understanding of their social responsibilities. In modern India, however, the importance of education has assumed even greater significance. As the most populous country in the world, India today stands at a crossroads where the accessibility and quality of its education system will significantly shape the nation's demographic and developmental strength.

The same is also reflected in Article 21A of the Constitution of India, which was added in 2002 through the Constitution (Eighty-Sixth Amendment) Act. The amendment transformed education from a state policy goal into a strict and enforceable constitutional right. This objective was further strengthened through the enactment of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter, the RTE Act). The purpose of both enactments was to prioritise education and ensure its accessibility to every citizen. The neighbourhood school concept is one of this framework's most important components. According to the neighbourhood principle, schools must be situated reasonably close to children's homes. The reasoning behind this clause is simple: the constitutional guarantee of education loses its practical significance when distance becomes a barrier.

However, recent administrative reforms have raised important questions about whether this trajectory is being maintained. In the name of administrative efficiency, multiple states have adopted school merger policies. One such policy was introduced by the Uttar Pradesh government in 2025. The policy primarily aimed to merge or consolidate government schools with fewer than 50 students. The policy aimed to optimise resources and ensure each child gets holistic development. However, this has raised multiple questions about its direct impact on the fundamental right to education and its conflict with the neighbourhood principle.

The conflict led to the filing of two writ petitions before the Honourable Allahabad High Court. The petitioners (primarily from the Sitapur district)

challenged the merger policy on the grounds that it violated Article 21A of the Constitution of India and the RTE Act. However, the court has dismissed the same, and the merger policies have been held constitutionally valid. Given these circumstances, this study examines whether the policy/merger policy is a legitimate administrative upgrade or an encroachment of the fundamental right to education.

However, it is impossible to comprehend the current Indian education policy discussion in a vacuum. Over the ages, India's educational system has experienced several stages of change. It has evolved through different perspectives on what education should accomplish and who it should serve are reflected in each step. These historical shifts are essential for demonstrating a steady trend toward increasing educational access and bringing educational institutions closer to children.

### **Historical Foundation of Access to Education in India: From Nalanda to Constitutional Commitment**

Education did not become a fundamental right of every child overnight. It is the result of a long historical evolution. For much of India's history, education was considered a valuable and powerful instrument of intellect and moral development. However, such an instrument was limited to only a particular section of the society. It aimed to promote values, culture and skills, yet was not conceived as a universal entitlement available to all children. Colonial policies later re-organised the education sector. It aimed to serve administrative needs rather than the welfare and development of children. Thus, it was only in the post-independence era that the Indian state gradually began to view education through the lens of equality, democratic participation and above all the welfare of children. Understanding this transition is essential for appreciating why each contemporary educational policy must be evaluated against the constitutional commitment to protect and realise children's right to education.

### **Nalanda and India's Civilizational Commitment to Education**

Education in ancient India was thorough and held a highly esteemed position that shaped the cultural, intellectual, social, and spiritual bases of the early Indian civilisation (Basham, 1954). It extended beyond mere literacy or job training. It was a comprehensive framework aimed at developing character, safeguarding sacred cultural knowledge, and guiding individuals in their societal responsibilities (Radhakrishnan,

1951). Learning took place in a variety of institutions like gurukulas, ashramas, monastic schools, and in prominent universities like Takshshila and Nalanda (Singh, 2008). The gurukula system was the most significant, wherein the students lived with their Gurus (teachers), and learned not only through texts but discipline, ethics, and life skills through one-to-one daily interaction (Altekar, 1944). This holistic development-centric model allowed education to shape the mind, body and soul of an individual, rather than mere teaching.

Despite valuing the essence and importance of education, ancient Indian education lacked in multiple ways. Access to education was a privilege available only to a limited pool of students, largely influenced by their caste, gender and social standing. Such exclusion impacted significant portions of the society. Thus, despite having intellectual depth, ancient Indian education did not incorporate the concept of universal schooling and inclusion. It stayed decentralised, socially governed, and reliant on support and closeness.

### **The British Era**

The arrival of colonial governance created a significant shift in the philosophy and objectives of education in India. The colonial regime changed the pre-colonial system's approach of integrating learning into ethical living, by turning education into a tool of control (Kumar, 2005). The frequently referenced remark by Macaulay (1835) asserted that the objective was to form

*“a class of persons Indian in blood and colour, but English in taste, in opinions, in morals, and in intellect.”*

This assertion was not solely ornamental or superficial, rather it captured the foundational ideology of colonial education. Education was conceived as a means to produce a limited intermediary class of Indian men that would serve as interpreters, clerks, and bureaucrats in the colonial system (Viswanathan, 1989). It wasn't a system meant to increase and improve accessibility to education or promote welfare of children in any manner. Rather a system that enforced administrative subordination and British control (Cohn, 1996).

A less recognised aspect of education during the colonial times was the imposition of penalties on parents to ensure school attendance (Indian Education Commission, 1883). These policies reveal the contradiction inherent and deeply rooted in colonial education. While constantly presented as “progressive” initiatives, they showed no real concern for welfare. Parents were expected to

relinquish their children to a foreign curriculum that neither ensured economic advancement nor connected with native ways of life (Kumar, 2005). The state's growing dependence on punishment instead of incentives highlights its failure or reluctance to tackle the underlying issues contributing to low enrolment, including agrarian reliance, poverty, and the outdated nature of colonial education in relation to daily economic realities (Cohn, 1996).

Education was now viewed as a hindrance instead of a virtue, as it did not enhance income potential or correspond with cultural norms (Dharampal, 1983). Colonial officials viewed this opposition as “backwardness.” Yet it was a logical refusal of a system that demanded conformity without providing meaningful benefits (Viswanathan, 1989). The parents who were themselves drowning in poverty, were expected to send their children to schools in return for cash or kind.

The Wood's Despatch of 1854 is frequently referred to as the “Magna Carta of English Education in India,” further enhanced the struggle. It was a hierarchical and exclusive framework, which forced *pathshalas* to adopt a fixed fee structure and regular timetables to receive government grants (Wood, 1854). Although it seemed to offer a well-organized educational system on the outside, on the inside its funding priorities were heavily biased. Primary education was consistently underfunded, while English-medium secondary and tertiary education were allocated an excessive share of the budget (Indian Education Commission, 1883). The outcome was the establishment of a small, exclusive class educated in English sitting above a wide foundation of an uneducated populace (Metcalf, 1995).

This structural bias resulted in lasting effects. By favouring English education and urban institutions, the Despatch solidified social hierarchies and increased the divide between rural and urban India (Kumar, 2005). The colonial assertion of “civilising” India masked this grimmer truth. Countless children stayed beyond the reach of education due to disregard and intentional financial indifference (Cohn, 1996). Fixed fee structures had forced the poor population to drop out of schools. The gender disparity was even more pronounced and prominent, as female education garnered only superficial focus, upholding and deepening strong patriarchal ideals and restricting women's access to literacy and economic involvement (Forbes, 1996).

As its direct consequence, India entered the twentieth century with remarkably low literacy levels, extensive rural marginalisation, and deep-rooted gender biases. These results were not a historical coincidence, but a direct result of colonial intentions to continue ruling the Indian subcontinent (Census of India, 1913). The persistence of these structural inequalities continued to influence postcolonial educational issues, highlighting the profound impact of colonial priorities on the direction of Indian education (Austin, 1966).

### **The Post-Independence Transformation: Introduction to Universal Schooling**

The years following independence marked a crucial shift in India's relationship with education. Attempting to recover from the colonial suppression, the new Republic faced the both the challenge and opportunity to envision and develop its own educational system (Kumar, 2005).

The Constituent Assembly recognized that democracy would only thrive if its citizens were educated and had the ability to decide for themselves. Thus aimed to develop a society which promotes social and educational equality (Constituent Assembly Debates, 1948). This sensitivity was first articulated in the Directive Principles through Article 45 of the Constitution of India (1950). The Article specifically called on the State to ensure free and compulsory education for every child until the age of fourteen. Even though it wasn't legally enforceable in court then, Article 45 served as a moral compass. It indicated that the new Republic viewed education as a public obligation rather than a personal entitlement (Austin, 1966).

Amid this transforming constitutional perspective, a notable occurrence arose with the Constitution (Forty-Second Amendment) Act (1976), which added Article 39(f). This clause mandated the State to safeguard childhood from exploitation and to provide children with opportunities to grow in environments of dignity, freedom, and safety. Despite being a Directive Principle only, Article 39(f) surfaced a ground reality. The myth that educational deprivation was limited to lack of schooling was burst. It conveyed that educational deprivation also diminished a child's holistic development (Baxi, 2000). Incorporating the welfare and dignity of children into the constitutional language prompted the State to deepen its understanding of its responsibilities to its youngest citizens.

These constitutional amendments came at the same time as the Planning Commission's policy work. The Planning Commission aimed to create five year plans to develop institutional foundations for universal elementary education. The First Five-Year Plan (1951-1956) of the Commission acknowledged the need to improve rural schools from the colonial era and expand educational facilities outside of urban areas. It dedicated funds for expansion of primary schools and the deployment of basic teachers after declaring that elementary education was crucial to the regeneration of rural areas (Government of India, 1951). The Second (1956-61) and Third (1961-66) Plans maintained this trajectory of growth by boosting teacher-training capacity and promoting the systematic extension of primary education into underserved areas. It made strategies to overcome the two significant hurdles; teacher access and lack of local school provisions (Bareau et al., 1957).

In order to make education a fundamental basic facility, the Fourth (1969–74) and Fifth (1974–79) Plans shifted from expansion goals to consolidation of the primary school network, allocating funds specifically for additional primary schools in habitations lacking facilities, and incorporating elementary education into the Minimum Needs Program (Government of India, 1969). During the Seventh Five-Year Plan (1985-90), the Planning Commission established the goal of “Universal Elementary Education by 1990.” It recognized retention, quality, and equity (especially for girls and first-generation learners) as essential priorities, and emphasized that the focus of policy should change from simple enrolment to retention and learning outcomes (Planning Commission of India, 1985). The Seventh Plan established official and unofficial goals (25.53 million children for formal schooling and 25 million for non-formal schooling) and emphasised the importance of enhancing teaching–learning methods to lower drop-out rates and increase actual enrolment (Planning Commission of India, 1985, para. 9.3). The Commission highlights the need to improve regional educational facilities and informal educational offerings to support marginalised groups and directly links access, retention, and equity as mutually dependent objectives in the Plan's treatment of universalisation (Planning Commission of India, 1985, paras. 9.18–9.24).

Collectively, the series of plans demonstrates a coherent policy rationale: the State needs to develop local educational capacity focused on retention, equity,

and quality. The Planning Commission's function was thus both infrastructural and normative. It positioned primary education as an essential public necessity, and a crucial addition to the constitutional Directive Principles.

### **Right to Education: A Fundamental Right of Each Child**

The recognition of education as a fundamental right in India was the result of sustained efforts by all three organs of the State. The legislature enacted provisions, executive implemented them and the judiciary gave them a holistic and child-centric interpretation. Through this constant effort, education became an enforceable fundamental right.

One of the most landmark decisions in the constitutional history of child's fundamental right to education is the case of *Mohini Jain v. State of Karnataka* (1992). The court in this case discussed the impact of capitation fees charged by private medical institutions on the marginalised sector. Through this case the court recognised the inherent relationship between human dignity and educational rights. It was observed that "The right to education flows directly from the right to life." The Court further emphasised that the exercise of fundamental freedoms would remain illusory in the absence of education. As noted by the Court, "The dignity of the individual cannot be assured unless it is accompanied by the right to education." Despite generating debates and criticism around it, the judgement laid the foundation for recognition of education as a part of right to life and personal liberty.

The constitutional position was further clarified in *Unni Krishnan v State of Andhra Pradesh* (1993), where the Supreme Court reconsidered the scope of the right to education in greater detail. The Court gave harmonious construction to Articles 21, 41, and 45 of the Constitution and concluded that children possess a fundamental right to elementary education. Hon'ble Court held: "The right to education flows directly from the right to life under Article-21." The Court further explained that the enforceable component of this right extends to children up to the age of fourteen years. The decision represented a significant constitutional development because it integrated Directive Principles with Fundamental Rights.

The constitutional and jurisprudential essence emerging from these decisions generated considerable constitutional momentum. And the Parliament introduced Article 21A and 51A(k) into the constitution through the Constitution

(Eighty-Sixth Amendment) Act, 2002. Article 21A expressly provided that the State shall provide free and compulsory education to all children between six and fourteen years of age (Constitution of India, 1950, art. 21A). Article 51A(k) on the other hand placed a fundamental duty upon parents and guardians to provide educational opportunities to children between the ages of six and fourteen (Constitution of India, 1950, art. 51A(k)). Article 21A, 45, 51A(k) together became the holy trinity for educational rights. It became a combination of state obligation, directive policy and civic responsibility.

The constitutional guarantee under Article 21A must also be understood within the broader framework of child rights. International human rights law has consistently recognised education as a developmental objective and fundamental entitlement of every child. Article 28 of the United Nations Convention on the Rights of the Child (UNCRC) affirms that States must recognise the right of every child to education and make primary education compulsory and available free to all. Article 29 of UNCRC further clarifies that education must aim at the development of the child's personality, talents, and mental and physical abilities to their fullest potential (United Nations, 1989).

India ratified this Convention in 1992 and thereby pledged its commitment to incorporate progressive regimes into its legal system. To bring into effect Article 21A and the international obligations, the Parliament enacted the RTE Act in 2009.

The RTE Act is considered one of the most beneficial and important legislations enacted for the advancement of India's educational history. With the aim of making education accessible to each citizen it incorporate provisions for neighbourhood school, adequate infrastructure for children with disabilities, pupil-teacher ratio, potable water, distinct toilets, etc. (RTE Act, 2009 sch.1). The Act, therefore, created a mandatory duty for the State to provide free, compulsory and quality education for all students aged 6 to 14 years of age.

The Supreme Court also confirmed these standards in the case of Avinash Mehrotra v. Union of India (2009) and held that these provisions are substantial for providing quality education. The Act also intended to break down discriminatory practices entangled in the society, such as screening processes, capitation charges, physical punishment and removal from schools (Right of Children to Free and Compulsory Education Act 2009, ss.13, 16, 17). Thus, the

aim for all the three pillars was one: to improve the existing education regime and not mere physical enrolment.

The no-detention policy, though later modified through legislative amendment, was originally based on research indicating that grade repetition disproportionately affects children from socio-economically disadvantaged backgrounds and increases the likelihood of school dropout (OECD, 2014).

The neighbourhood school principle introduced by the Act is a fundamental component of the Act. According to Section 6 of the RTE Act and the Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011 a primary school must be located within one kilometre and an upper-primary school within three kilometres of each residence. The Kothari Commission (1966) and other educational commissioners have repeatedly acknowledged that access begins with physical proximity. Girls, young kids, children with disabilities, and those from economically disadvantaged backgrounds encounter unequal obstacles when schools are located at a distance. Significant relationships between distance, irregular attendance, and dropout rates have also been shown in research (Planning Commission, 2007). Therefore, Article 21A's constitutional promise is meaningless in the absence of local schools.

Section 21 of the RTE Act mandates that parents make up the majority of the members of School Management Committees (SMCs). These committees distribute governance, improve accountability, and promote community involvement. The Supreme Court in the case of *State of Tamil Nadu v K Shyam Sunder* (2011) has reaffirmed the need for community involvement in educational governance as part of the right to education. The Supreme Court in the case of *Society for Unaided Private Schools v Union of India* (2012) also upheld the mandate for specific safeguards for marginalised groups, which includes a 25% reservation in private unaided schools at the admission level as described in Section 12(1)(c). The court held that this clause is essential to achieving substantive equality.

To sum up, the RTE Act of 2009 marked a significant shift in primary education from administrative judgement to rights-oriented governance. This legal framework must be used to assess any policy that aims to modify the worldview. Thus, the Government of Uttar Pradesh's 2025 school merger policy must also be reviewed under the same lense.

## **Uttar Pradesh’s School Merger Policy: Administrative Reform or Rights Dilution**

By “pairing” and consolidating primary and upper-primary government schools with low student enrolment, the Uttar Pradesh government carried out a thorough administrative overhaul of the public basic education system in 2025. According to studies, the policy affected approximately 27,931 schools out of 135658 government schools, concentrating on establishments with fewer than fifty students enrolled (UDISE+ Report 2024-25). According to official pronouncements and media reports, organisational simplification and administrative ease were the declared justifications rather than pedagogical change.

In response to the tension that escalated amongst the stakeholders the State Government persistently termed the policy as a mere administrative reform. On the contrary the public viewed this as unequal teacher distribution, underdeveloped infrastructure, and the incompetency of running schools in underprivileged areas (Times of India 2025). The goal was to attain administrative uniformity. It was asserted that combined schools would become “viable” educational institutions, allowing for improved student learning environments and more teacher utilisation. The National Education Policy (NEP) 2020’s consolidation ideas were largely reflected in the policy debate, particularly with regard to school complexes as a way to improve systemic efficiency (Ministry of Education, 2020).

It is also important to acknowledge that school consolidation policies are often introduced with the objective of improving educational quality and resource utilisation. Governments frequently allege that small schools have structural issues like inadequate infrastructure, a lack of subjects offered, and a teacher shortage. By merging these institutions, the State may attempt to raise student-teacher ratios, combine teaching staff, and create learning environments that provide students with better facilities and more academic opportunities. Larger institutions may also make it possible to use public funds and administrative resources more efficiently, enabling governments to concentrate investments on improving infrastructure, teaching quality, and curriculum diversity. From this perspective, consolidation is sometimes viewed as a policy initiative to enhance the public education system’s overall functionality rather than merely an administrative task.

Both the reform and the conceptual change it represents are significant. Education is now viewed as an administrative service that can be maximised rather than as a constitutionally guaranteed right. The Right of Children to Free and Compulsory Education Act, 2009 and the Uttar Pradesh RTE Rules, 2011, which prioritise the child over the institution in the area of educational governance through the neighbourhood school principle, are directly at odds with this development.

The State's efficacy narrative is called into question by independent field reports and analysis of the teacher workforce. According to national research on teacher distribution, unequal distribution is a long-standing governance issue that is typically resolved through recruitment and transfer as opposed to by physically removing institutions from local communities (UNESCO, 2021). Instead of creating teachers on its own, consolidation shifts the weight of systemic scarcity from administrative frameworks onto children's experiences and lives by reallocating distance. The fundamental significance of the merger strategy lies in the constitutional values it seems to replace.

India's educational policy has always developed around the notion of ensuring physical accessibility to schools. To achieve the same the government has over decades implemented various policies to reduce travel times and distance and overcome social barriers of caste, gender and disability. The merger policy risks undoing all these efforts which might push the country back into a regressive state. The implementation of the merger policy would require the children to travel farther distance, adjust to new environment and compete with students who have developed in better infrastructure since the beginning. Such institutional adjustments might also led to exclusion of children coming from the merged school.

The UNCRC and the UN principle of "Leave No One Behind" recognises that exclusion often results from structural isolation instead of explicit denial (United Nations, 1989). Although these commitments cannot be directly enforced within the nation, constitutional courts have more often utilised them as interpretive frameworks to assess whether state acts pertaining to socioeconomic rights are acceptable or not. This leads to a change in public education away from the rights-based principle of proximity inherent in the RTE framework, rather than merely a matter of administrative efficiency.

The main question thus is not whether merger of schools would led to administrative efficacy; it clearly would. But whether such efficacy should be achieved on the ground of disruption in the child's fundamental right.

### **Litigation in Sitapur and the Judicial Encounter**

The School merger policy was challenged in the Constitutional courts in the form of a writ petition. The legal dispute puts light on the stark reality where administrative policies had to be adjudicated on the basis of actual experiences of rural childhood. The dispute reached the Allahabad High Court, Lucknow Bench, via Writ-C No. 6290 of 2025 and Writ-C No. 6292 of 2025, instituted by the parents/guardian of 51 children aged 6 to 10 years. The Government Order issued on 16 June 2025 by the Additional Chief Secretary of the Basic Shiksha Department in Uttar Pradesh was challenged through these writ petitions. Another order passed subsequently on 24 June 2025 by the authorities whereby 105 schools were shortlisted for the purpose of pairing was also challenged in the same writ petition.

The policy formulated for the purpose of “pairing” was not less than a nightmare for the affected families. Multiple families judged the policy as discriminatory with respect to rural education, they perceived the policy as effectively removing neighbourhood schools. Major resentment was shown due to the fact that the policy had a negative consequence on the neighborhood school principle. Due to this many children would be forced to travel long distances to attend schools. The worry about their children's safety became the focal point of the present dispute. Safety, exhaustion, the feasibility of consistent attendance and an increase in costs were some of the large scale drawbacks. The anxiety about the safety of girl children was particularly intense. Female education in India has always been a topic of discussion and that to education of girl child in rural areas is significantly lower than the urban areas. Travelling through unsafe paths would lead to lower enrolment and dropouts which would eventually force many families to marry their daughters early.

The petitioner's contentions were focused primarily on the ground realities of the rural neighborhood wherein sending their children to school daily was already a task. The petitioners placed their arguments on these realities rather than other hypothetical situations. The public infrastructure in rural areas is still way behind. Absence of proper pathways would discourage the students from

going to school regularly. The children would need to cross isolated highways, forests, rivers, railway tracks, and farmlands, which could easily be an area for crimes and unwanted accidents. Parents/guardians also contested that the policy did not provide for any definitive strategy for transportation.

The petitioners placed their reliance on the Constitutional guarantees. They argued that the reform policy infringed Article 21A of the Constitution, which guarantees education as a fundamental right. Another law that this policy violated was the RTE Act, 2009 along with the Uttar Pradesh RTE Rules, 2011. They claimed that an executive order could not curb or restrict the rights already provided by law and especially the fundamental right.

The state relied on their arguments on the National Education Policy, 2020, they contended that numerous schools experienced very low or no enrolment, and that consolidation only aimed to enhance educational quality by combining resources and helping students gain exposure. It was claimed that the policy did not jeopardise the right to education, as education would continue to be both free, mandatory and readily available, with transportation provided whenever distance created an obstacle.

The judgment given by Hon'ble Arun Bhansali, Chief Justice and Hon'ble Jaspreet Singh, J presented a one-sided approach, primarily focusing on the State's contention without deeply analysing the petitioner's claims. The main issue before the court was whether the state's decision to pair or merge the school was violative of Article 21-A and the RTE Act, 2009. Ultimately the Court, in its final judgement, refrained from going into the domain of executive decision making power. The court indirectly ruled in the favour of the State's policy. The court's approach was consistent with established principles of separation of powers and demonstrated a conscious effort to respect the domain of policymaking.

In the initial phase, however, the Court did take into consideration constitutional challenges by observing "blatant inconsistencies" in the State's contentions, subsequently the court ordered it to maintain the status quo. In order to protect the children from irreversible damage the court ordered the state to submit proper affidavits and establish its stand more clearly. Through the court's order the state was instructed to guarantee procedural accountability and enhance transparency. Due to the increasing resentment amongst the parents

and the guardians the state revised its policy. The state submitted the affidavit in this regard that a school with more than 50 students and distance between schools being one kilometer or more will not be paired.

The court did not consider some important issues in depth. By analysing the courts order it can be clearly seen that the judgement lacked discussions on core issues like accessibility, practical challenges and Article-21A. In rural areas even a kilometer might create a major difference. The main purpose of filing any writ petition is that it involves violation of fundamental rights. During the whole hearing the focal point is the discussion on fundamental right and its violation but the courts in this particular case did not go into the interpretation of Article-21A. The main reason for this was that the judiciary did not want to encroach upon the domain of executive decision making power.

Another important aspect which the court did not take into consideration was the proportionality test. An already established principle which talks about the extent to which a law can be held valid with regard to the Constitutional guarantees. The court must have based its ruling after adjudicating whether the policy was actually required or the purpose could have been achieved by using any other less restrictive ways. Even though the state intended to optimize its resources which in turn is a great step for the country's economy, this could have been done without compromising the education of children. The decision lacks such thorough discussions.

Travel challenges, safety issues, dropout risks, and the unique requirements of vulnerable groups including the appellants' children with disabilities, were not taken into account by the Court. The court erred to disregard the constitutional history and the real life challenges that would be faced by the petitioners. The judgement limits the interpretation of a fundamental right to an administrative compliance exercise. The Court was successful in making sure the State followed its own rules, but it was unable to fully realise the scope and spirit of the constitutional guarantee under Article 21A of the Indian Constitution.

### **Role of Petitioners' Counsel: Dr. Lalta Prasad Mishra**

Dr. Lalta Prasad Mishra, a renowned veteran advocate with over fifty years of experience at the Awadh Bar, highlighted the constitutional and legal issues arising from the policy of merging numerous government primary and upper-

primary schools in Uttar Pradesh. The petitioners had approached him, and now Senior Advocate Gaurav Mehrotra requesting their expert opinion and assistance on the matter, due to their extensive involvement in constitutional litigation and issues related to fundamental rights of individuals. The petitioners stated that the merger policy has caused significant disruption to schooling access in various villages, and as a direct result, many of the students have dropped out of schools. Dr Mishra was informed that, after the mergers, many children could not enrol in the newly assigned schools, resulting in some cases in the complete interruption of formal education and the practical loss of an academic year, which became the sole reason for him to submit the writ petition, challenging the said government order.

Dr Mishra, while discussing the issue, articulated the opinion that these results do not align with the mandatory constitutional structure regulating elementary school education. According to his evaluation, the right to education as stated in Article 21A of the Indian Constitution, in conjunction with the RTE Act, 2009, was enacted to create a child-focused framework that emphasises accessibility, consistency, and close proximity of schools for each and every child of the country, and not to foresee the administrative feasibility of the government. He asserted that administrative ease or logistical factors cannot and should not limit an enforceable fundamental right. Any policy action that makes education virtually unattainable, even if not officially restricted on paper, must be directly assessed for its constitutional legitimacy. The Constitution of India, being the Grundnorm of our country, should not be treated as a mere document that could be overridden by political agendas and policies.

He also highlighted the educational implications of consolidation, especially regarding the most critical issue: teacher-student ratios, which are prevalent in almost every government and private school. A significant issue that remains prevalent in urban areas is that the classrooms are overcrowded which affects the teaching pattern. Each student is different in their own way. Some are way more studious and some require more understanding. Due to this the children are forced to join tuitions and coaching institutes apart from daily schooling. If students in rural areas are merged with students in crowded areas then this will affect their learning outcomes. Additionally they will also not have resources to join tuitions which will eventually keep them backwards.

To sum up Dr. Mishra's arguments, the merger policy possesses serious socio-economical hardships for the students. Be it travelling long distances or the teacher students' ratios, he places his reliance on the petitioner's vulnerability as a major challenge to the government order. He advocated in favour of Constitutional values. His contentions revolved around students' welfare, terming the Right to education as an asset.

In conclusion, Dr. Mishra's arguments posed a reality check for the court. Apart from patent technical challenges he also emphasized on serious issues which did not arise in normal discussions such as education of girl child and vulnerable groups. These issues not only throw light upon the current state of affairs but through these discussions we can infer that in India education still remains a sensitive topic especially in rural areas, and by formulating these kinds of policies the situation can become even worse. To uphold the rights that the Constitutions of India guarantees, a more thorough investigation becomes necessary.

### **Critical Analysis: How the Merger Dilutes RTE**

The litigation in school-merger policy cannot be interpreted meaningfully on the basis of Constitutional values alone. A very elemental question that arises in this discussion is how should the policy be shaped so that it does not affect the rights of the students and also balances the administrative efficiencies?

#### **Access, Distance and the Risk of Exclusion**

Distance plays a major role in establishing the fact that the merger policy has negative consequences. This has already been proven through empirical evidence, particularly conducted in rural settings. As per the official data collected under the Unified District Information System for Education Plus (UDISE+) for the 2024–25 academic year, Uttar Pradesh had the **highest number of drop-out students in India, with 784,228 identified as not enrolled in any recognised school**. This exceeds the counts in both Jharkhand (65,070) and Assam (63,848) combined. The Annual Status of Education Report (ASER) 2024, one of India's leading household surveys on schooling and enrolment, further shows that while overall school enrolment remains high, children aged between 15 and 16 years of age continue to have higher non-enrolment rates, which indicates major challenges in secondary-level school participation in the villages (ASER Centre, 2024).

The merger policies that increase the distance between schools and students also increase the chances of students dropping out. Empirical research consistently identifies distance from school as a major determinant of enrolment, attendance, and dropout in rural India. Studies show that reductions in travel distance significantly increase the probability of school participation, particularly among children from disadvantaged households and rural communities (Kanbur & Pritchett, 2016). Educational research further suggests that longer travel distances disproportionately affect girls' attendance due to safety concerns and mobility constraints (NCERT, 2017). For families facing economic issues, longer distances amplify transport costs, safety barriers, and opportunity costs; often pushing students towards child labour, begging, domestic work, or early marriage rather than continued schooling. Although the state has assured making provision for suitable transport facilities to minimise the hurdles, it can only be analysed after its implementation.

### **Gendered Consequences of Consolidation**

The impact of school consolidation on gendered consequences demands specific scrutiny. Cultural limitations, household responsibilities, and safety issues already limit girls' educational participation; increasing travel distances amplifies these hardships. Despite schemes such as *Beti Bachao Beti Padhao*, the families in villages often prioritise boys' education over the girls', and on top of this, the increased distance further escalates this problem.

Studies such as the Field insights from the **Azim Premji Foundation** underscore that proximity and school accessibility are two very important factors affecting girls' continuation into higher education, especially where economic and social barriers combine with other barriers such as distance to schools (Azim Premji Foundation, 2024). Independent surveys, such as ASER 2024, report higher non-enrolment and dropout rates among older girls in Uttar Pradesh (Times of India, 2025). In these contexts, consolidation may not merely be an inconvenience to girls' education but creates a systematic exclusion.

### **Socioeconomic Stratification and the Two-Tier Risk**

The consolidation policy further creates a division in society. Families with economic resources can accommodate sending their children to private school, but families with less income get trapped in this policy. UDISE+

2024–25 data demonstrates a national decline of over 8 lakh Scheduled Caste enrolments, with government schools losing 5.9 lakh students while private unaided schools gained 5.8 lakh (Ministry of Education, 2025). This trend shows that consolidation accelerates the exit of economically better-off families from the public system, leaving the poorest behind. Such outcomes undermine the egalitarian promise of Article 21A, transforming public education from a universal right into a selective entitlement.

### **Missing Social Impact Assessment**

Impact assessment is a major technical step which forms a part of the decision making process. Every Government Law, order, rule, regulation must go through the process of its impact assessment because ultimately it's the general public which suffers its consequences. In the present case the stage of Impact assessment is totally missing.

The States' promise to provide transportation support remains weak. The past experiences from China and the United States clearly demonstrate that a successful merger depends on the transport systems. When the infrastructure is missing, the proximity guarantees in the RTE Act become an illusion.

Data transparency complicates the issue. Declaring the schools redundant without trying every way to boost enrolment puts at risk the children who are most hidden from statistics.

Policymakers cannot base such reforms on a choice between efficiency and access. Different consolidation policies require different planning, such as building-based planning, community participation, targeting and performance monitoring, which are constitutional necessities. If consolidation cuts access for the most vulnerable children, consolidation threatens Article 21A itself.

In conclusion, the State must simplify the school network. The State must carry out the simplification in a way that puts the child first, not administrative convenience. The State must put the child at the centre of the education policy. The real test of consolidation is not the reduced numbers on a spreadsheet. The real test of consolidation is whether the child can still reach a school. The fact that consolidation would lead to better utilization of resources is not contested, what is actually contested is the fact whether or should administrative efficiency override the fundamental right of education of even a single child.

## **Comparative Perspectives on School Consolidation, Administrative Efficiency and the Indian Constitutional Context**

The policies relating to school consolidation due to low enrolments are not an alien concept to the world. Many jurisdictions have adopted these policies before the Indian subcontinent, as a reaction to financial strain, demographic shifts, and administrative optimisation. Some had succeeded in increasing the education rate, while some had failed miserably. The outcomes rely on the educational system's normative commitments, the State's administrative capabilities, and the societal conditions in which schooling functions in that country. A comparative analysis of consolidation methods in the United States, China, and Singapore, along with India, shows that although efficiency can be a valid government goal, merger-based approaches often incur equity costs that are hard to align with rights-based models of primary education (OECD, 2019).

### **United States of America**

In the United States of America, school consolidation has mainly taken place in rural areas facing decreasing enrolment and financial limitations due to different reasons. Decisions made at the state level, like those in West Virginia, have permitted the shutdown of several rural schools due to financial operability and administrative effectiveness (Duncombe & Yinger, 2007). However, the academic evaluations of these initiatives show varying results. Certain research indicates that consolidation may enhance access to specialised educators, a wider range of curriculum options, and improved facilities when students are integrated into larger nearby schools (Engberg et al., 2012). Simultaneously, a considerable amount of empirical studies highlight the negative impacts linked mostly to longer travel distances, such as a drastic increase in absenteeism, diminished parental involvement in school activities, and poorer educational results for younger children and those from low-income families (Lyson, 2002).

Significantly, these impacts are evident within a legal system that does not constitutionally ensure neighbourhood education. Despite being a relatively high-capacity system, school closures have demonstrated a decline in community cohesion and a deterioration of the social roles that were traditionally held by local schools (Ministry of Education, PRC, 2001). The American experience categorically demonstrates that efficiency improvements from consolidation often lead to distributional harms that disproportionately impact rural and

marginalised communities. Thus, even in a legal system like that of the USA, the school mergers have shown mixed conclusions.

## **China**

Due to rural-to-urban migration, China implemented a large-scale rural school consolidation program in the early 2000s. The government was forced to combine the schools in order to guarantee administrative efficiency due to the declining rural populations. Many village schools were closed as a result of this program, and pupils were moved to central townships (Hannum et al., 2021)

Empirical research, however, shows that this policy's distributional impacts were noticeably uneven. Children who faced school closures during their primary years finished significantly fewer years of education, according to longitudinal research using data from household surveys. Girls were disproportionately affected negatively (Hannum et al., 2022). Lower attendance and higher dropout rates were caused by longer travel distances, safety concerns, and more home responsibilities. Consolidation made it more difficult for minority communities to receive instruction in their native tongues, which decreased student engagement. While some kids benefited from improved facilities at receiving schools, the overall pattern suggests that most were adversely affected. These results demonstrate that consolidation does not function consistently in various institutional and social circumstances. It might be suitable for some and might lead to negative consequences for others.

## **Singapore**

Singapore's education system reflects a fundamentally different understanding of efficiency. As a country frequently listed among the world's top-performing education systems, Singapore has achieved administrative effectiveness without relying heavily on school closures or consolidations. The focus of their policy has always been robust teacher recruitment and training, ongoing professional development, continual curriculum updates, and strategic long-term infrastructure planning (Singapore Ministry of Education, 2018).

In instances of school mergers, they have been constrained in scale and more influenced by demographic factors, such as decreasing birth rates, rather than a lack of resources. Even so, officials have emphasised the importance of maintaining school identity and community involvement, which can not be

achieved by merger policies. Singapore's experience shows that increasing administrative efficiency is possible even by enhancing the existing systems rather than retreating from institutions.

### **India's Constitutional Distinctiveness**

India, being a hybrid legal system, has a fundamentally different stance. Elementary education has been the country's primary focus since ancient times and is currently guaranteed as a fundamental right under Article 21A of the Constitution, implemented through the RTE Act, 2009. The primary principle of this Act, being that every single child gets equal access to opportunity and education, viewing physical closeness as a protection against exclusion instead of merely an administrative convenience (RTE Act, 2009).

In this constitutional framework, school consolidations that increase the travel distance pose legal rights-based questions instead of being simply managerial. The jurisprudential essence of the neighbourhood school principle was to bring the school nearer to the students and not the vice versa. It is important to highlight that every law must pass the test of constitutionality to be enforceable in the country. Even though the state contends that such merger would benefit the students through better resource utilization, the question which remains is: Can the fundamental right of education of even a single child be violated to ensure administrative efficiency?

In a country like India, where socio-educational conditions, such as gender-related mobility restrictions, caste-based discrimination, obstacles due to disabilities, and uneven transportation systems, are the most prevalent issues, the introduction of such a merger policy would push the children away from their education. Empirical research from Indian settings indicates that consolidation might enhance specific administrative metrics while concurrently lowering enrolment and retention if compensatory strategies are insufficient (Bhatnagar & Bolia, 2019).

In contrast to Singapore, India cannot rely on consistently high-capacity transportation systems, as many villages are built near lakes, jungles, and farms, where constructing roads for heavy vehicles becomes difficult. In contrast to the United States, it has constitutionally integrated proximity as a component of educational rights as inferred from the neighbourhood principle. In contrast to China, it functions under ongoing judicial oversight of educational policy.

These structural differences make straightforward policy transfers unwise. The issue is not if there are inefficiencies in school administration, but rather how to tackle them without undermining the legal and moral principles of the right to education. The primary question of how to align administrative capacity with constitutional adherence to shape the policy options is examined below.

## **Policy Recommendations**

### **Mandatory Social Impact Assessment before School Consolidation**

Every school consolidation policy must go through a required social effect assessment, which is open to the public and reviewable. In addition to evaluating adherence to Article 21A and the RTE Act, these assessments must take into account the distance that exists between schools, security parameters, gender-specific effects, the beneficial and detrimental effects for Dalit, Adivasi, and minority communities, accessibility for people with disabilities, and the risk of dropout. Comprehensive pre-closure effect evaluations have been required since the beginning in nations like Finland and Canada, which have some of the best education systems in the world. These nations recognise that consolidation decisions taken without clear information can often result in chronic exclusion.

### **Democratic Community Consent**

Without informed local approval, mergers cannot proceed. Gram Sabhas or similar institutions should be used to offer affected villages or communities the power to approve or reject projects. They have the right to carefully consider the benefits and drawbacks of merger policies for their offspring. The view that local schools are important community resources rather than merely service providers is demonstrated by the fact that countries like the United States and some parts of the United Kingdom require school board approvals and community involvement before closing. Additionally, it makes parents feel important and involved in making decisions that will have a significant impact on their children's life.

### **Transport as a Precondition**

When consolidation is required, safe and complementary transport must be established prior to implementation and should not be viewed as a post-implementation strategy to persuade the stakeholders. Consolidation without guaranteed transportation dramatically increases dropout rates for girls and

marginalised children, as seen by South Africa and China. Transport ought to function as a requirement rather than an afterthought.

### **Preference for Strengthening Existing Schools**

Policy should be biased in favour of improving local schools through resource coordination, infrastructural upgrades, and teacher assignments. Singapore serves as an example of how investment-driven changes can address inefficiencies without severing relationships between schools and their communities. As demonstrated in Delhi, student enrolment would inevitably increase if the current institutions were reinforced.

### **Structured Oversight of Merger Decisions**

Independent and judicial review should be applied to school mergers, and the State should be required to present empirical data outlining the merger's advantages and disadvantages. This would guarantee that no legal rights are infringed. In order to ensure that efficiency claims do not jeopardise access, safety, and justice, Germany and Australia require evidence-based evaluations. When taken as a whole, these acts support the idea that children's constitutional rights should not be compromised in the name of educational efficiency.

## **Conclusion**

After analysing comparative studies worldwide, it can be inferred that school mergers are neither a fair administrative method nor a holistic reform. Its impacts are primarily and largely dependent on background, framework, and surrounding circumstances. In instances where a merger has been attempted, ignoring other important domains like transport systems and costs, safety assurances of children, and equity-focused planning, it has often not only escalated the existing issues but also created new challenges, rather than reducing administrative burden.

In India, the consequences of school merger policies are critically challenging and much more complex than in other jurisdictions. Such school-merger policies threaten the fundamental rights guaranteed by the Constitution of India. The lack of school staff, infrastructure, or financial resources cannot be curtailed by shifting the burden of shortcomings onto minor children, most importantly those on the fringes of geography, caste, gender, and poverty. Article 21A's guarantee and the legal protection of the RTE Act were specifically added

to curb such obstacles by placing access and equity at the centre of primary education.

India's rich educational past also supports this imperative. From Nalanda's tradition of inclusive and accessible education to the expansion of village-level schooling after 1947, education has been viewed not just as a system but also as a societal and ethical obligation towards children. Article 21A of the Constitution has formalised this vision, transforming a goal into a fundamental responsibility. The Uttar Pradesh school consolidation policy not only diminishes this guarantee by undermining the principle of neighbourhood schools and transferring the focus of the government from the child to administrative efficiency, but also acts as a step back to the pre-independence era, where each individual had to fight to get their basic human right.

Thus, evidence from both international case studies and local experiments, especially in Delhi, points to the conclusion that public education systems improve with periodic investment and strategic planning, rather than through wholesale reduction or shifting the burden to already vulnerable children. Due to the present inefficiencies, the constitutional solution focuses on building schools, maintaining the teacher-student ratio, enhancing infrastructure, and growing community involvement and not requiring the students to cover longer distances to gain primary education.

India must uphold the principle that has influenced its civilizational identity and constitutional future for decades and centuries: every child, in every village, must have access to a nearby school. It is the responsibility of the state to ensure that no child is forced to marry, work or remain uneducated due to a lack of facilities. To act in a distinctly discriminatory manner would not only negate a legal right but also represent a setback to the essential concept of education as a cornerstone of Indian democracy.

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