



Cover Page



## **AN ANALYTICAL STUDY ON THE LEGAL AND EDUCATIONAL RIGHTS OF CHILDREN WITH AUTISM SPECTRUM DISORDER IN INDIA**

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### **Abstract**

Autism Spectrum Disorder (ASD) is a neurodevelopmental condition that affects how children communicate, interact with others, and behave. In recent years, more children in India have been identified with ASD, making it important to ensure that they receive proper legal protection and quality education. Although India has introduced several laws and policies to protect the rights of children with disabilities, many children with ASD still face difficulties in accessing education and support services. This paper studies the legal and educational rights of children with ASD in India. It examines the constitutional provisions, the Rights of Persons with Disabilities Act, 2016, the National Trust Act, 1999, the Right of Children to Free and Compulsory Education Act, 2009, and India's commitments under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The paper also discusses important court decisions related to the rights of children with ASD and highlights the challenges in implementing these laws. It concludes that while India has a strong legal framework, better implementation, trained teachers, improved educational facilities, and greater awareness are needed to ensure that every child with ASD receives equal rights, quality education, and full participation in society.

**Keywords:** Autism Spectrum Disorder, Disability Rights, Inclusive Education, RPWD Act 2016, Right to Education, India, Children's Rights

### **1.0 INTRODUCTION**

Autism Spectrum Disorder is a lifelong neurodevelopmental condition that affects how a person communicates, interacts with others and behaves. Children with ASD may have difficulties in social communication and interaction, alongside restricted and repetitive patterns of behaviour, interests, or activities. It is termed a "spectrum" because the nature and severity of symptoms vary widely across individuals. Some children need a high level of support in their daily lives, while others can live independently with only limited assistance. The signs of ASD usually appear during early identification and proper support very important.

The number of children diagnosed with Autism Spectrum Disorder has increased in recent years, making it an important public health, educational and social issue. In India, awareness about autism has improved because of medical research, government initiatives, and the efforts of parents, educators, and disability rights organisations. Despite this progress, many children with ASD continue to face discrimination, social stigma, lack of early diagnosis, shortage of trained professionals, and limited access to quality education and rehabilitation services. These challenges often prevent them from enjoying equal opportunities and participating fully in society.

The Constitution of India guarantees equality, dignity, and the right to education for every child. In addition, laws such as the Rights of Persons with Disabilities Act, 2016 and the Right of Children to Free and Compulsory Education Act, 2009 recognise the rights of children with disabilities, including those with Autism Spectrum Disorder. India is also a signatory to international agreements such as the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which promotes inclusive education, non-discrimination, and equal participation for persons with disabilities.

This research paper examines the legal and educational rights of children with Autism Spectrum Disorder in India. It analyses the constitutional provisions, statutory laws, and international legal framework that protect these children. The paper also discusses the concept of inclusive education, the role of educational institutions, important judicial decisions, and the challenges faced in implementing these rights. Finally, it offers suggestions to strengthen the legal and educational



Cover Page



support system so that children with ASD can enjoy equal opportunities and lead a life of dignity, independence, and social inclusion.

## 2.0 LITERATURE REVIEW

Research on the legal and educational rights of children with Autism Spectrum Disorder (ASD) has expanded considerably in recent years. Existing literature highlights the importance of inclusive education, legal protection, and policy implementation while also revealing significant gaps between legislative provisions and actual educational practices.

Barua, Kaushik, and Gulati (2017) conducted a comprehensive review titled Legal Provisions, Educational Services and Health Care across the Lifespan for Autism Spectrum Disorders in India. The authors examined India's legal framework, educational services, and healthcare support for individuals with ASD. Their review found that although India has introduced progressive legal provisions and educational policies, implementation remains uneven due to inadequate infrastructure, limited awareness, and a shortage of trained professionals. The study emphasized that policy initiatives need stronger implementation mechanisms to improve educational outcomes for children with autism.

Ducarre (2023) reviewed empirical studies on the educational experiences of autistic children from the perspective of the right to education. The review concluded that autistic children have diverse educational needs and that inclusive education should extend beyond simply placing children in mainstream classrooms. The author argued for individualized educational approaches, reasonable accommodations, and greater recognition of neurodiversity within educational systems. The study also highlighted the need for legal scholarship to engage more closely with the lived experiences of autistic children.

Russell, Scriney, and Smyth (2022) conducted a systematic review on educators' attitudes toward the inclusion of students with ASD in mainstream schools. Their findings indicated that while most teachers supported inclusive education, many expressed concerns regarding inadequate training, lack of classroom resources, and insufficient institutional support. The study emphasized that teacher preparedness plays a crucial role in the successful implementation of inclusive education.

Recent legal scholarship has increasingly examined the interaction between the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) and the Rights of Persons with Disabilities Act, 2016 (RPwD Act). Studies argue that these laws collectively establish a strong legal foundation for inclusive education by guaranteeing equality, non-discrimination, reasonable accommodation, and accessible learning environments. However, persistent barriers such as inadequate infrastructure, limited financial resources, and weak enforcement continue to hinder the realization of these legal rights.

Judicial developments have further strengthened the educational rights of children with autism. The Delhi High Court reaffirmed that schools are legally obligated to provide reasonable accommodation, including support services such as shadow teachers, and cannot deny admission or continuation of education solely because a child has autism. This judgment reinforces the practical application of Section 16 of the RPwD Act and highlights the judiciary's role in protecting educational rights.

## 3.0 OBJECTIVES OF THE STUDY

1. To understand the Autism Spectrum Disorder in India.
2. To examine the constitutional framework of children with Autism Spectrum Disorder in India.
3. To analyse educational rights and inclusive education provisions available for children with ASD.
4. To study judicial interpretation and enforcement of these rights through significant case law.
5. To identify challenges in implementing legal and educational provisions.
6. To suggest measures for strengthening legal protection and educational inclusion.



## 4.0 RESEARCH METHODOLOGY

This study adopts a doctrinal and analytical research methodology. It relies on primary legal sources such as the Constitution of India, relevant central legislation, and reported judicial decisions of the Supreme Court and High Courts, as well as secondary sources including academic commentary, government reports, and policy documents. The analysis is qualitative in nature and seeks to evaluate both the formal legal position and its practical implementation.

## 5.0 FINDINGS AND DISCUSSION

### 5.1. Understanding Autism Spectrum Disorder

ASD encompasses a range of conditions previously classified separately as autistic disorder, Asperger's syndrome, and pervasive developmental disorder not otherwise specified, which are now unified under a single diagnostic category. Core features include persistent challenges in social communication and social interaction across multiple contexts, together with restricted, repetitive patterns of behaviour, interests, or activities. Many children with ASD also experience sensory sensitivities, and the condition frequently co-occurs with other conditions such as intellectual disability, attention-deficit/hyperactivity disorder, anxiety, or epilepsy.

Early identification and intervention are widely recognised as critical to improving developmental outcomes for children with ASD. Access to speech therapy, occupational therapy, behavioural interventions, and specialised educational strategies during early childhood can significantly enhance a child's functional independence and quality of life. This makes timely legal recognition and access to services not merely a matter of welfare, but a determinant of long-term developmental trajectory, which in turn underscores the importance of a robust legal and educational rights framework.

### 5.2. Constitutional Framework

The Constitution of India provides the foundational basis for the rights of children with disabilities, including those with ASD, even though it does not refer to autism by name. Article 14 guarantees equality before the law and equal protection of the laws, which has been interpreted to prohibit unreasonable discrimination against persons with disabilities. Article 15 prohibits discrimination on certain grounds and permits the State to make special provisions for the benefit of disadvantaged groups, including children with disabilities. Article 21, which guarantees the right to life and personal liberty, has been expansively interpreted by courts to include the right to live with dignity, and by extension, the right to appropriate healthcare, rehabilitation, and education.

Article 21A, inserted by the Eighty-Sixth Constitutional Amendment, makes the right to free and compulsory education a fundamental right for all children between the ages of six and fourteen years. This provision, read with the Directive Principles of State Policy under Articles 39, 41, and 46, obligates the State to make effective provision for securing the right to education and to promote the educational interests of weaker sections of society, a category into which children with disabilities, including ASD, squarely fall.

### 5.3. Statutory and Institutional Framework

#### 5.3.1 The Rights of Persons with Disabilities Act, 2016

The Rights of Persons with Disabilities Act, 2016 (RPWD Act) is the principal legislation governing disability rights in India. It replaced the earlier Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, in order to give effect to India's obligations under the United Nations Convention on the Rights of Persons with Disabilities, which India ratified in 2007.



Cover Page



A significant feature of the RPWD Act is the expansion of recognised disabilities from seven under the 1995 Act to twenty-one, with Autism Spectrum Disorder being expressly recognised for the first time as a distinct disability. The Act defines a "person with benchmark disability" as one certified to have not less than forty percent of a specified disability, a status that unlocks additional statutory entitlements.

Key provisions relevant to children with ASD include the following:

- Section 3 guarantees the right to equality, life with dignity, and protection from cruelty and inhuman treatment for all persons with disabilities.
- Section 16 casts a duty on appropriate governments and local authorities to ensure that children with disabilities have access to inclusive education in neighbourhood schools, and to provide reasonable accommodation, individualised support, and appropriate transportation and infrastructure.
- Section 29 mandates the appropriate government to promote inclusion of children with disabilities in the general education system through appropriate teaching methods, curricula adaptation, and resource support.
- Section 31 provides for free education for children with benchmark disabilities between the ages of six and eighteen years.
- Section 34 mandates reservation of not less than four percent of vacancies in government establishments for persons with benchmark disabilities, including those with autism, intellectual disability, and specific learning disabilities.
- Sections 14 and related provisions establish a system of limited and plenary guardianship for persons with disabilities, including those with autism, who require support in exercising legal capacity.

The RPWD Act also created District-level and State-level Commissioners for Persons with Disabilities as grievance redressal and monitoring authorities, and it criminalises discrimination and atrocities against persons with disabilities under Chapter XVI.

### **5.3.2 The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999**

The National Trust Act, 1999 was enacted specifically to address the welfare needs of persons with autism, cerebral palsy, intellectual disability, and multiple disabilities, making it a legislation of particular relevance to children with ASD. It established the National Trust, a statutory body under the Ministry of Social Justice and Empowerment, tasked with promoting programmes for inclusion and independence, facilitating guardianship arrangements, supporting registered voluntary organisations, and enabling access to schemes for persons with autism who lack adequate family support. The National Trust also provides for a system of legal guardianship distinct from that under the RPWD Act, tailored to the needs of persons with autism and related conditions.

### **5.3.3 The Right of Children to Free and Compulsory Education Act, 2009**

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) operationalises the fundamental right to education under Article 21A. It mandates free and compulsory education for all children between six and fourteen years of age and prohibits schools from employing screening procedures for admission, a provision of particular significance for children with ASD who might otherwise be excluded through informal assessment practices.

Section 12(1)(c) of the RTE Act requires private unaided schools to reserve twenty-five percent of entry-level seats for children belonging to disadvantaged groups and economically weaker sections, a category that has been interpreted in conjunction with disability law to support the inclusion of children with disabilities. The RTE Act's Schedule further prescribes norms for pupil-teacher ratios, infrastructure, and facilities that schools must meet, standards that courts have read together with the RPWD Act to require disability-specific accommodations, including trained special educators.





### 5.3.4 Other Relevant Legislation and Schemes

- The Mental Healthcare Act, 2017, while primarily addressing mental illness, reinforces the principle of non-discriminatory access to healthcare and community-based treatment relevant to co-occurring conditions in some children with ASD.
- The Integrated Child Development Services scheme and the Samagra Shiksha Abhiyan (which subsumed the earlier Sarva Shiksha Abhiyan) provide for early childhood care, inclusive education resources, and scholarships, including specific provisions such as monthly stipends for girls with special needs.
- The National Trust's Niramaya health insurance scheme and Disha early intervention programme extend targeted welfare support to children with autism.

### 5.3.5 International Framework

India ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2007. The Convention proclaims that disability results from the interaction between impairments and attitudinal or environmental barriers, and it obligates State parties to eliminate such barriers and ensure full and effective participation of persons with disabilities in society. The RPWD Act, 2016 was substantially shaped by India's obligations under the UNCRPD, and Indian courts have repeatedly invoked the Convention, together with the United Nations Convention on the Rights of the Child, to interpret domestic disability and education law in a rights-affirming manner.

## 6.0 Judicial Interpretation and Case Law

Indian courts have played a significant role in translating the statutory guarantees of the RPWD Act and RTE Act into enforceable rights, particularly where administrative implementation has lagged behind legislative intent.

***Rajneesh Kumar Pandey and Others v. Union of India and Others (2021)***: In this significant Supreme Court judgment, a three-judge bench addressed systemic gaps in the implementation of inclusive education mandates under the RPWD Act and RTE Act, and issued directions aimed at ensuring compliance across the country, including activating monitoring mechanisms through State Commissioners for Persons with Disabilities to conduct suo motu inquiries into non-compliance by schools.

***Social Jurist v. Government of NCT of Delhi***: The Delhi High Court held that children with disabilities have a right, under the RTE Act, to access all schools regardless of whether they are government-aided or unaided, and observed that the absence of adequate facilities creates a self-reinforcing cycle in which children with disabilities are discouraged from seeking admission, thereby rendering their right to education illusory.

***Aadriti Pathak (Minor) through Her Mother Sadhana Sharma v. GD Goenka Public School and Another (Delhi High Court, 2025)***: The Court directed a private school to readmit a child with mild autism after finding that her removal was not a voluntary decision by her parents but resulted from the school's unwillingness to provide the accommodations mandated under disability and education law, reaffirming that exclusion of an autistic child from mainstream schooling amounts to actionable discrimination.

***Rajive Raturi v. Union of India (2024)***: While primarily concerned with physical and digital accessibility, this Supreme Court decision held accessibility to be a fundamental right and directed the Union Government to frame mandatory, rather than merely recommendatory, accessibility standards, a principle with direct bearing on the physical and sensory accessibility of school environments for children with ASD.

Collectively, these decisions reflect a judicial trend of reading the RTE Act and RPWD Act together to hold that inclusive education is a legally enforceable right rather than a matter of discretionary welfare, that administrative or infrastructural



constraints cannot be invoked to defeat this right, and that courts are increasingly willing to issue structural directions and activate statutory monitoring bodies to ensure compliance.

## 7.0 CHALLENGES

- Shortage of trained special educators, therapists, and resource personnel in government schools, resulting in autistic children being nominally enrolled but not meaningfully included in classroom instruction.
- Inconsistent application of disability certification processes across states, leading to delays in children accessing benchmark-disability entitlements.
- High cost of private therapy, shadow teachers, and specialised schooling, which effectively restricts meaningful inclusion to families with adequate financial resources.
- Persistent social stigma and lack of awareness among teachers, peers, and communities, contributing to bullying, exclusion, or informal denial of admission.
- Weak monitoring and enforcement mechanisms at the district level, despite the existence of Commissioners for Persons with Disabilities under the RPWD Act.
- Limited availability of early screening and intervention services, particularly in rural and semi-urban areas, delaying diagnosis and access to legal entitlements.
- Fragmented coordination between the education, health, and social justice departments responsible for implementing overlapping statutory mandates.

## 8.0 SUGGESTIONS

- Strengthen teacher training programmes to include mandatory modules on autism-specific pedagogy and behavioural support as part of pre-service and in-service teacher education.
- Establish uniform, time-bound disability certification processes across states to reduce delays in children accessing statutory entitlements.
- Expand public funding for shadow teachers, therapy, and assistive resources so that meaningful inclusion is not contingent on family income.
- Strengthen the institutional capacity and independence of State and District Commissioners for Persons with Disabilities to enable proactive monitoring rather than complaint-driven intervention alone.
- Expand early screening programmes through the integration of developmental checklists into routine early childhood healthcare visits under the Integrated Child Development Services scheme.
- Encourage inter-departmental coordination between health, education, and social justice ministries through joint monitoring frameworks at the state and district level.
- Promote awareness and anti-stigma campaigns targeted at parents, teachers, and peer students to foster genuinely inclusive school environments.

## 9.0 CONCLUSION

India's legal framework for children with Autism Spectrum Disorder has evolved substantially since the enactment of the National Trust Act, 1999, culminating in the comprehensive recognition of autism as a distinct disability under the RPWD Act, 2016. Read together with the constitutional guarantee of education under Article 21A and the RTE Act, 2009, this



Cover Page



framework establishes a strong formal entitlement to inclusive education, non-discrimination, and social support for autistic children. Judicial intervention has further reinforced these entitlements, particularly in cases involving wrongful exclusion or denial of accommodation by schools.

However, the persistent gap between statutory guarantee and ground-level reality remains the central challenge. Meaningful realisation of these rights requires not merely legislative recognition but sustained investment in trained personnel, accessible infrastructure, early intervention services, and robust enforcement mechanisms. Only through such comprehensive implementation can the legal and educational rights of children with Autism Spectrum Disorder in India move from aspiration to lived reality.

## References

1. Government of India.(2016). *The Rights of Persons with Disabilities Act, 2016* (Act No. 49 of 2016). New Delhi: Ministry of Law and Justice.
2. Government of India.(1999) *The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999* (Act No. 44 of 1999). New Delhi: Ministry of Law and Justice.
3. Government of India.(2009). *The Right of Children to Free and Compulsory Education Act, 2009* (Act No. 35 of 2009). New Delhi: Ministry of Law and Justice.
4. Government of India.(2017). *The Mental Healthcare Act, 2017* (Act No. 10 of 2017). New Delhi: Ministry of Law and Justice.
5. United Nations.(2006). *United Nations Convention on the Rights of Persons with Disabilities*, New York: United Nations. (ratified by India on 1 October 2007).
6. *Rajneesh Kumar Pandey and Others v. Union of India and Others*, Writ Petition (Civil) No. 876 of 2017, (Supreme Court of India, decided 28 October 2021).
7. *Social Jurist v. Government of NCT of Delhi*, Delhi High Court.
8. Barua, M., Kaushik, J. S., & Gulati, S.(2017) *Legal provisions, educational services and health care across the lifespan for autism spectrum disorders in India*. Indian Journal of Pediatrics, 84(1), 76-82
9. Ministry of Education. (2020). *National Education Policy 2020*. Government of India.
10. United Nations Educational, Scientific and Cultural Organization. (1994). *The Salamanca statement and framework for action on special needs education*. UNESCO
11. Ducarre, L.M.(2023). *Redefining inclusive education for autistic children in international and European law*. The International Journal of Children's Rights, 31(2), 326-351.