



From Stasis to Movement

*Actualising a Fundamental Right
to Physical Literacy in India*

THE
Sports
Law & Policy
CENTRE
Bengaluru, India



**Sports and Society
Accelerator**
Building India's Sports Stack

Preface

This report has been drafted by the Sports Law & Policy Centre for the Sports and Society Accelerator in response to a written request received from Mr. Gopal Sankaranarayanan, Senior Advocate, the *Amicus Curiae* in the case of *Kanishka Pandey v. Union of India* (W.P.(C) 423/2018) in the Hon'ble Supreme Court of India.

The petition in the said case includes a number of prayers that range from making sports a fundamental right, to transferring sports to the concurrent list and forming an independent Ministry of Education, Sports and Youth Empowerment at union and state levels. The petition also seeks judicial directions to governments to amend education policies to promote sports, and make facilities and equipment available to enhance the opportunities to play sports. It also suggests that schools and universities could be directed to test sports talent, teach it as a school subject, make budgetary provisions for sports and involve former players in management. Finally, it suggests that performance in sports and availability of sports facilities must be regarded during accreditation processes by various boards.

While acknowledging the importance of these suggestions, this report approaches the issue from the perspective of what we consider a rights-based framework suitable for implementation at population-scale. In order to actualise the right, we have suggested an integrated full-stack approach to facilitate and secure lifelong activity and healthy lifestyles for every Indian.

Our suggested approach recognises and balances:

- The societal interest in every Indian being 'active for life';
- The value that play, physical education, physical activity, sports, yoga and fitness can bring to the health and wellness of every individual;
- The autonomy of every individual to find and pursue their own path to physical activity in their lives;
- The responsibility of the State and educational institutions to provide the knowledge and opportunities and experiences that can serve as building blocks for active and healthy lives;
- The responsibility of the State to include 'active living' as a key agenda in all its initiatives (such as Samagra Shiksha, Swachh Bharat, Smart Cities, urban and rural development, health care, public infrastructure, workplaces conditions and many more) targeted for citizen benefits;
- The State capacity to implement, execute, monitor and remedy defects in a rights-based framework;
- The duty of every individual to pursue physical activity and good health; and
- The importance of creating a two-sided market for active living, with nudges and incentives on both supply and demand sides.

We have relied exclusively on primary and secondary materials published by reputed institutions and individuals and have referenced these in the report. We also provide a bibliography for further reading.

We believe the time is right to recognise a fundamental right to physical literacy with a clear administrative framework that aligns the interests and obligations of various State and non-State actors involved in the delivery of education, health, sports, wellness and life-skills. This report is our contribution to what must be an ongoing dialogue.

Nandan Kamath, Desh Gaurav Sekhri and Shubham Jain

February 4, 2022

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Executive Summary

The following constitutes a summary of the existing situation, our approach, and recommendations:

1. Activity-levels and fitness metrics in India are alarming across regions, age-groups, genders and forms of ability. This has health, social and economic implications for India's future.
2. Schools and colleges present the most appropriate institutional platforms to turn the tide at population-scale, change the gendering of physical activity, and make it accessible and inclusive.
3. Holistic health and wellbeing of each student is not formalized as a key learning and development outcome, leading to an absence of a comprehensive and consistent approach within education institutions.
4. Compulsory physical education classes are already part of the national education policy and are a requirement across school boards and accreditation bodies. However, these are unevenly enforced in the face of challenges of infrastructure and capacity, not integrated in the learning outcomes, or included in the National Literacy Mission. This leaves a wide chasm between intent and execution, policy and reality.
5. A rights-based approach could be effective in solving this critical problem as it can create an integrated framework of rights, duties, responsibilities and remedies for each Indian.
6. There is strong support in constitutional law and international law to recognise the right of every Indian to receive an education on their physical capabilities and be presented with opportunities to explore them mindfully in their youth and continue to do so throughout their lives.
7. Recognising the right to physical literacy as a fundamental right emerging from the rights to life, health, education and freedom of expression has the potential to enforce an institutional framework that will bridge the gap and sustain efforts by State and non-State actors. This right should be prescribed for all children under the age of 18 years, similar in scope and scale to the right to education. Simultaneously, information regarding physical literacy should be accessible to every Indian, regardless of age.
8. Physical literacy must be treated on par with literacy and numeracy as part of the basic toolkit of education and learning outcomes that every Indian is entitled to receive. Obligations must be squarely placed on education providers to deliver on pre-established metrics. Given its importance throughout one's lifetime, efforts must also be made to provide wide access to learning and skilling tools for every Indian.

9. The right to physical literacy must not be confused with an aspirational and limited 'right to sport', recognising that sports talent identification and sports performance require different approaches and goals that can be both supportive and dilutive of population-level physical literacy goals.
10. The support to sports or any physical activity participation and progression must be inclusive, experiential, age-appropriate and stage-appropriate. This can be delivered through an enabling approach by the government and supported by educational institutions and sports federations.
11. A representative National Physical Literacy Mission should be established. It should be led by the Ministry of Education for implementation (through the Department of School Education and Literacy), and include the Ministry of Youth Affairs and Sports (MYAS), Ministry of Health and Family Welfare (MoH&FW), Ministry of AYUSH, and the NITI Aayog as the convening body. Representation where required, and regular inputs by the Ministry of Electronics and Information Technology (MeitY), Ministry of Social Justice & Empowerment, Department of Empowerment of Persons with Disabilities, Ministry of Women & Child Development, and Sports Authority of India (SAI) will assist the Mission. Part time membership and participation by other related ministries along with entities such as NCERT, UGC, NAAC, the National Sports University and the proposed National Sports Education Board among others will help build and sustain a comprehensive and collaborative framework.
12. Fit India, Khelo India and other sports, yoga, fitness and wellness initiatives must be used to evangelise and increase public and institutional awareness of the right to physical literacy, its contours, the related obligations of authorities and institutions and ways in which the right may be asserted, actualised and enforced.
13. Wider policy initiatives, including urban and rural planning and design, public and private employment qualification requirements, medical and health insurance mandates and other demand-led measures that will increase the value of being physically literate can be combined with better elaboration and enforcement of accreditation requirements of education boards and institutions on the supply-side.
14. An integrated rights-based approach to national education-health-sport vision can ensure that individuals have the motivation, confidence, physical competence, knowledge, equal and inclusive access to infrastructure and understanding to value and maintain physical activity throughout their lives. Through a strategic roll out of accessible tools, everyone would have the opportunity and capacity to lead healthy, enriching and fulfilling lives.

1. Introduction

“Every human being has a fundamental right to physical education, physical activity and sport without discrimination on the basis of ethnicity, gender, sexual orientation language, religion, political or other opinion, national or social origin, property or any other basis. The freedom to develop physical, psychological and social well-being and capabilities through these activities must be supported by all governmental, sport and educational institutions”¹

- UNESCO International Charter of Physical Education, Physical Activity and Sport (2015)

1 in 2 children with an unhealthy Body Mass Index.

1 in 3 children without the necessary anaerobic capacity.

2 in 3 children without the necessary aerobic capacity.

A majority of children with inadequate upper and lower body strength.

1 in 7 adolescents (14%) in India, face clinical depression, and reported having little interest in doing things.

73.9% adolescents in India not meeting WHO recommendations for sufficient physical activity (2019).

These statistics² paint a stark picture of the health, both physical and mental, of India's present, and its future.

Touted as our nation's demographic dividend – young Indians – are not gaining the physical aptitudes and opportunities to lead wholesome, healthy and productive lives. Within three decades, this young population would be approaching middle age and with the current trend of non-communicable diseases (NCD) at that age, India could potentially have a huge healthcare burden.

There are obstacles in the urban home, with sedentary lifestyles and gadgets occupying huge amounts of time, crowded living environments providing little space to play, and cultural attitudes to activity and sport also causing friction. In rural India, where there is relatively more time and space, there is not as much infrastructure, knowledge or human

¹ Articles 1.1 and 1.2, International Charter of Physical Education, Physical Activity and Sport 2015.

² Sportz Village, *11th Annual Health Survey (2021)*; Active Healthy Kids India & Johnson Shoyama Graduate School of Public Policy, University of Regina, *The 2018 India Report Card on Physical Activity for Children and Youth (2018)*; Anuradha Mascarehns, *India ranks 8th in WHO study on physical activity among adolescents*, The Indian Express (22 November 2019); Namita Kohli, *41.3 pc Indians do not meet WHO recommended physical activity level: ICMR survey*, The Week (25 January 2021); UNICEF, *The State of the World's Children 2021*; *On My Mind: promoting, protecting and caring for children's mental health*, 20 (October 2021).

capacity. Further, the nature of jobs is mostly manual/physical in rural areas and this impacts participation in activities for the purpose of learning and development.

Studies have shown³ that physical inactivity is significantly more common in urban areas of the country as compared to rural areas. Males are significantly more active than females. Most of the time spent in moderate to vigorous intensity activity is at the workplace. More than 90% of Indians surveyed do no recreational physical activity. This is significantly higher in rural areas and among females. Even among those who reported recreational physical activity, the time spent in moderate to vigorous intensity is negligible. This has a direct impact on the twin epidemics of diabetes and obesity in India.

All this is indicative of an inadequate national attention on each human being's most important relationship – with their own body and mind – and measures to develop it.

As shown below, India's 2018 Report Card on physical activity suggests that much work remains to be done across all measurable metrics.⁴

Table 1 Grades and Rationales for India's 2018 Report Card

Indicators	Grades	Rationale
Overall Physical Activity	D	Approximately 25% of children and youth accumulate ≥ 60 minutes of MVPA daily. It is expected that children and youth from rural areas accumulate greater MVPA, however data from these populations is sparse and difficult to align with MVPA guidelines.
Organized Sport Participation	INC	Insufficient data to grade this indicator.
Active Play	C-	An average of 49% of children and youth spend at least 1 hour playing outdoors per day, and 37% spend at least 1 hour in active play per day.
Active Transportation	B-	A weighted average of approximately 65% of children and youth reported walking or cycling to school on a regular basis.
Sedentary Behaviours	C-	Less than half of Indian children and youth are meeting screen time-based sedentary behaviour guidelines (<2 hours/day).
Physical Fitness	F	Approximately 15% of children and youth meet recommended standards for minimum fitness.
Family and Peers	D	Approximately 30% of family/peers participate in physical activity with children and provide support/transport access to physical activities.
Schools	INC	Insufficient data to grade this indicator.
Community and Built Environment	D	Six major Indian cities received low walkability ratings due to poor and unsafe infrastructure, and lack of sidewalks. Moreover, built environment was rated poorly for lack of urban infrastructure for walking and biking, access to physical activity spaces, safety from crime and traffic, and high pollution.
Government	D	The majority of government strategies in India are focused on competitive sport. There is no readily available evidence of strategies and investments directed towards all children and youth, with a purpose to increase active living among the entire population.

³ Ranjit Anjana et al, *Physical activity and inactivity patterns in India – Results from the ICMR-INDIAB study*, 11(26) International Journal of Behavioural Nutrition and Physical Activity (2014).

⁴ Jasmin Bhawra et al, *Results from India's 2018 Report Card on Physical Activity for Children and Youth*, 15(2) Journal of Physical Activity and Health 373 (2018); India Report Card on Physical Activity, *supra* note 2.

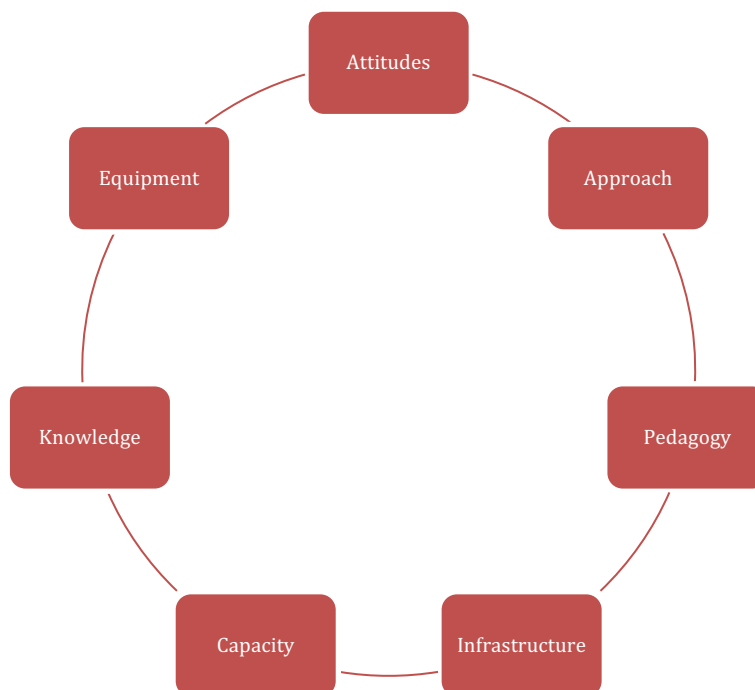
A Necessary Focus on Educational Institutions

Education systems provide most young Indians with their primary, and in many cases, only institutional relationship. Most children spend more than half of their waking hours in school. Schools, colleges and universities are also where the future vision of a society is seeded and established. Cultural, parental and national priorities influence students in these institutions and are themselves influenced in turn.

Any serious attempt to address the population-scale inadequacies in fitness, physical aptitude and activity levels, let alone sporting achievement, must find space primarily in education systems and institutions. However, there are challenges in such a path and these need to be overcome with clarity of approach and coordinated action if we are to bridge the gap between intent and reality.

2. Understanding the Challenges

Good intent and ideas notwithstanding, several things stand in the way of an education system that can weave the potential of physical education into its fabric. These include pedagogy, infrastructural limitations and capacity constraints.



a. Attitudes:

Indian parents might consider education of the mind to be the sole means to enhance economic status and social mobility for their children. In terms of what is worth learning and how to learn, education systems remain biased to conventional literacy and numeracy, with physical and other pursuits being ascribed the character of ‘extra-curricular’ or ‘co-curricular activities’, i.e., non-core, add-ons and nice-to-haves but not essential. Institutional and parental attitudes are also capable of influencing each other.

Gender stereotypes can also come into play.⁵ Studies have shown that, in India among other countries, the female gender is perceived by adolescent boys and girls to be associated with lower interest and/or engagement in physical activity. It is suggested that adolescent girls’ lack of motivation to participate in physical activity might be linked to stated intrinsic preferences to be sedentary, aesthetic concerns related to tanning, perception of sport being un-feminine,⁶ restrictions on exercising while menstruating, as

⁵ This can pervade government policy as well. For example, *see* G.S. Convent School v. State of Uttar Pradesh, 2019 SCC OnLine All 3590. The Allahabad High Court referred to a Government Order dated 08.05.2013 with a special provision dispensing with the requirement of a playground specifically for girls’ schools, along with schools where the population density is high, stating that no such institution shall be denied recognition on the basis that it lacks a playground.

⁶ World Health Organisation, Kenneth Hardmman, *An Up-date on the Status of Physical Education in schools worldwide: Technical Report for World Health Organisation*, 2 (2008).

well as social cues and norms, such as lower expectations for girls' performance in school sports, lower societal value for women's competitive sports, lack of equal opportunities to train and compete, and concerns about girls' reputation and safety if playing outdoors.⁷

Given the association of physical activities with achievement, talent and abilities, students with disabilities might self-exclude or are often asked to sit out from physical education classes or are provided alternatives rather than integrated into the physical activities and games.

Play, games and sports are often associated with childhood and can also sometimes be presented as flippant and unproductive. This can stigmatise the pursuit of physical activity in adults.

All this results in a lack of motivation and a concomitant dearth of opportunities to participate in sport and physical activity.

b. Approach:

In purely academic contexts, the spirit of competition can tend to be weaponised as an end in itself rather than being an outlet for self-improvement. Competition provides opportunities for teamwork and collaboration and enables youngsters to build a healthy and sustainable relationship with winning and losing. Given the importance of physical activity for mental and physical health, it is critical for education policy and school health-promotion interventions in India to address the high level of academic pressure on students, and to ensure that parents as well as teachers are included in efforts to promote physical activity as children transition to adolescence.

School-going children are often denied the freedom or opportunities to play at home or in neighbourhood environments. For the larger parental community and society, the school stands for textbooks and learning for reading them. They know little about the mental processes of a child's growth and how play contributes immensely to children's language and sociability. During play, children are emotionally awake and open to positive suggestions. It is seen that not only do sedentary activities and screen-based activities compete with physical activities, they are increasingly seen as substitutes in academic contexts and are displacing physical activities.⁸

c. Pedagogy:

Teaching and learning are focused primarily on maths, languages, science and social studies, skewing away from wholesome human development and creating and furthering a mind-body dialectic. Little or inadequate time is allocated towards physical education in the timetable. Many students cite increasing academic workload as a key barrier to being active. The inordinate emphasis on academics at the cost of physical activity runs

⁷ Ambika Satija et al, *Physical Activity Among Adolescents in India: A Qualitative Study of Barriers and Enablers*, 45(6) Health Education & Behavior 1 (2018).

⁸ Ramakrishna Bhat, "Successes and Challenges" in Azim Premji University, *Learning Curve: Play as Learning* (2021).

contrary to evidence suggesting that physical engagement is associated with improved academic performance and cognitive outcomes in children.⁹

Teachers typically do not see the rationale behind play as a tool for classroom or textbook learning, often viewing play activities as a means of entertainment. When it comes to learning, they see play as an unwarranted diversion. This is the result of a teacher-centric teaching and learning model.

Teachers need a conceptual understanding of playful-learning to realise its impact and value and then visualise its practice in their teaching. Teachers are habituated to give ready answers that are lifted from the textbooks and find it challenging to change the approach with activities such as play which can be free-form, unpredictable and have unexpected and diverse learning outcomes for participants.

d. Infrastructure:

The 13th Annual Status of Education Report (ASER 2018) showed the wide disparity in terms of access to playgrounds within schools across various states in India (described in detail in the charts below).¹⁰ While 8 in 10 schools had a playground available for students, either within the school premises or close by, physical education teachers are scarce in schools across rural India. The percentage of institutions with playgrounds goes up significantly at the college and university level, hovering around 90%.¹¹

There is also a stark difference between government and private schools. Only about 57% government schools in India have playgrounds while the number rises to about 78% for private schools.¹²

In many other schools, it is not just a question of a lack of physical space. Either classrooms are unorganised or unused articles are dumped in them. Where sufficient grounds exist, they are not maintained and are not clean or safe for children. This constrains activity-based learning. In many schools, teachers find it risky to take children outside to the playground or to open spaces outside school areas.¹³ Conceptually, many teachers and parents see only the classroom as the right place for learning.

Even where sports infrastructure is available, physical education and sports sessions may be irregular and its use reserved for a few specific days only (e.g., annual sports days, Republic Day, etc.).

⁹ Satija, *supra* note 7.

¹⁰ ASER Centre Pratham, *Annual Status of Education Report 2018 (Rural)* (15 January 2019).

¹¹ Government of India, Ministry of Education, *All India Survey on Higher Education 2019-20*, 33 (2020).

¹² Parliament of India, Rajya Sabha, *Demands for Grants 2020-21 (Demand No. 58) of the Department of School Education & Literacy*, 14-15 (2020); Priscilla Jebaraj, *Over 40% govt. schools don't have power, playgrounds: parliamentary panel*, *The Hindu* (9 March 2020); Madhumita Bandhopadhyay, *Present Status of Infrastructure Facilities in Schools in India: From National and State Level Perspective (draft)*, National University of Educational Planning and Administration, 13 (2015).

¹³ Bhat, *supra* note 8.

Performance of states: physical education facilities in all schools 2018

Chart 1: % Schools with dedicated time for physical education

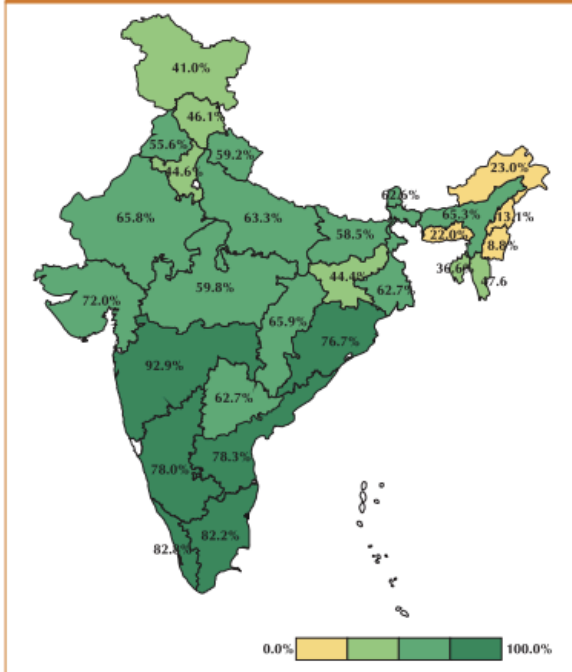


Chart 2: % Schools with separate physical education teacher

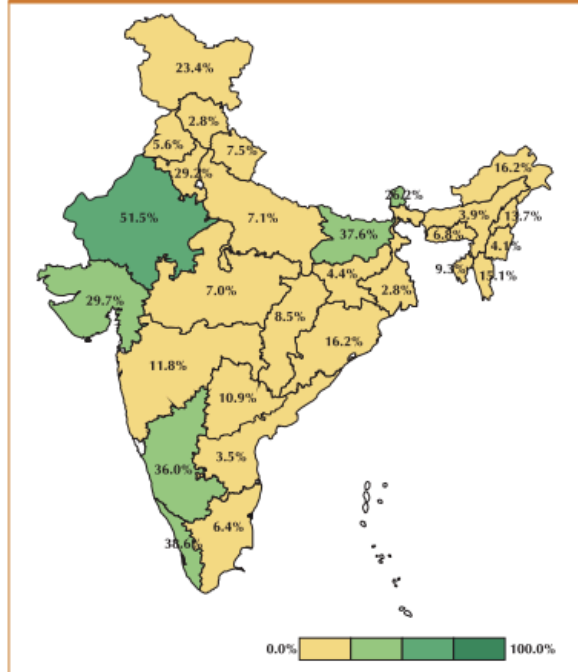


Chart 3: % Schools with any sports equipment available

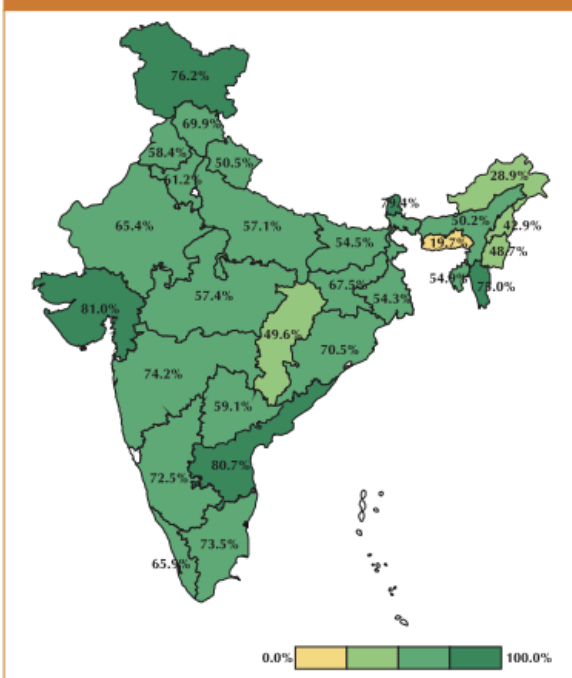
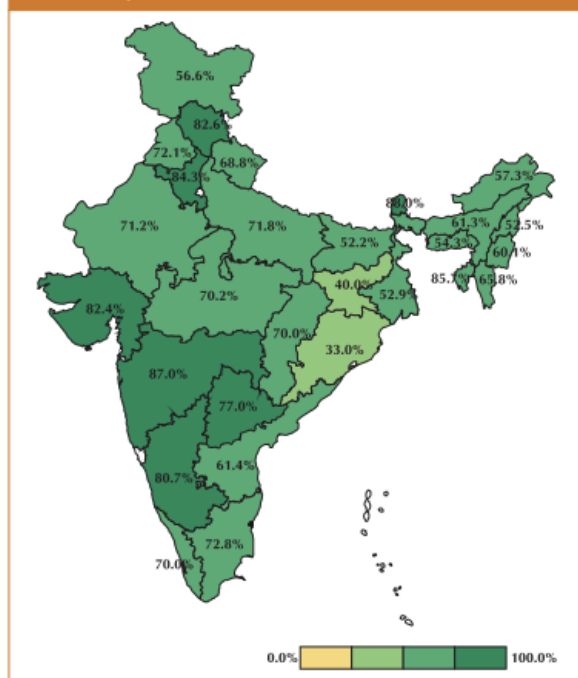


Chart 4: % Schools with playground inside the school premises



1. State/UT pages for Dadra and Nagar Haveli, Daman and Diu, Puducherry and Goa have not been presented in this report due to insufficient sample size.
 2. Andhra Pradesh was bifurcated into Telangana and Andhra Pradesh in 2014. As a result, the sample frames of Census 2011 do not have the new state divisions. Of the 22 districts in undivided Andhra Pradesh, 9 rural districts are located in Telangana and the remaining 13 districts are located in Andhra Pradesh. ASER estimates for the two states are based on this separation of districts.
 3. ASER 2018 was unable to reach some districts of Jammu and Kashmir, West Bengal, Arunachal Pradesh, Chhattisgarh and Kerala due to logistical constraints and/or security concerns.

e. Capacity:

As per the ASER survey, only 5.8% of all primary schools and 30.8% of upper primary schools have a physical education (PE) teacher available (described in greater detail in the table below).¹⁴ The ratio of PE instructors and coaches to students is very high. This goes up at the college and university level. For example, 1204 colleges in Karnataka had 20 PE teachers between them in 2017.¹⁵

Physical education and sports in schools 2018				
% Schools with		Std I-IV/ V	Std I-VIII/ VIII	All schools
Dedicated time for physical education	Physical education period in the timetable	58.4	69.1	62.9
	No physical education period but dedicated time allotted	22.4	17.0	20.1
	No physical education period and no dedicated time allotted	19.2	14.0	17.0
	Total	100	100	100
Physical education teacher	Separate physical education teacher	5.8	30.8	16.5
	Other physical education teacher	63.0	46.6	56.0
	No physical education teacher	31.2	22.6	27.5
	Total	100	100	100
Playground	Playground inside the school premises	65.0	70.3	67.2
	Playground outside the school premises	15.9	15.0	15.5
	No accessible playground	19.1	14.7	17.2
	Total	100	100	100
Availability of any sports equipment		55.8	71.5	62.5
Supervised physical education activity observed on day of visit		23.5	30.3	26.4

Diversity among government school children in terms of attitudes, behaviours, backgrounds and experiences appears problematic for many teachers. They express how challenging it is to discipline students without force. So, engaging students in learning through play can seem like a far-fetched idea to teachers. Teachers can therefore potentially shy away from providing children with the necessary freedom to explore.

The failure to recruit, retain, train and upskill physical education teachers limits the ability of the system to deliver the value of physical education. Physical educators are

¹⁴ ASER Report 2018, *supra* note 10, at 57.

¹⁵ *One physical education teacher for 1,204 government colleges in state*, The New Indian Express (5 September 2017).

often used as disciplinarians or generalist substitute teachers. They are often employed on a contractual basis and paid less than teachers teaching 'core' subjects.¹⁶ This not only devalues them but also diverts their attention and places them in a position where students find it difficult to respect and cherish them as nurturers, experts and enablers.

f. Knowledge:

In addition to the issue of availability of teachers and teaching capacity, in a majority of schools, another teacher was tasked with supervising physical education activities as well. The level of knowledge and training in physical education was inadequate for the teacher to have the ability to transform content knowledge and deliver it to students in ways that help them learn.

Many physical education classes are designed as boring drills and oriented around discipline and form rather than freedom and exploration. All this means that schools have had significant issues in implementing a comprehensive physical education program for reasons of poor pupil-teacher ratio, lack of qualified physical education teachers and deficiencies relating to quality of physical education teachers.¹⁷

g. Equipment:

In the ASER survey, sports equipment of some kind was observed in only 55.8% of primary schools and 71.5% of upper primary schools. Where available, equipment is often focused around promoting sports activities of a few rather than the physical education of the entire class.¹⁸ Budgets might also limit the ability to regularly purchase equipment and to maintain and replenish supplies, and this can impact continuity of training and overall motivation of participants.

Schools and colleges present unique opportunities to provide adequate physical activity for all young people through compulsory physical education programs, school sport programs, and after-school leisure-time physical activity initiatives. However, despite evidence of its value, effective school-based physical education has been declining worldwide and more so in India.

¹⁶ *Physical education teachers stage protest demanding equal pay*, The Hindu (16 November 2019).

¹⁷ Savita Majagaonkar and Khade Vaishali, *Teacher Related Issues in Implementation of Quality Physical Education Program in India*, Conference: Modern Trends in Physical Education and Sports (2020).

¹⁸ ASER Report 2018, *supra* note 10, at 58.

3. The Opportunity

"Physical education is the most effective means of providing all children and youth with the skills, attitudes, values, knowledge and understanding for lifelong participation in society."¹⁹

- The Declaration of Berlin 2013 – UNESCO's World Sports Ministers Conference (MINEPS V)

The need to integrate physical education into education has been justified on various grounds.²⁰ It has been suggested that:

- It improves classroom attendance and interest in studies;
- It allows students to take a break from their workload;
- Time quantity lost by letting students get involved in physical education is made up in improved quality of overall education;
- Physical activity improves memory, reduces anxiety, depression and stress and improves sleep; and
- Regular participation in quality physical education and other forms of physical activity can improve a child's attention span, enhance their cognitive control and speed up their cognitive processing.

These secondary-order justifications are tied back to academic and curricular achievement. They can help convince parents and teachers of the value of the pursuit. However, they can end up devaluing the role of physical education as an end in itself.

Physical education is the entry-point for an understanding of one's own body and mind and can result in lifelong participation in physical activity. It can also improve psychological and social skills and significantly improve life-expectancy and quality of life.

With this in mind, physical education and sports must be woven into the education system, its processes and outcomes in an integrated manner. At a participant/student level, the results of an integrated approach can include:

- Driving optimum physical and mental well-being and lifelong fitness;
- Laying of a strong foundation for participation in daily activities;
- Greater understanding of one's abilities and limitations;
- Building positive self-esteem through body awareness and control;
- Extending interests and enabling social adjustment;
- Learning to express ideas, attitudes and emotions;
- Improved thinking, decision-making, creativity and problem-solving skills;
- Demonstrating the spirit of fair play, teamwork and sportsmanship;

¹⁹ UNESCO, Berlin Declaration, 5th International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (2013).

²⁰ FICCI, *ASCC Framework for Sports and Physical Education in Schools*, 9 (2018).

- Building respect for rules of safety; and
- Learning to manage emotions and express oneself in socially acceptable ways.

Given that social and caregiving responsibilities at home are often cited as reasons for not being active at home among government school children, and that private school girls mentioned safety concerns impeding their activity time outside of school, it is imperative that schools in India become centres for physical activity for children. Schools represent a protected, safe space, where children spend a large portion of their day. It is widely accepted that schools are best placed to ensure holistic growth of a child. Active schools, in which physical activity is placed at the heart of the school, support the establishment of healthy lifestyles, behaviour and learning. In addition, quality physical education is a necessary component of primary and secondary education. It supports the building of physical skills and fitness, life skills, cognitive, social and emotional skills, and values and attitudes that frame socially responsible citizens. This is most attainable when it is fully resourced, respected and valued for its holistic merits. Fostering quality physical education and active schools needs provisions that are varied, frequent, challenging, meaningful and inclusive. Learning experiences in physical education are most effective when they are positive, challenging and developmentally appropriate, to help children and young people acquire the knowledge, skills, attitudes and values necessary to lead a physically active life, now and in the future.

To achieve this, an impact-oriented physical education and sport policy must not only be developed but has to be implemented as a framework involving all concerned stakeholders, including parents, national administrators for sport, education, youth, and health; inter-governmental and non-governmental organizations; sport federations and athletes; as well as the private sector and the media.

Physical activities can also be strong pedagogical tools helping teach academic subjects. This can potentially make learning more interesting for children. Such possibilities are not currently explored within the education system. This could also broad-base physical activities responsibilities to all subject teachers rather than only physical education teachers.

It is also noteworthy that the use of sports metrics and placing sports talent identification and performance goals on educational institutions may be best avoided within the context of physical education. These can dilute the mandate of physical education and active lives for all. Based on context, the glorification of excellence can become a tool of exclusion rather than one of inspiration and inclusion. An inclusionary approach will be driven by fun, exploration and enjoyment of experiences by all, regardless of ability, talent or competence, without overlaying objectives such as production of sporting champions and medallists on such processes. Sports progression and excellence of talented students can be healthy by-products of an inclusive and effective system. These can be supported in an inclusive, age-appropriate and stage-appropriate manner in a supplementary and additive manner without placing them in the centre of the institutional quest.

4. The Existing Legal Framework

India's International Legal Obligations

India has an obligation to provide access to physical education and sport to all its citizens as part of its international legal obligations. This obligation arises out of numerous international covenants to which India is a State party.

UDHR 1948 and ICESCR 1966

The Universal Declaration of Human Rights 1948 (UDHR) provides that everyone has a right to “rest and leisure”,²¹ “right to a standard of living adequate for the health and well-being of himself and of his family”²² and that “education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms”.²³ Admittedly, UDHR is not a legally binding instrument. However, the Supreme Court has relied on the UDHR to understand and interpret fundamental human rights in numerous instances in the past.²⁴

India has similar obligations under various legally binding instruments as well. One such prominent instrument is the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR). India acceded to ICESCR in 1979 and it has been relied upon by the Supreme Court in numerous fundamental right cases.²⁵

Article 12(1) of ICESCR states that “the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”. Article 12(2) requires governments to prevent diseases. General Comment no. 14 of the United Nations Committee on Economic, Social and Cultural Rights (CESCR) helpfully interprets this provision. It provides that the right to health “is not confined to the right to healthcare. On the contrary, the drafting history and the express wording of article 12.2 acknowledge that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health...”²⁶ The UN Special Rapporteur clarifies that the obligation under Article 12 includes an obligation to prevent diseases.

²¹ Article 24, UDHR 1948.

²² Article 25(1), UDHR 1948.

²³ Article 26(2), UDHR 1948.

²⁴ For instance, see *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625, para 105; *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608, para 8; *Bandhua Mukti Morcha v. Union of India*, (1997) 10 SCC 549, paras 4-9; *Ahmedabad Municipal Corpn. v. Nawab Khan Gulab Khan*, (1997) 11 SCC 121, para 12; *Railway Board v. Chandrima Das*, (2000) 2 SCC 465, para 32; *Society for Unaided Private Schools of Rajasthan v. Union of India*, (2012) 6 SCC 1, paras 213-222; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, paras 485-486.

²⁵ For instance, see *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625, para 105; *Christian Medical College Hospital Employees' Union v. C.M.C. Vellore Assn.*, (1987) 4 SCC 691, para 18; *Daily Rated Casual Labour v. Union of India*, (1988) 1 SCC 122, para 7; *CEC Ltd. v. Subhash Chandra Bose*, (1992) 1 SCC 441, paras 30-32; *Ahmedabad Municipal Corpn. v. Nawab Khan Gulab Khan*, (1997) 11 SCC 121, para 12; *Society for Unaided Private Schools of Rajasthan v. Union of India*, (2012) 6 SCC 1, paras 213-222; *D.K. Basu v. State of W.B.*, (2015) 8 SCC 744, para 10; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, paras 485-486.

²⁶ UNESCO, Committee on Economic Social and Cultural Rights, *The Right to the Highest Attainable Standard of Health (Art. 12)*, General comment no. 14, para 4 (11 August 2000).

This necessitates addressing sedentary lifestyle and physical inactivity. Thus, states are under an obligation to “facilitate the participation of children in safe and inclusive play and sport”.²⁷

Article 13(1) of ICESCR provides that “the States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms”. This provision has been helpfully interpreted by the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. According to the Report of the Special Rapporteur, the provision of education is a State obligation under article 13 of the ICESCR and it “should include physical education”.²⁸

Article 15(1)(a) of the ICESCR states that everyone has a right “to take part in cultural life”. General Comment no. 21 of the CESCR interprets article 15(1)(a).²⁹ It provides that “culture, for the purpose of implementing article 15(1)(a), encompasses, inter alia,sport and games...” Thus, it is clear that the ICESCR places an obligation on states to provide access to opportunities to engage in physical education and sport as part of rights to health, education and culture.

International Charter of Physical Education, Physical Activity and Sport 2015

Another prominent instrument which advocates for these rights in an explicit manner is the International Charter of Physical Education, Physical Activity and Sport 2015 (ICPE). India acceded to ICPE in the same year. The ICPE is a legally binding charter that recognises the importance of physical activity. It provides that the practice of physical education, physical activity and sport is a fundamental right.³⁰

In pursuance of this right, the freedom to develop physical, psychological and social well-being and capabilities must be supported by all governmental, sport and educational institutions.³¹ Particularly in relation to the link between education and physical activity, ICPE places an obligation that “physical education, physical activity and sport policy and programmes must be systematically monitored and evaluated by appropriate national agencies, to assess whether they satisfy the needs of their intended beneficiaries”.³² Recognising the need for a comprehensive multi-stakeholder approach to physical education, ICPE requires that “public authorities, sports organizations, schools and other institutions that administer facilities at all levels should work together to design, provide and optimize the use of installations, facilities and

²⁷ United Nations General Assembly, Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, A/HRC/32/33, paras 14 and 42 (4 April 2016).

²⁸ *Id.*, at para 29.

²⁹ UNESCO, Committee on Economic, Social and Cultural Rights, *Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights)*, General comment no. 21, E/C.12/GC/21, paras 13, 16 and 31 (21 December 2009).

³⁰ Article 1, ICPE 2015.

³¹ Article 1.2, ICPE 2015.

³² Article 4.4, ICPE 2015.

equipment for physical education, physical activity and sport, taking into account the opportunities and conditions of the natural surroundings”.³³

ICPE advocates for a research based multistakeholder approach to inspire lifelong participation in physical activity with a particular focus on education. In order to comply with its international obligations under the ICPE, it is imperative that India undertakes steps to promote physical activity.

The Right to Equal Access

Other international covenants that are relevant include those providing for rights of specific (often disadvantaged) groups. Particularly relevant are the Convention on the Rights of the Child 1990 (CRC), Convention on the Elimination of All Forms of Discrimination against Women 1981 (CEDAW), and Convention on the Rights of Persons with Disabilities 2006 (CRPD). India is a party to all three conventions.

CRC speaks about the right of children to engage in play and recreational activities.³⁴ The Supreme Court has placed its reliance on this Article 31 of the CRC in the context of the right to education and right to health.³⁵ CRC also mandates that the “education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential”.³⁶ Children with special needs must receive education, training, and recreation opportunities in a manner which allows the child fullest possible social integration and individual development.³⁷ These rights of children are further elaborated in General comment no. 17 by the Committee on Rights of Child. It provides that “play and recreation are essential to the health and well-being of children and promote the development of creativity, imagination, self-confidence, self-efficacy, as well as physical, social, cognitive and emotional strength and skills. They contribute to all aspects of learning”.³⁸ The Committee specifically highlights the role of governments and education institutions in fulfilling the mandate of CRC. In order to ensure compliance, governments need to ensure safe and equal provision of adequate indoor and outdoor space, playgrounds and equipment to facilitate play, sports and games. These have to be supplemented by statutory provisions that guarantee sufficient opportunity and time for play in accordance with the age and developmental needs of students. Appropriate time and expertise must be allocated within the school curriculum for children to participate in sports and games and learning environments should be active and participatory and offer, especially in the early years, playful activities and forms of engagement.³⁹

CEDAW provides for a specific obligation on governments to ensure equal rights to women in the field of education and in particular to ensure, that women have equal access

³³ Article 8.2, ICPE 2015.

³⁴ Article 31, CRC 1990.

³⁵ *Bandhua Mukti Morcha v. Union of India*, (1997) 10 SCC 549, paras 4-9.

³⁶ Article 29(1)(a), CRC 1990.

³⁷ Article 23(3), CRC 1990.

³⁸ United Nations Committee on the Rights of the Child, Right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31), General comment no. 17, para 13 (17 April 2013).

³⁹ *Id.*, at para 58(g).

to the “same opportunities to participate actively in sports and physical education”.⁴⁰ These rights are elaborated in General recommendation no. 36 by the Committee on the Elimination of Discrimination against Women. The Committee emphasises that girls and women must have the right to freely choose areas of physical activity and sport in which they wish to engage and to enjoy the health and psychological benefits that accrue from such engagement. Governments should work on addressing traditional stereotypes and make provision for facilities that allow for the participation of girls and women in male-dominated physical activities and sports.⁴¹

CRPD imposes an obligation to ensure an inclusive education system at all levels and life-long learning directed towards the development of personality, talents and creativity, as well as mental and physical abilities, of persons with disabilities.⁴² In particular, with respect to participation in sporting activities, CRPD asks governments to ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific play, sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training, resources, and educational activities.⁴³ A recent report of the Office of the United Nations High Commissioner for Human Rights provides additional guidance in relation to these obligations. According to the High Commissioner, governments should ensure that they implement the model of inclusive education, including in physical education, to ensure that children with disabilities learn and play together with other children from early childhood development programmes through preschool, primary and secondary education. Moreover, training teachers on physical education and sports should include disability-specific and disability-inclusive sports and practices in the curricula.⁴⁴

A comprehensive reading of India’s obligations under international covenants points towards one conclusion. Indian citizens have the human right to physical education, physical activity and sport. These rights exist as standalone rights as well as part of the human right to health,⁴⁵ education, culture and the right to equal treatment. A similar position may be gleaned from a reading of the Supreme Court jurisprudence on the fundamental right to life, health, education and free expression under the Indian Constitution.

Rights under the Constitution of India

Article 21 of the Constitution of India provides for the protection of life and personal liberty. In numerous cases, the Supreme Court has interpreted this provision to include a positive as well as a negative right to life.⁴⁶ The Supreme Court has also introduced a

⁴⁰ Articles 10, 13, CEDAW 1981.

⁴¹ United Nations Committee the Elimination of Discrimination against Women, Right of Girls and Women to Education, General recommendation no. 36, CEDAW/C/GC/36, paras 62-63 (16 November 2017).

⁴² Article 24(1), CRPD 2006.

⁴³ Article 30(5), CRPD 2006.

⁴⁴ United Nations, Office of the High Commissioner for Human Rights, Report on physical activity and sports under article 30 of the Convention on the Rights of Persons with Disabilities, A/HRC/46/49, paras 56-59 (25 January 2021).

⁴⁵ Sven Messing et al, *Physical Activity as a Human Right?*, 23(3) Health and Human Rights Journal 201 (2021).

⁴⁶ P. Rathinam v. Union of India, (1994) 3 SCC 394, paras 26-32.

qualitative concept into Article 21. Anything that promotes quality of life falls within the parameters of the right to life.⁴⁷ 'Life' in Article 21 is much more than mere physical or animal existence. As the apex court says in *Francis Coralie*, the right to life includes the right to live with human dignity and all that goes along with it.⁴⁸

Right to Health

The right to life under Article 21 has been interpreted to include the right to health. In *Vincent Panikurlangara*, the apex court stated that a healthy body is the very foundation for all human activities. Thus, in a welfare State such as India, it is the obligation of the State to ensure the creation and the sustaining of conditions congenial to good health.⁴⁹ The Court also referred to Article 47 of the Constitution which places an obligation on the State to raise the standard of living and improve public health. The Court has recognised that Article 47 is a Directive Principle of State Policy. However, it is "no less important than Fundamental Rights".⁵⁰ Accordingly, the Court concluded that maintenance and improvement of public health have to rank high as these are indispensable to the very physical existence of the community. Attending to public health, in the opinion of the court is "of high priority – perhaps the one at the top".⁵¹

Subsequent jurisprudence has clarified the meaning and scope of the fundamental right to health. In *CESC Ltd. v. Subash Chandra Bose*, the Supreme Court clarified that health is "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity".⁵² That the right to health includes the right to physical and mental health was also confirmed by the apex court when it considered the nuisance of noise pollution.⁵³ The importance of physical and mental health has particularly been emphasised for children. In *Bandhua Mukti Morcha*, the apex court highlighted the need for an environment which is conducive to a child's social and physical health. A deprivation of childhood - socially, economically, physically and mentally – would deprive the nation of potential human resources. As the court pointed, this is the spirit of Article 39(f) which requires state to ensure "that children are given opportunities and facilities to develop in a healthy manner".⁵⁴

It is established that physical activity and sport promote health and well-being – both physical and mental.⁵⁵ The Supreme Court has recognised as much in *Krishan Lal Gera*, where it stated that "sports promote health, spirit of competition, and social

⁴⁷ *Confederation of Ex-servicemen Association v. Union of India*, (2006) 8 SCC 399, para 61.

⁴⁸ *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608, paras 8-11.

⁴⁹ *Vincent Panikurlangara v. Union of India*, (1987) 2 SCC 165, para 16.

⁵⁰ *Akhil Bharatiya Soshit Karamchari Sangh (Railway) v. Union of India*, (1981) 1 SCC 246, para 123.

⁵¹ *Vincent Panikurlangara v. Union of India*, (1987) 2 SCC 165, para 16.

⁵² *CESC Ltd. v. Subhash Chandra Bose*, (1992) 1 SCC 441, para 32.

⁵³ *Noise Pollution (V) In re*, (2005) 5 SCC 733, paras 15-17.

⁵⁴ *Bandhua Mukti Morcha v. Union of India*, (1997) 10 SCC 549, paras 4-9.

⁵⁵ *Commissioner of Income-Tax, Bombay v. Breach Candy Swimming Bath Trust*, ILR 1955 Bom 268, 273; *ITO v. Deccan Gymkhana (Oldest Trust)*, (1988) 71 CTR 11 (Trib), para 17; *Shobha v. State of Maharashtra*, (2003) 105 (3) Bom LR, para 12; *Apple Grove School v. Union of India*, (2019) 2 All LJ 769, para 18; *G.S. Convent School v. State of Uttar Pradesh*, 2019 SCC OnLine All 3590, para 50.

integration”.⁵⁶ Thus, it follows that there is a right to physical activity and sport as they promote health which is an integral part of the right to life under Article 21.

Right to Education

Like the right to health, the Supreme Court has also read Article 21 widely to include within it the right to education.⁵⁷ Obligations have been imposed on the State to ensure provision of educational facilities at all levels to its citizens. This is because the right to life and dignified existence cannot be assured unless “accompanied by the right to education”.⁵⁸ There is another reason that every citizen should be educated and aware of their individualistic dignity. Education is imperative for the enjoyment of other fundamental human rights and in particular the right to free speech and expression.⁵⁹

In light of the rulings of the Supreme Court and the importance of education, the government introduced a constitutional amendment to explicitly recognise the right to education. Article 21A of the Constitution recognises the right to free and compulsory education for children between the ages of six to fourteen years. The importance of the right to education was reiterated by the court in *Ashok Thakur*. Adjudicating on the implementation of Article 21A, the court stated that “education stands above other rights, as one’s ability to enforce one’s fundamental rights flows from one’s education”.⁶⁰

What then is a comprehensive education that could fulfil the obligations of the State under Articles 21 and 21A? The following paragraph from the Supreme Court in *Vivek Singh v. Romani Singh* is instructive – “it hardly needs to be emphasised that a proper education encompassing skill development, recreation and cultural activities has a positive impact on the child. The children are the most important human resources whose development has a direct impact on the development of the nation, for the child of today with suitable health, sound education and constructive environment is the productive key member of the society”.⁶¹ Thus education is much more than mere reading the prescribed texts. It needs to ensure skills development, recreation, cultural activities, and be health focussed so that the overall development of the child can be ensured. A right to physical literacy (as described in detail in chapter 6) is well placed to enable this comprehensive vision of education.

The Supreme Court has previously recognised that sport is included in human resource development as a larger part of education in *Zee Telefilms*. It is a necessary part of education as a nation-building project.⁶² The importance of sport, physical education and

⁵⁶ *Krishan Lal Gera v. State of Haryana*, (2011) 10 SCC 529, para 18.

⁵⁷ *Maharashtra State Board of Secondary and Higher Education v. K.S. Gandhi*, (1991) 2 SCC 716, paras 12-14; *J.P. Unnikrishnan v. State of Andhra Pradesh*, (1993) 1 SCC 642, paras 142-183.

⁵⁸ *Mohini Jain (Miss) v. State of Karnataka*, (1992) 3 SCC 666, para 12.

⁵⁹ *Id.*, at para 13.

⁶⁰ *Ashoka Thakur v. Union of India and others*, (2008) 6 SCC 1, para 121.

⁶¹ *Vivek Singh v. Romani Singh*, (2017) 3 SCC 231, para 15.

⁶² *Zee Telefilms Ltd. v. Union of India*, (2005) 4 SCC 649, paras 62, 207.

playgrounds for the education of a child has also been recognised by several High Courts.⁶³

In *Apple Grove School*, the Allahabad High Court stated that “education is not only about learning from books in an enclosed classroom, but it is equally about imbibing sterling character traits in open playfields...education is about honing intellectual abilities, developing sterling character traits and building physical strength. An integrated and all-around development of the human personality and spirit is the essence of education. Sports play a paramount role in all these endeavours”. It also emphasised the importance of “opportunities to develop a love for the outdoor life and understanding comradeship through sporting activities”.⁶⁴

In *GS Convent School*, the Allahabad High Court opined that “sports and various regimes of physical activities are integral to education. Sporting infrastructure is indispensable for learning in schools. Sporting activities strengthen nerves and sinews and enhance physical and mental strength. Sports develop camaraderie, instil discipline and imbibe leadership tenets. Sports ensure good health and foster character qualities which contribute to the overall growth of the personality. The diverse individual and social skills learnt on the sports field always endure to the benefit of an individual and cumulatively to the strength of a nation. Emotional intelligence is sharpened more in an open play-field than in an enclosed classroom”.⁶⁵

The importance of physical activity as part of education has been recognised by the government in various legislations. The Right of Children to Free and Compulsory Education Act 2009 (RTE Act) gives legislative effect to Article 21A of the Constitution. The RTE Act imposes an obligation to consider the development of physical and mental abilities of children to the fullest extent while designing the curriculum for elementary education.⁶⁶ As part of the norms and standards for a school, the RTE Act requires at least a part time instructor for health and physical education, where admission of children is above one hundred. It also makes provisions for ensuring play material, games and sports equipment for each class.⁶⁷ The Rights of Persons with Disabilities Act 2016 specifically recognises the importance of physical activity for persons with disabilities. It imposes an obligation on the State to ensure that educational institutions provide opportunities for sports and recreational activities equally.⁶⁸

Thus, it follows that there is a right to physical education, physical activity and sport as part of the right to education which is a fundamental right under Articles 21 and 21A of the Constitution.

⁶³ Deepak Education Society v. State of Haryana 2013 SCC Online P&H 18370; Optimum International School v. Central Board of Secondary Education, 2018 SCC OnLine Del 13276.

⁶⁴ Apple Grove School v. Union of India, (2019) 2 All LJ 769, paras 18, 35.

⁶⁵ G.S. Convent School v. State of Uttar Pradesh, 2019 SCC OnLine All 3590, para 50.

⁶⁶ Section 29(2)(d), The Right of Children to Free and Compulsory Education Act 2009.

⁶⁷ The Schedule, The Right of Children to Free and Compulsory Education Act 2009.

⁶⁸ Section 16(i), The Rights of Persons with Disabilities Act 2016.

Right to Expression

Article 19(1)(a) of the Constitution of India recognises the right to free speech and expression. This right includes the right to educate, to inform and to entertain and also the right to be educated, informed and entertained. If that is the case, sport or expressing oneself through a physical activity could be considered a part of the right to expression.

The Supreme Court has held as much in *Secretary, Ministry of Information & Broadcasting*. The Court held that “it can hardly be denied that sport is an expression of self. In an athletic or individual event, the individual expresses himself through his individual feat. In a team event such as cricket, football, hockey etc., there is both individual and collective expression”.⁶⁹ Later, the Court in *Zee Telefilms* quoted this paragraph with approval and concluded that “sport is a form of expressive conduct”.⁷⁰

Thus, it follows that opportunities to access and engage in physical education, physical activity and sport are an integral part of the right to express oneself under Article 19(1)(a) of the Constitution.

A combined reading of Articles 21, 21A and 19(1)(a) of the Constitution would dictate that Indian citizens enjoy a right to access physical education, physical activity and sport as part of their fundamental rights to life, health, education and free expression. Conceptualising the rights emanating from this framework as merely a ‘right to physical activity’, ‘right to play’ or a ‘right to sport’ would be a narrow understanding. Historical usage of these terms tend to focus on the physical aspects and an end goal of producing elite athletes. Such characterisation has the risk of restricting the right to a narrow minority of the population. A wider and holistic understanding of these bouquet of rights needs an alternate terminology. We believe that ‘right to physical literacy’ offers this wider understanding. We discuss it in detail in chapter 6 of this report.

⁶⁹ *Secretary, Ministry of Information & Broadcasting, Govt. of India v. Cricket Association of Bengal*, (1995) 2 SCC 161, para 75.

⁷⁰ *Zee Telefilms Ltd. v. Union of India*, (2005) 4 SCC 649, paras 63; *Narinder Batra v. Union of India*, ILR (2009) 4 Del 280, para 41.

5. Physical Education in India – The Current Policy Framework

The Preamble to the National Sports Policy 2001 states – “*activities relating to sports and physical education are essential components of human resource development, helping to promote good health, comradeship and spirit of friendly competition, which, in turn, has a positive impact on the overall development of personality of the youth*”. The salient features of the Policy include “*actively pursuing the integration of sports and physical education with the educational curriculum, making it a compulsory subject of learning up to the secondary school levels and incorporating the same in the system of student evaluation*” as well as setting up of specialized sports schools and introducing an appropriate inter-school and inter-college/university competition structure at the national, state and district levels.⁷¹

The 2001 Policy, apart from, bringing out the need for establishing a network of sports infrastructure and facilities in the rural and urban areas, *inter alia*, also emphasized the need to make sports and physical education an integral part of the curriculum of educational institutions. This resolve was also stated in the National Policy on Education 1986, which calls for making sports and physical education an integral part of the learning process, and provided for its inclusion in the evaluation of performance. It also underlined the need for making physical education a part of the school improvement programme.⁷²

The National Curriculum Framework 2005,⁷³ recognises that “*Physical development supports mental and cognitive development especially in young children...The curriculum must have a holistic approach to learning and development that is able to see the interconnections and transcend divisions between physical and mental development*”. As per the 2005 Framework, Health and Physical Education (HPE) is a compulsory subject from class I to X. In this regard, the National Council of Educational Research and Training (NCERT) has brought out material for classes VI, VII and VIII as Teachers Guide and for class IX as Textbooks on HPE. In addition, the Central Board of Secondary Examination (CBSE) has introduced a HPE Program to mainstream health and physical education in schools for students of classes I - XII.⁷⁴ For students in classes I - X (5 to 16 years), physical education class is mandated across all school boards for at least 45 minutes per day. For classes XI – XII (16-18 years), only 90 to 120 minutes, or two class periods, of physical activity used to be mandated per week. However new CBSE rules from 2018-2019 require that all schools have one mandatory 60-minute physical education period per day.⁷⁵ As the ASER survey shows, the implementation of this provision leaves a lot to be desired.⁷⁶

⁷¹ Government of India, Ministry of Youth Affairs & Sports, *National Sports Policy* (2001).

⁷² FICCI ASCC Framework, *supra* note 20, at 10.

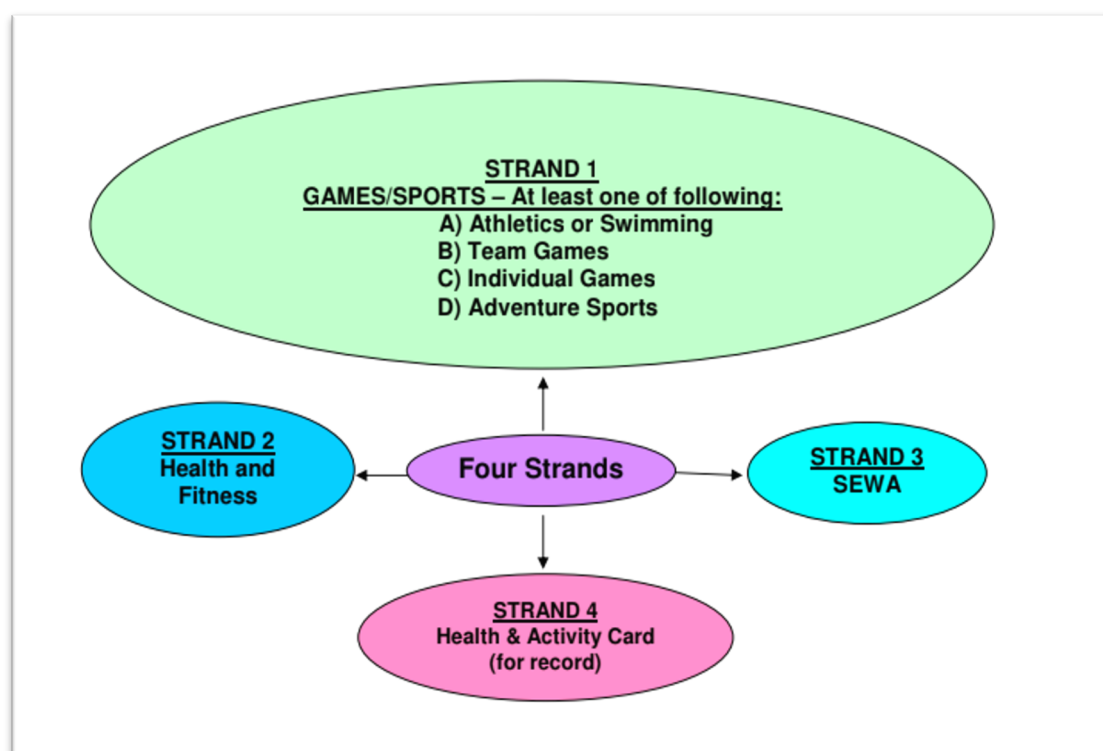
⁷³ Government of India, Ministry of Education, National Council of Education Research and Training, *National Curriculum Framework*, 14 (2005).

⁷⁴ Government of India, Press Information Bureau, Lok Sabha reply by Human Resource Development minister, *Promoting Physical Education across the country* (25 November 2019).

⁷⁵ India Report Card on Physical Activity, *supra* note 2, at 11.

⁷⁶ ASER Report 2018, *supra* note 10, at 57.

CBSE in consultation with the Ministry of Education and Ministry of Youth Affairs & Sports, has also attempted to integrate and mainstream HPE across the secondary and senior secondary levels. The PE component, assessed internally, is taken up as a cross-curricular, interdisciplinary discipline across four strands (as described in the figure below). Mainstreaming requires the coming together of the Class Teacher, PE teacher and teachers of other disciplines. The adoption is mandatory in nature.⁷⁷



The Union Budget 2018-19 announced that school education would be treated holistically and without segmentation from pre-primary to class XII. The Government launched the Integrated Scheme for School Education – Samagra Shiksha in 2018 by subsuming the erstwhile centrally sponsored schemes of Sarva Shiksha Abhiyan (SSA), Rashtriya Madhyamik Shiksha Abhiyan (RMSA) and Teacher Education (TE). The scheme treats school education as a continuum and is in accordance with Sustainable Development Goal for Education (SDG-4).⁷⁸

Samagra Shiksha attempts to provide, an integrated/composite school system from pre-school to higher secondary level. It seeks to ensure inclusive and equitable quality education from pre-school to senior secondary stage. Samagra Shiksha, as a first for any such scheme, has provisioned an annual grant for sports equipment. Every government school is entitled to receive a sports grant of INR 5,000 for primary schools, INR 10,000 for upper primary schools and up to INR 25,000 for secondary and senior secondary schools for meeting expenses on procuring sports equipment for indoor and outdoor games. This is with the objectives of helping students to reach fitness goals, maintain a

⁷⁷ Central Board of Secondary Education, *Mainstreaming Health and Physical Education*, 4-8 (2018).

⁷⁸ Government of India, Ministry of Education, *Samagra Shiksha: Sports and Physical Education* (2018).

healthy life through physical activity and sports participation of students in school and encourage the development of physical abilities, team spirit and community cohesion. There are detailed guidelines which include an indicative list of age appropriate sports activities and equipment for procurement by schools. The equipment is to be chosen by the states/schools, based on availability of infrastructure in the school including availability of playfield etc. The scheme requires that one responsible person/PE Teacher/Teacher in charge in every school should be given the responsibility to take care of the sports equipment and to maintain their stock position. Also issued are norms for safety at playgrounds, the need for adult supervision, maintenance and inspection of equipment and a monitoring system has been put in place.⁷⁹

The most recent policy position of the central government appears in the National Education Policy 2020 (NEP). The NEP makes the case for experiential learning, including sports-integrated education as standard pedagogy. Sports-integration has been put forward as a cross-curricular pedagogical approach that utilizes physical activities including indigenous sports, in pedagogical practices to help in developing skills such as collaboration, self-initiative, self-direction, self-discipline, teamwork, responsibility, citizenship, etc. It suggests that the need to integrate sports in education is well recognized as it serves to foster holistic development by promoting physical and psychological well-being while also enhancing cognitive abilities.

The NEP proposes to empower students through flexibility in course choices particularly in secondary school - including subjects in physical education. It is proposed that there will be no hard separation among 'curricular', 'extracurricular', or 'co-curricular', among 'arts', 'humanities', and 'sciences', or between 'vocational' or 'academic' streams. Physical education will be incorporated throughout the school curriculum, with a consideration for what is interesting and safe at each age.⁸⁰

The NEP has also proposed the formulation of a new and comprehensive National Curricular Framework for School Education 2020-21 (NCFSE). It will be undertaken by the NCERT and based on the principles of the NEP and frontline curriculum needs. After discussions with all stakeholders including state governments, ministries, relevant departments of the central government, and other expert bodies, NCFSE will be made available in all regional languages. The NCFSE document shall henceforth be revisited and updated once every 5-10 years, taking into account frontline curriculum.⁸¹

Interestingly, the NEP directs a review of the "practicalities of playgrounds in urban areas", school-area and room-size requirements. It recognises that small school sizes have rendered it economically suboptimal and operationally complex to run good schools, in terms of deployment of teachers as well as the provision of critical physical resources. Teachers often teach multiple grades at a time, and teach multiple subjects, including subjects in which they may have no prior background; key areas such as sports are too often simply not taught; and physical resources, such sports equipment are simply not available across schools. The NEP proposes that by 2025, state governments create

⁷⁹ *Id.*

⁸⁰ Government of India, Ministry of Education, *National Education Policy*, paras 4.8-4.9 (2020).

⁸¹ *Id.*, at para 4.30.

school complexes and “rationalise” schools to encourage sharing resources such as playgrounds. This change in policy may dilute the playground requirements set out in the RTE Act. According to the NEP, a school complex is an administrative cluster comprising one secondary school and all other schools offering lower grades (including anganwadis) in a 5-10 kilometre radius.⁸² The NEP tries to address the issue of inadequate infrastructure and teachers particularly in subjects such as physical education by proposing the sharing of infrastructure and teachers. The NEP states this approach of consolidation of schools is an option that must be carried out very judiciously.

National Sports Education Board

MYAS appointed a committee in 2019 to prepare a blue print of the National Sports Education Board (NSEB). The NSEB was announced as an initiative under the Khelo India Scheme with a goal to provide a dynamic and integrated school and college sports education system while focusing on ethics and overall development and well-being for the purpose of excelling in sports and in life. The NSEB was expected to offer sports related subjects besides regular curriculum in schools. The core curriculum was expected to be based on the National Curriculum Framework and to also give students options like deferred exams and flexibility which are currently only offered to established sports players. The NSEB was expected to allow for a traditional school curriculum offering the same subjects, but also giving students the option of selecting one or two sports related subjects according to their choice. It was further expected that schools would have the option to either exclusively opt for the NSEB or have it alongside other boards.⁸³

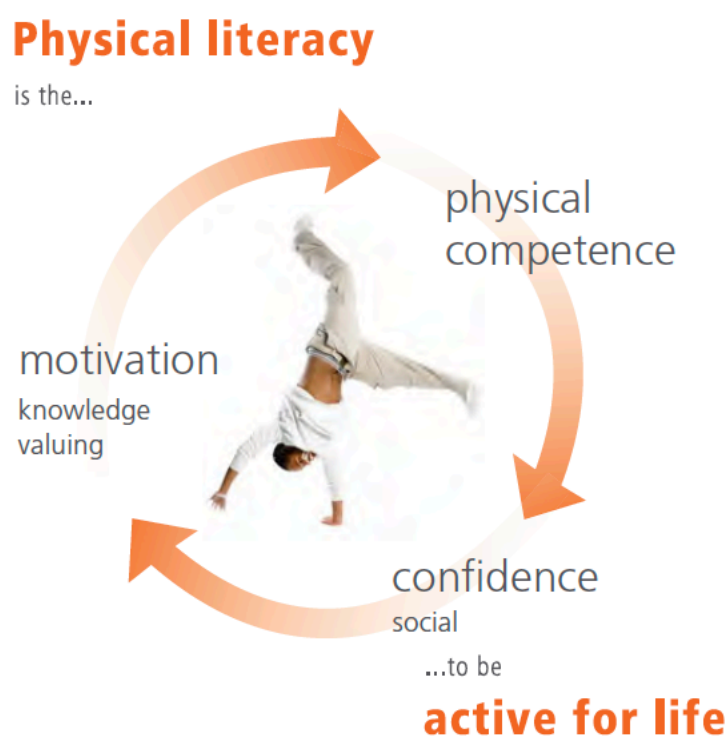
There is no additional information available on MYAS’s website or any of its annual reports regarding the status of the NSEB and its expected launch. Should it be imminent, it would be an effective platform for educating children and youth on physical literacy through the curriculum. At the time of its announcement in the full budget session of 2019, the Finance Minister said, “*The government is committed to expand Khelo India scheme and provide all necessary financial support. To popularise sports at all levels, a National Sports Education Board for development of sportspersons will be set up under Khelo India Scheme*”.

⁸² Srujana Bej, *In the name of efficiency, NEP disregards children’s right to playgrounds*, The Indian Express (2 March 2021).

⁸³ Abhijit Nair, *Blue print ready for National Sports Education Board in schools*, The Bridge (12 November 2020).

6. Recognising a Fundamental Right to Physical Literacy

Descriptions such as physical fitness, talent identification, sports performance, and the like focus on the 'body' and its potential as a differentiator from the norm, a source of achievement. This focuses the spotlight on a specific group of people who wish to undertake competitive athletic pursuits and also limits the conception of duty which only falls on the physical education or sport coaches within the institution. This results in efforts being put into filtration, separating the talented from the less talented and focusing scarce resources on the progress of the former without much regard for the latter. There is also a finality attached to these descriptions. Ones who are 'good at sport' may become athletes. Others are labelled as lacking in these attributes and may ignore physical education and physical activity for the rest of their lives.⁸⁴ There is also no duty owed to them. The notion of universal physical literacy offers a comprehensive and meaningful alternative.



Courtesy: [Long-term Development in Sport and Physical Activity 3.0, Sports For Life, Canada \(2019\)](#)

Defining Physical Literacy

Physical literacy is beginning to shape the global learning, education and physical activity ecosystem.⁸⁵ Physical literacy recognises that humans learn for a wide variety of reasons. These reasons include for survival, social connection or self-actualisation. Its importance

⁸⁴ Margaret Whitehead (ed), *Physical Literacy: Throughout the Lifecourse*, 4-5 (Routledge, 2010).

⁸⁵ Suzanne Lundvall, *Physical Literacy in the field of Physical Education – A Challenge and a Possibility*, 4(2) *Journal of Sport and Health Science* 113 (2015).

is self-evident from the fact that learning to move is probably the first literacy acquired by humans, well before learning to read, write or think. Learning to move ourselves for social, aesthetic, competitive, and even survival reasons is linked not only to our health but also to the meaning we gain from our everyday lives.⁸⁶

Several definitions have been offered for physical literacy.⁸⁷ The most widely accepted is the one suggested by Margaret Whitehead. According to her, “as appropriate to each individual’s endowment, physical literacy can be described as the motivation, confidence, physical competence, knowledge and understanding to maintain physical activity throughout the lifecourse”.⁸⁸

As per this definition, physical literacy is much more than mere physical education or sports. It does not relate to ability and thus is widely accessible and targeted at the larger populace. If operationalised properly, it has the potential to offer opportunities and motivate everyone to lifelong active living.

It could also serve as the starting point towards development of specialised sports and motor skills. However, it does not matter if the participant aspires to become a professional athlete or an athlete at all. Physical literacy is about human development rather than athlete development. A child can be an athlete if she wants to, and physical literacy offers her the skills and opportunities. She can be content with playing friendly games in the neighbourhood. Both cases are equally supported by a well-oiled physical literacy framework. In both situations, she needs a strong foundation in fundamental movement skills. Of course, these skills are also important well beyond the sporting arena. They are critical for a holistic development of an individual. They are the building blocks for learning other skills such as language, literacy, numeracy and social awareness.⁸⁹

Physical literacy also has the potential to be universal and inclusive.⁹⁰ It is not tied to age, ability, gender, culture, class or any other distinction. It provides equal opportunities to learn, grow and participate to the groups that are often left out from discussions about physical activity⁹¹ – persons with disabilities, adults, women, historically oppressed communities.⁹² It aims to grow along with the individual. It accounts for the individuals in different contexts and changes in an individual’s life and prepares them to lead healthy,

⁸⁶ Yao Ydo, *Physical Literacy on the Global Agenda*, 50(1-2) *Prospects* 1–3 (2021).

⁸⁷ Cara Shearer et al, *How Is Physical Literacy Defined? A Contemporary Update*, 37(3) *Journal of Teaching in Physical Education* 237 (2018); Dean Dudley & John Cairney, *Physical Literacy: Answering the call for Quality Education and Sustainable Development*, 50(1-2) *Prospects* 5 (2021).

⁸⁸ Whitehead, *supra* note 84, at 5.

⁸⁹ *Fundamental Movement Skills Development Plan to lay foundation for Physical Literacy in Children*, Sport Singapore (28 June 2011).

⁹⁰ Shawn Ladda, *Physical Literacy Is a Social Justice Issue!*, 85(5) *Journal of Physical Education, Recreation & Dance* 3 (2014).

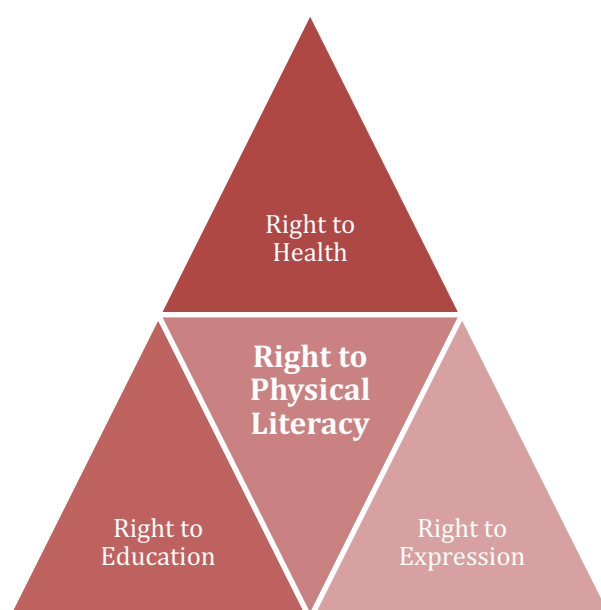
⁹¹ Wendy Barber et al, “Inclusive and accessible Physical Education for diverse populations” in Sonya Singer and Mary Harkins (eds), *Educators on Diversity, Social Justice, and Schooling: A Reader*, 307 (2018).

⁹² Autumn Nesdoly et al, *An exploration of Indigenous Peoples’ Perspectives of Physical Literacy*, 26(3) *Sport, Education and Society* 295 (2021); Kyle Pushkarenko et al, *Physical Literacy and Inclusion: A scoping review of the Physical Literacy literature inclusive of individuals experiencing disability*, 50(1-2) *Prospects* 107 (2021).

enriching and fulfilling lives. It achieves this by integrating physical, psychological, cognitive and social capabilities of an individual.⁹³

Thus, it can be said that physical literacy asks educators to celebrate each individual's strengths and unique talents. These should be used as a foundation for learning and teaching to live meaningful and healthy lives through physical activity, sport, recreation, and leisure.⁹⁴ It can play an important role in ensuring that no one is left behind. An integrated approach to national sport-education-health vision building can ensure that "citizens are healthy, resilient and equipped with the socio-emotional skills needed to navigate life transitions".⁹⁵

Recognising a Fundamental Right to Physical Literacy



What would it mean to have the fundamental right to physical literacy? It would mean identifying the intrinsic value of physical activity to human living. It would mean not seeing physical activity as a means to an end. It would mean establishment of physical activity/ physical education as a core component of education curriculum. It would mean life-long opportunities to access physical activity universally. It would mean that everyone no matter their age, ability, gender, class or other needs or interests, demands the right to be physically active and physically literate.⁹⁶ What could be more fundamental to the human existence than this?

A fundamental right to physical literacy would actualise and enhance the enjoyment of other fundamental rights. It would go a long way in enhancing the opportunities and freedom to express oneself. A physically literate individual would have a more fulfilling

⁹³ Sport Australia, *Australian Physical Literacy Framework* (2019).

⁹⁴ Yao Ydo, *Physical Literacy on the Global Agenda*, 50(1-2) *Prospects* 1-3 (2021).

⁹⁵ UNESCO, Nancy McLennan, *Making the case for inclusive quality physical education policy development: A Policy Brief* (2021).

⁹⁶ Whitehead, *supra* note 84, at 5.

life of higher quality than one who is not. Quality of life is a facet of the right to life and personal liberty under Article 21 of the Constitution. Physical literacy, as a building block, would go a long way in the promotion and realisation of the right to health and the right to education. Defined specifically, a fundamental right to physical literacy should be closely aligned to the right to education, prescribed for children under the age of 18, or of a school going age. While this is the correct approach for defining the contours of a fundamental right to physical literacy, unlike school education, access to physical literacy learning tools must also be available (even if not mandated as a fundamental right) to every individual of all ages. Therefore, any framework pertaining to physical literacy must also allow for a technology-backed awareness and learning toolkit to be developed simultaneously for anyone not directly involved with school education, irrespective of age. This would enable population-scale inclusion.

It is important to appreciate that a mere fundamental 'right to play' or a 'right to sport' would be limited in nature. Such a right would focus on sports talent identification, sports performance and excellence and building of elite athletes. A 'right to sport' seeks to exclude. This is because sport is structured to discover the most talented and ensure that they rise to the top. Sport focusses on those who have the potential to be successful at the elite level. Because a mere 'right to sport' is unlikely to be universally available, it would not equitably advance the right to life, education, health and expression of the population at large. A 'right to physical literacy' as conceptualised in this report addresses these objections against the mere 'right to sport'. Right to physical literacy will be an enabling right for the right to life, education, health and expression as well as an independent right in itself. It would inherently include the notion of a right to access sporting opportunities within it but that would only be an element of it.

A right to physical literacy would further several directive principles of State policy which are promises that the State has made to its citizens. Physical literacy would promote public and social welfare which would further Article 38⁹⁷ of the Constitution which speaks about promotion of social welfare. By enhancing the health and education status

⁹⁷ Article 38(1), Constitution of India 1950 – “State to secure a social order for the promotion of welfare of the people.

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life”.

of citizens, physical literacy would also promote the objectives of Articles 39(e) and 39(f),⁹⁸ 45,⁹⁹ 46¹⁰⁰ and 47¹⁰¹ of the Constitution.

At the same time, a declaration and actualisation of the right to physical literacy would also enable India to fulfil its obligations under multiple international legal instruments. While, to our knowledge, no other country in the world has an explicit fundamental right to physical literacy spelled out, the concept of physical literacy has been accepted as a guiding principle in judicial directions and national policies in a number of jurisdictions.¹⁰² Even international legal instruments when they talk about the concept of physical literacy, continue to refer to terms such as physical education, physical activity or sport. It is important to choose the correct terminology to ensure that the right is well defined, to ensure that it can be asserted, actualised and enforced. A declaration of the fundamental right to physical literacy would continue the long tradition of the Supreme Court of India playing a pioneering role in the global human-rights movement.

Duty to enable physical literacy

A right is meaningful only if it is accompanied by a concomitant duty on someone to ensure that the right is secured or that the right is not infringed. What would these duties look like and who would be the duty bearer if a fundamental right to physical literacy is to be actualised? While the primary constitutional duty in this regard may be restricted to the State and its agencies, the State is positioned to actualise the right through legislation and policy instruments that can impose duties and standards of conduct on other public and private actors.

It is imperative that duties are imposed on parents and carers to begin with who are primarily responsible for a child as she takes baby steps. Parents or carers should provide

⁹⁸ Article 39, Constitution of India 1950 – “Certain principles of policy to be followed by the State. – The State shall, in particular, direct its policy towards securing:

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment”.

⁹⁹ Article 45, Constitution of India 1950 – “Provision for early childhood care and education to children below the age of six years. – The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years”.

¹⁰⁰ Article 46, Constitution of India 1950 – “Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections. – The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation”.

¹⁰¹ Article 47, Constitution of India 1950 – “Duty of the State to raise the level of nutrition and the standard of living and to improve public health. – The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health”.

¹⁰² The Aspen Institute USA, *Project Play, Physical Literacy: A Global Environmental Scan* (2015).

young children plenty of safe opportunities to move about, free play, guided play, exercise and explore.¹⁰³

As the child grows up, the duties will be borne by educational institutions, educators and trainers. In particular, teachers can help children develop their embodied competence, given their influence, expertise and the resources at their disposal. Teachers should provide experience of a wide range of physical activities, promote holistic movement competence and provide recognition and encouragement. These early stages are critical as an individual's perception of physical activity and their attitude to participation tend to be informed by their experiences in formative years.¹⁰⁴

Adult life duties would fall on employers, peers, family members, clubs, leisure centres, sport associations and medical personnel. Participation in physical activity must be woven into patterns of work and family responsibilities. Other stakeholders must encourage and provide the necessary opportunities to engage safely.¹⁰⁵

Holding the entire framework together, the government at all levels will have the duty to assess the landscape, formulate plans, legislate policies, provide both physical and monetary resources, facilitate implementation, direct local bodies and monitor outcomes. National education curriculum must embed reading, writing, speaking, listening, language, numeracy and literacy standards in physical education.¹⁰⁶ Overall, it will have to review current structures and governance models at various levels; engage civil society organisations and researchers for synergies; provide standards; make provision for the right physically as well as provide policy and legal environment for the realisation of the right; commit to reduce attitudinal, social and physical barriers; enable training and resource deployment; ensure access for all to relevant tools; and raise awareness about the benefits of physical literacy.¹⁰⁷

At the same time, it is also important for the right-holders to bear duties. Essentially, a duty to seek out physical literacy and engage with the framework. This would be akin to what Article 21A of the Constitution declares- "State shall provide free and compulsory education to all children..." The compulsory nature of the right to education has been referred to as the "affirmative burden on all participants in our civil society" by the Supreme Court.¹⁰⁸ Under the Constitution, every parent and guardian has the fundamental duty to provide opportunities for education to his child, or as the case may be, ward, between the age of six to fourteen years.¹⁰⁹ Closely aligned with the right to education in other respects, it is natural that the right to physical literacy borrows from education in this respect as well. In order to ensure true actualisation of the right to

¹⁰³ Whitehead, *supra* note 84, at 159, 193-195.

¹⁰⁴ Whitehead, *supra* note 84, at 160-161, 193-195; UNESCO, Nancy McLennan and Jannine Thompson, *Quality Physical Education (QPE): Guidelines for policy makers* (2015).

¹⁰⁵ Whitehead, *supra* note 84, at 161-162, 193-195.

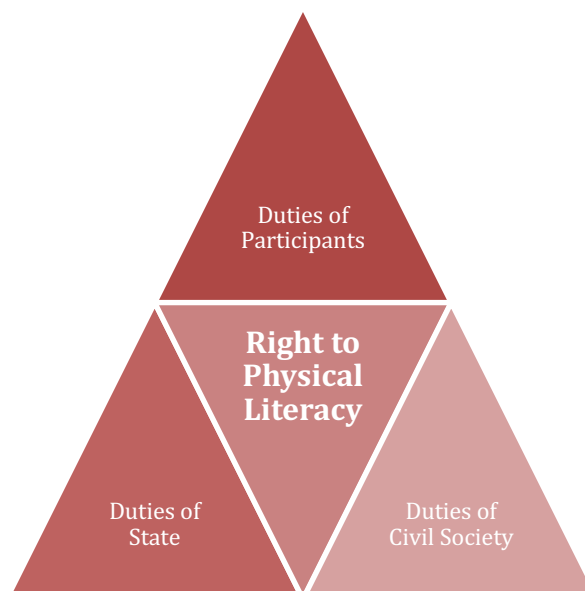
¹⁰⁶ Alisa James and Mara Manson, *Physical Education: A Literacy-Based Approach* (Sagamore Publishing, 2015).

¹⁰⁷ UNESCO, Berlin Declaration, 5th International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (2013); UNESCO, Kazan Action Plan, 6th International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (2017).

¹⁰⁸ Avinash Mehrotra v. Union of India, (2009) 6 SCC 398, paras 32-33.

¹⁰⁹ Article 51A(k), Constitution of India 1950.

physical literacy, it is imperative that it is compulsory in nature, that it imposes duties on the right-holders and their guardians as well.



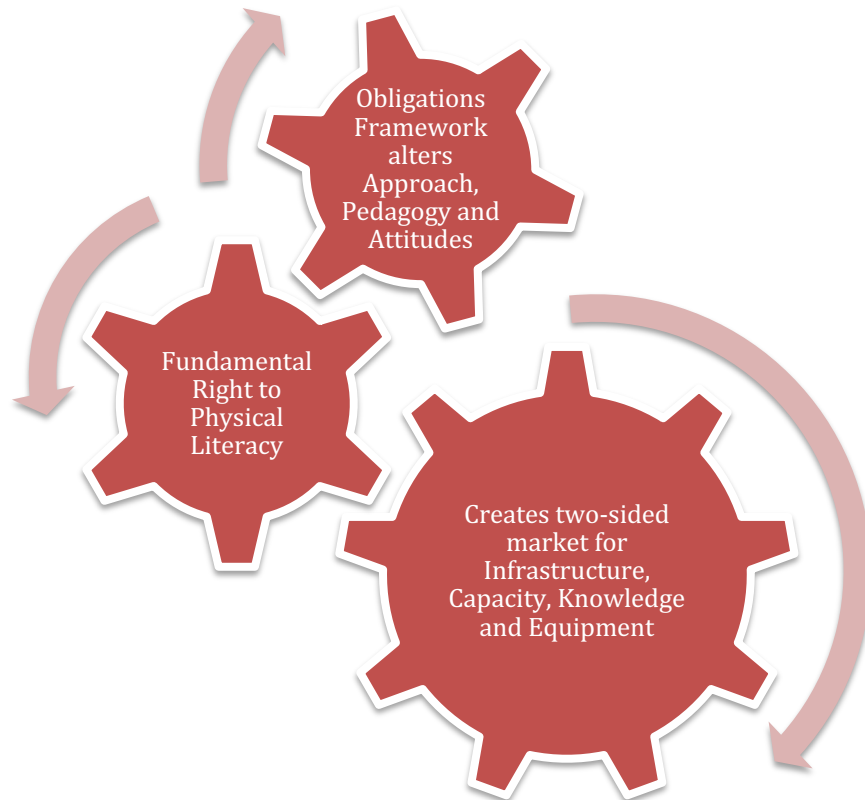
A rights-based approach suggested in this report is effective not only because it spells out rights, duties and responsibilities clearly, but also because it provides remedies. Constitutional rights are protected by a remedy in the form of a right to approach the Supreme Court in case of violation, under Article 32.¹¹⁰ It grants wide ranging powers to the Supreme Court to compel the State to ensure both the negative (do no harm) and positive (make provisions for) fulfilment of constitutional rights. The significance of a remedy is underscored by the fact that even though there are several policies in place to improve physical activity amongst the population, their disparate nature and non-legal nature of prescription means that it is difficult to seek their effective enforcement. Hence, a rights-based approach that recognises the fundamental right to physical literacy could be significant as it can create an integrated framework of rights, duties, responsibilities and remedies.

For physical literacy to become a major policy initiative and effectively bringing to life the broader framework as envisioned under chapter 7 of this report, a multi-dimensional stakeholder effort will be required. At the central level, an effort from the line ministries, at the state level through specific policies, and at the civil society level, through concerted efforts similar to what we have witnessed in other sectors, or in international jurisdictions.

Despite the clear existence of physical literacy as a right, physical education takes a backseat in school and the populace suffers due to inactivity and a lack of equal access to

¹¹⁰ Madhav Khosla, *Making social rights conditional: Lessons from India*, 8(4) International Journal of Constitutional Law 739 (2010); Nirmalendu Bikash Rakshit, *Right to Constitutional Remedy: Significance of Article 32, 34(34/35)* Economic and Political Weekly 2379 (1999).

lifelong participation in physical activity. An express declaration of physical literacy as a fundamental right and the actualisation of such a right could offer a solution.

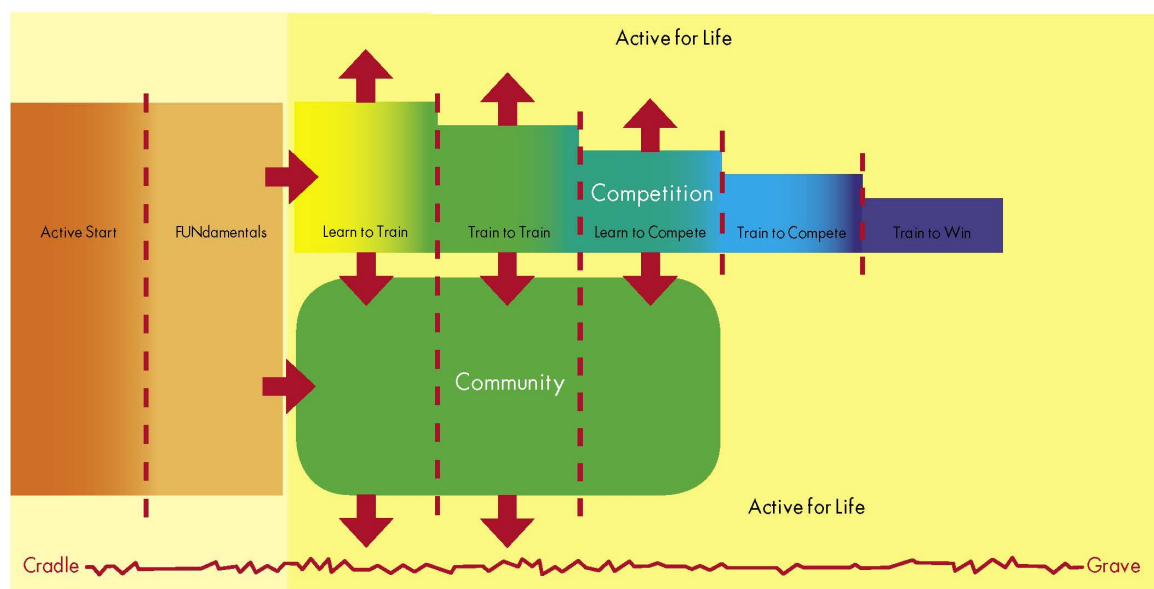


7. Actualising a Fundamental Right to Physical Literacy

“Sports should become a part of our lives. If we are a young nation, our youth should get manifested in the field of sports as well. Sports means physical fitness, mental alertness and personality enhancement. What else does one need? Sports, in a way, is a recipe that brings people together.”¹¹¹

- Prime Minister Narendra Modi on ‘Mann ki Baat’, talking about National Sports 2017 and launch of Khelo India.

India, with a rich history of prioritizing wellness and wellbeing, has for the past several years taken the lead in several aspects of it. Anchored by efforts to promote yoga and sports, the advent of India becoming a leading voice in physical literacy stands to be greatly enhanced should physical literacy become a fundamental right. Initiatives where India becomes a frontrunner, especially in critically important sectors such as health and wellness, stand to be championed and rolled out at population-scale. India is uniquely positioned to formulate a national policy grounded in the indigenous nature of physical literacy. This necessity to actualize good health and fitness through an awareness of one’s physical traits is further exacerbated by the onset of the COVID-19 pandemic. The pandemic has altered many realities and introduced both uncertainty and anxiety to daily life. There are several different components that must be addressed as a new norm, and suitable steps must be taken to instil a roadmap for being physically and mentally healthy at a time when India is at the cusp of a generational shift in priorities.



Courtesy: [Special Olympics Saskatchewan, Canada](#)

¹¹¹ FICCI, *ASCC Framework for Sports and Physical Education in Schools* (2018).

As mentioned in the previous chapter 6, it is important to recognise the distinction between the fundamental right to physical literacy on the one hand and a mere right to play and the right to sport on the other. A fundamental right to physical literacy is a right that can potentially be accessed and delivered at population-scale from a person's birth until their death. It is equally important to ensure that inclusive, age-appropriate and stage-appropriate support to both sports participation at the community level and sports progression at the competitive level are delivered through an enabling approach by the concerned stakeholders.

The rolling out of a policy framework that prioritizes tools to enable physical literacy requires a multi-dimensional approach with several sets of participants needed to perform their allocated roles and responsibilities. There is a critical need for multiple sectors (e.g., health, sports, education, transportation, and urban and rural planning and development) to work together in developing a funding agenda for active living research and policy implementation for all citizens. Also required is a national strategy for ensuring the fundamental right is actioned, which would make physical activity a priority among schools, communities, cities and states, and will help guide investments, policies, and programs.¹¹² As per the overall physical literacy concept, there is a need to build a disposition/attitude to be active for life, across all ages.

Engagement with physical literacy could also involve a greater engagement with yoga and traditional physical and mental wellness practices in India. It could also mean connecting to local games, local dance, local culture-based movement and other similar opportunities. At the same time, sports is an extremely impactful mechanism with which physical literacy is enabled across stages and ages of a person's physical development.

Lessons for Physical Literacy from India's Global Leadership in Yoga

The effort to make yoga a part of Indians' daily routine has been well documented, and rightly so. Yoga is said to give one a sense of well-being and health that has become even more crucial in today's environment. The World Health Organization (WHO) has, in fact, listed yoga as a means to improve health in its global action plan on physical activity 2018-2030.¹¹³ UNICEF has also stated that children can 'practice many yoga poses without any risk and get the same benefits that adults do. These benefits include increased flexibility and fitness, mindfulness and relaxation'.

The International Day of Yoga was declared by the United Nations, through a resolution, the draft of which was proposed by India and endorsed by 177 member states. It was first introduced by Prime Minister Modi during his address in 2014 at the 69th session of the UN General Assembly, where he said 'Yoga is not just about exercise; it is a way to discover the sense of oneness with yourself, the world and the nature'.¹¹⁴ June 21st is said

¹¹² India Report Card on Physical Activity, *supra* note 2.

¹¹³ World Health Organisation, *Global Action Plan on Physical activity 2018–2030: More Active people for a Healthier World*, 6 (2018).

¹¹⁴ United Nations Secretary General, *Secretary-General's Remarks on the International Day of Yoga* (21 June 2015).

to mark a transition to *Dakshinaya*, a period of support to spiritual practices, and therefore a beneficial period for yoga and meditation.

Through the Ministry of AYUSH, yoga has been prioritized, including through the launching of a scheme for Voluntary Certification of Yoga Professionals. This aims at certifying the competence level of yoga professionals through certification process and promoting authentic Yoga as a preventive and health promoting drugless therapy. The Yoga Certification Board (YCB) has been established with 'the objectives to bring synergy, quality and uniformity in knowledge and skills of Yoga professionals across the world through certification programs'.¹¹⁵

Similarly, the importance of sports in India as a mechanism and support to enhance better health and wellbeing cannot be understated. By deploying several of the recent initiatives across ministries and states, widespread benefits from sporting activities will be visible across the population. Through the proposed NSEB in line with the Ministry of Education and MYAS, policies that lend to greater access and involvement with sports can yield actualizing of physical literacy's positive outcomes. It may be considered to link policy on sports participation with the overall mandate of the National Sports University, located in Manipur.

Principles of a Public Policy Framework

Useful pointers in building a multi-stakeholder framework may be gained from UNESCO's proposed framework of Quality Physical Education (QPE).¹¹⁶ QPE is distinct from physical education, with the distinctions pertaining to frequency, variety, inclusivity and value content. QPE places emphasis on peer-led learning and rounded skill development. Investment in QPE, according to UNESCO's study, supports students to develop the physical, social and emotional skills which define healthy, resilient and socially responsible citizens. Specifically, QPE also emphasises that "the promotion of physical literacy should then remain a key feature of any physical education curriculum throughout primary and secondary education."¹¹⁷

Using QPE as the starting point for a holistic physical literacy movement in India, a policy such as this should ideally borrow from the expertise of stakeholders in health, education, youth, sport, women and child welfare ministries. It has been observed that an inter-ministerial approach ensures coherence in policy design, commitments and budgeting, which supports the integrated implementation of all related policy frameworks, pools capacities and delivers short-, medium- and long-term cost savings in education and health.

An on-ground example is from Zambia, where the ministries of education and youth and sport facilitated by the QPE project's participatory approach, highlighted the value of inter-ministerial exchange which resulted in the development of a national physical

¹¹⁵ Government of India, Ministry of AYUSH, Yoga Certification Board, *Guidelines for Yoga Professionals* (2020).

¹¹⁶ UNESCO, Nancy McLennan and Jannine Thompson, *Quality Physical Education (QPE): Guidelines for policy makers* (2015).

¹¹⁷ UNESCO, *Promoting Quality Physical Education Policy – resources and toolkit*.

education implementation framework that establishes clear, cross-cutting objectives to achieve QPE, active lifestyles and rounded development in the country.

Adapting from QPE towards physical literacy policy, key guidelines that can be taken into consideration include:

- Local ownership: Policy should meet the local needs and work within local processes and have localised context.
- Participation: All relevant stakeholders should be encouraged to participate in the policy development process.
- Inclusiveness: All should feel they have a stake in the policy, including representatives of disadvantaged populations. This is vital because, while the fundamental right may be carved out for children of a certain age range, the benefits of physical literacy extend to all without limitation.
- Gender sensitivity: Policy development should be viewed through a gender lens to reveal the ways content, process and approach is informed by, shaped by or biased towards a male or female perspective or experience.
- Empowerment: Policy should empower at risk or marginalized populations.

The WHO's 'Global action plan on physical activity 2018–2030: More active people for a healthier world' report specifies how an effective national action to reverse current trends and reduce disparities in physical activity requires a "systems-based" approach with a strategic combination of "upstream" policy actions aimed at improving the social, cultural, economic and environmental factors that support physical activity, combined with "downstream", individually focused (educational and informational) approaches. This global action plan sets out four strategic objectives (as shown below) universally applicable to all countries, recognizing that each country is at a different starting point in their efforts to reduce levels of physical inactivity and sedentary behaviour.¹¹⁸

At UNESCO's Sixth International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (MINEPS VI) - Kazan, Russian Federation (Kazan Action Plan 2017),¹¹⁹ a commitment to link sport policy development to the 2030 Agenda of the United Nations / Sustainable Development Goals, as well as support to an overarching sport policy follow-up framework was enabled. Key among the areas adopted were:

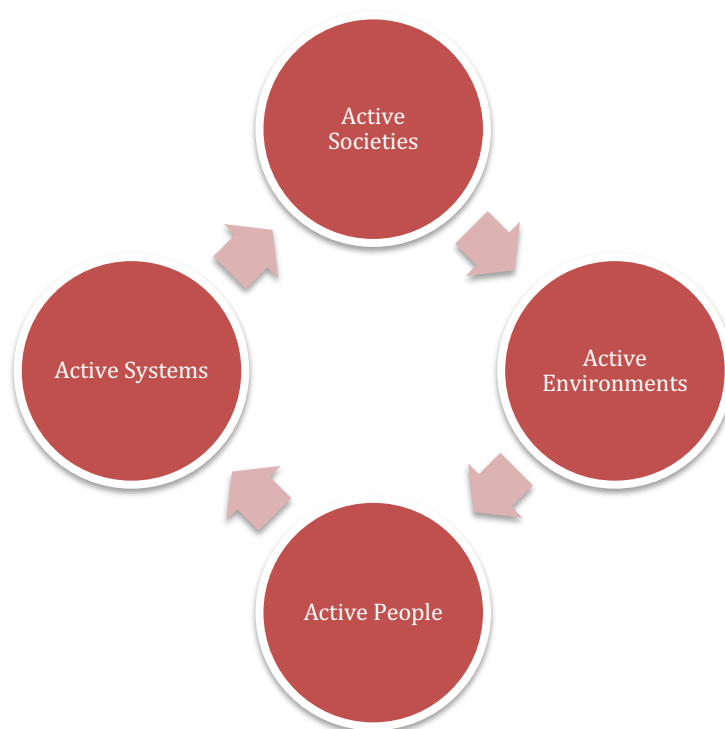
- Promotion of research-based evidence and strengthening of higher education in physical activity and competitive sport.
- Enforcing gender equality and empowerment of girls and women, recognising the potential of physical education and sport to deliver opportunities.
- Fostering the inclusion of youth in decision-making processes, recognizing how youth can find creative and innovative solutions to challenges affecting them.
- Fostering empowerment and inclusive participation at all participatory levels, regardless of ability, impairment, ethnicity, gender, language, religion, political or

¹¹⁸ World Health Organisation, *Global Action Plan on Physical activity 2018–2030: More Active people for a Healthier World* (2018).

¹¹⁹ UNESCO, Kazan Action Plan, 6th International Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (2017).

other opinion, national or social origin, property, birth or other status, to enable a cross-cutting impact on many development goals and targets.

- Providing quality education and promoting lifelong learning for all as “fundamental rights for all”.



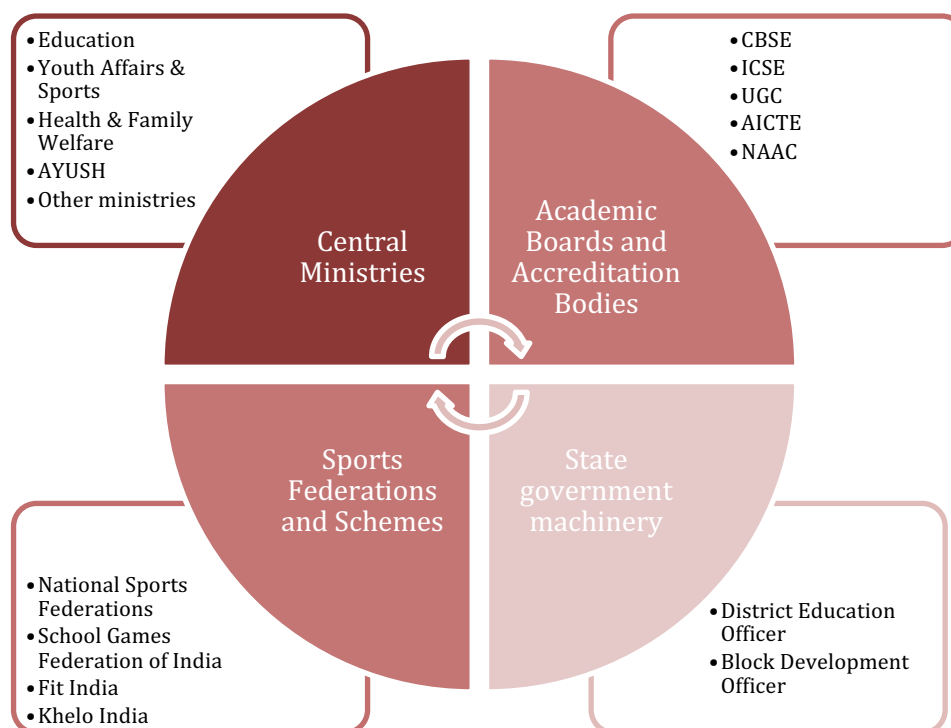
Keeping these principles in mind, this chapter sets out the broad layout of potential stakeholders and the tools that they may deploy, along with a study of international precedents and examples which would be useful in the Indian context. A key policy recommendation at the central level is the proposed setting up of a National Physical Literacy Mission tasked with knowledge leadership, engagement, collaboration, innovation, monitoring and evaluation, and enforcement/grievance redressal. Also assessed in parallel in this section is the role of sports in the overall physical literacy movement.

Stakeholders, Authorities and Institutions

There is a diverse set of stakeholders who will need to be relied upon to enable the consistent, meaningful and broad-based dissemination of physical literacy to enable it to be an effective fundamental right.

The four key sets of public stakeholders are relevant line ministries, school boards, sports federations, and state government machineries. A depiction is provided below. Of these, the most critical roles will likely be played by state governments and education boards, supported at a policy level by central ministries and supplemented in respect of sports

by sports federations and the objectives of allied government schemes. These are described in greater detail in the graphic below.



International learnings

For effective physical literacy education and awareness dissemination, international practices will be useful to observe and, where possible, adapt. Some of the countries with the most established initiatives in physical literacy include England, Wales, Australia, Ireland, Singapore, United States and Canada among others. Each of these deliver physical literacy programs primarily through sport and educational systems. They work extensively with national sport governing bodies along with schools to introduce children to these concepts, through physical education, community sports, and active play.¹²⁰

The specific programs include affective, cognitive, and physical components of physical literacy, and also possess an assessment/progression component. From a macro-level perspective, the organisations that deliver this programming all receive funding and support from a nationally recognized body, either a federal agency focused on sports (e.g., Sport England, Sport Canada, and Sport Wales) or other government departments. Sport Australia in 2019, released the Australian Physical Literacy Framework (APLF)¹²¹ to advance a national agenda for physical literacy and specifically, clarify and promote the development of physical literacy in Australian sport and education sectors.

¹²⁰ The Aspen Institute USA, *Project Play, Physical Literacy: A Global Environmental Scan* (2015).

¹²¹ Sport Australia, *Australian Physical Literacy Framework* (2019).

Broadly, the following key takeaways should be kept in mind when assessing the useability of these precedents to the Indian context:

- Successful jurisdictions have strong, effective messaging strategies. For example, Sport for Life Canada has a well-developed online presence with resources for parents and coaches, workshops, videos, and blogs, while also deploying social media as part of its messaging campaign.
- Successful physical literacy efforts to policymakers usually arise in the context of reversing rising health care costs for the populations, along with the imperative need to improve physical and mental well-being of citizens.
- The sports governing bodies in many countries, particularly those mentioned earlier, have taken the community development mandate seriously and have been able to successfully supplement educational institutions that can focus their attention on physical education.

A special focus is also required to promote physical literacy initiatives for people with disabilities. For example, in Lithuania, students of physical education must complete a disability-related course in pedagogy and psychology, either during their studies or during in-service training courses. At Spain's Centre for Inclusive Sport Studies of the Universidad Politécnica de Madrid, online resources and guidance have been developed on inclusive sport for teacher training.

In the UK, the House of Lords' National Plan for Sport and Recreation Committee in their Report of Session 2021–22¹²² pointed out the importance of reliable data for effective monitoring and evaluation, suggesting the need for a physical activity observatory. The observatory would be responsible for developing objective and robust measures in collaboration with public and private sector partners, and collecting and analysing non-sensitive data from public and private sector.

While England and Wales utilize national lottery funds to support physical literacy initiatives, Canada depends upon the government and corporate funding. In India, much of the initial funding for this will need to be allocated by governments both central and state, supported by civil society and the private sector. The private sector in particular will need to contribute monetarily as well as through in-kind support to the development of digital tools, including online applications and training, that deliver accessible, inclusive physical literacy education and help decrease the gendered and intersectional nature of the digital divide.

National Physical Literacy Mission

There are very specific needs to ensure deployment of resources towards structuring the policy framework in a manner that ensures effective implementation, monitoring and evaluation, and a body with cross-ministry representation that is tasked with leading the physical literacy movement for India.

¹²² UK House of Lords, Select Committee on a National Plan for Sport and Recreation, *A national plan for Sport, Health and Wellbeing*, paras 83-102 (10 December 2021).

A cross ministry high level task force may also be formed under the aegis of the NITI Aayog and be tasked with creating and implementing the National Physical Literacy Mission (“**Mission**”).

The following line ministries could be represented in the physical literacy task force that implements the Mission:

- Ministry of Education implementing through the Department of School Education and Literacy.
- Ministry of Health & Family Welfare.
- Ministry of AYUSH.
- Ministry of Youth Affairs & Sports.
- NITI Aayog (Convening body).

Ministries that may be consulted for relevant segments and for periodic reviews of the Mission’s strategic goals includes Ministry of Social Justice & Empowerment, Department of Empowerment of Persons with Disabilities, Ministry of Women & Child Development, and Ministry of Electronics and Information Technology.

Part-time invitee members could include representatives from other related departments and entities such as Sports Authority of India, NCERT, UGC, NAAC, Council for the Indian School Certificate Examinations (CISCE), the National Sports University, National Sports Education Board, other academic boards, state sports departments, sports federations, civil society organizations, and private sector participants.

The establishment and implementation of the Mission may occur over two phases. In the initial phase that can be actioned immediately, a high level task force may be set up at either the Ministry of Education or the NITI Aayog with representatives from the suggested line ministries along with part time invitee members. Concurrently, the setting up of the Mission similar in structure to the Atal Innovation Mission may be commenced, with an independent budget. Upon its approval and setting up, the members of the existing task force will then be nominated to become representative member of the High Level Management Committee of the Mission. The structure of this Mission may be that of a Section 8 company under Companies Act 2013 or an Act of Parliament, and housed under the convening authority of NITI Aayog.

The Terms of Reference of the Mission could be as follow:

- To ensure that physical literacy is a part of the overall curriculum and syllabus for national and state school boards , in particular the National Curricular Framework for School Education 2020-21 (NCFSE) and its subsequent iterations.
- To assess the feasibility and suitable curriculum for accreditation of physical literacy.
- To ensure equal and inclusive access of physical literacy to everyone regardless of their age, ability, gender, culture, class or any other social, economic or physical distinction.

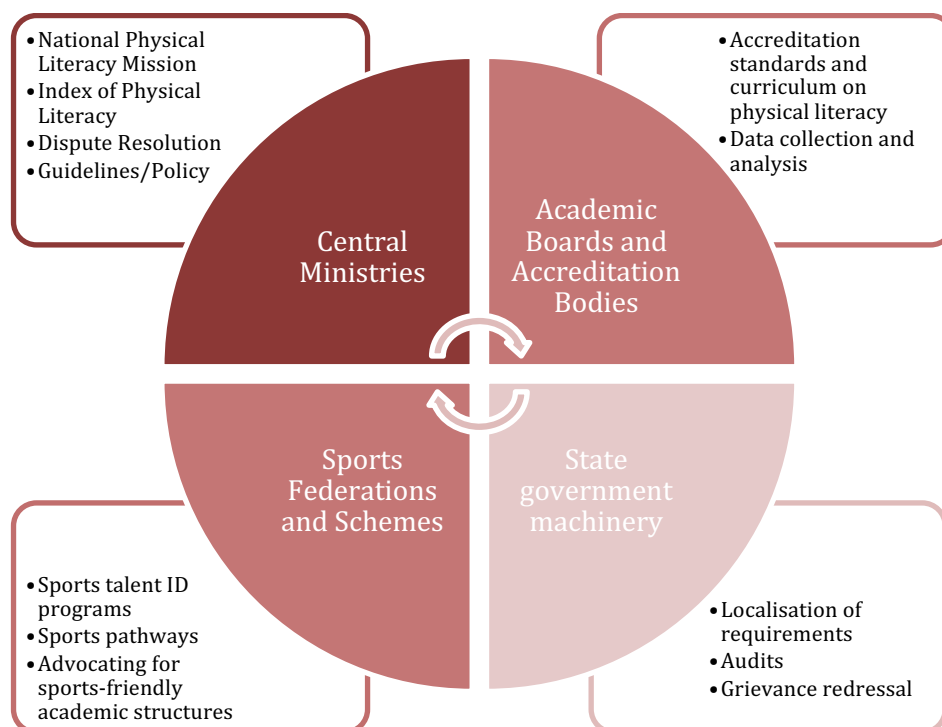
- To engage with states, school and university boards and accreditation agencies to effectively roll out and build awareness around the right to physical literacy and to establish enforceable standards and practices on educational institutions.
- To engage with line ministries, civil society, students and other stakeholders to ensure that relevant requirements are taken into consideration, and latest developments are taken cognizance of.
- To regulate the dissemination of physical literacy at the school and grassroots levels through guidelines and audits.
- To enable coordination between sports bodies and educational institutions on national sports talent identification schemes and sports progression pathways.
- To work with line ministries and incubate an effective enforcement and redressal mechanism for enforcing of individual rights to physical literacy, including for Indians who are not children, but want to be able to access tools for learning about physical literacy.
- To be the repository of non-personal data pertaining to physical literacy and serve as the monitoring and evaluation observatory for effective targeted physical literacy achievement.

This Mission will serve as a regulatory authority, established for the afore-stated terms of reference and with grievance redressal and dispute resolution powers. Part-time members can include invitees with expertise in health and wellbeing including sports and yoga, education, monitoring and evaluation, and population scale policy.

In terms of possible areas of intervention by representatives, the Ministry of Education along with MYAS and Ministry of AYUSH could work closely on developing a curriculum for physical literacy, inclusive of aspects relating to sports and yoga, that would be implemented by the Department of School Education and Literacy in its role as the implementing body. The National Sports University and the NSEB can be linked to these developments and work closely with the Mission. MeitY may take the lead on developing the monitoring and evaluation platform for effective interventions. SAI may be tasked with developing a long-term athlete development module that builds upon lifelong participation in the physical literacy movement for Indians. The MoH&FW would be a reference ministry for positive health outcomes and awareness initiatives for physical literacy, working with the Ministry of Women & Child Development for focused interventions. NITI Aayog could convene and house the Mission and lead the coordination with states and foster dialogue with stakeholders from across the concerned spectrums. Relevant school boards can work closely with the Mission for finalizing and disseminating effective curriculum. Other government entities may also have a role from time to time. For example, the All India Council for Technical Education (AICTE) could design and disseminate a specific physical literacy program through Swayam, both for teachers, as well as individuals.

The Mission could also oversee wider policy initiatives, including urban and rural planning and design, workplace requirements, public and private employment qualification requirements, medical and health insurance mandates and other demand-led measures to increase the value of being physically literate combined with better elaboration and enforcement of accreditation requirements of education boards and

institutions on the supply-side. A central matrix/index may be developed and leveraged to check data points at key institution and geography levels.



Some of these policy initiatives could be along the lines suggested by the WHO to increase physical activity with an aim to ensure that:

- walking, cycling and other forms of active non-motorized forms of transport are accessible and safe for all;
- labour and workplace policies encourage active commuting and opportunities for being physically active during the work day;
- childcare, schools and higher education institutions provide supportive and safe spaces and facilities for all students to spend their free time actively;
- primary and secondary schools provide quality physical education that supports children to develop behaviour patterns that will keep them physically active throughout their lives;
- community-based and school-sport programmes provide appropriate opportunities for all ages and abilities;
- sports and recreation facilities provide opportunities for everyone to access and participate in a variety of different sports, dance, exercise and active recreation; and
- health care providers advise and support patients to be regularly active.

Further, the participation of relevant line ministries may ensure integration with Fit India, Khelo India and other sports and fitness initiatives of the Government of India to be used to evangelise and increase public and institutional awareness of the right to physical literacy, its contours, the related obligations of authorities and institutions and

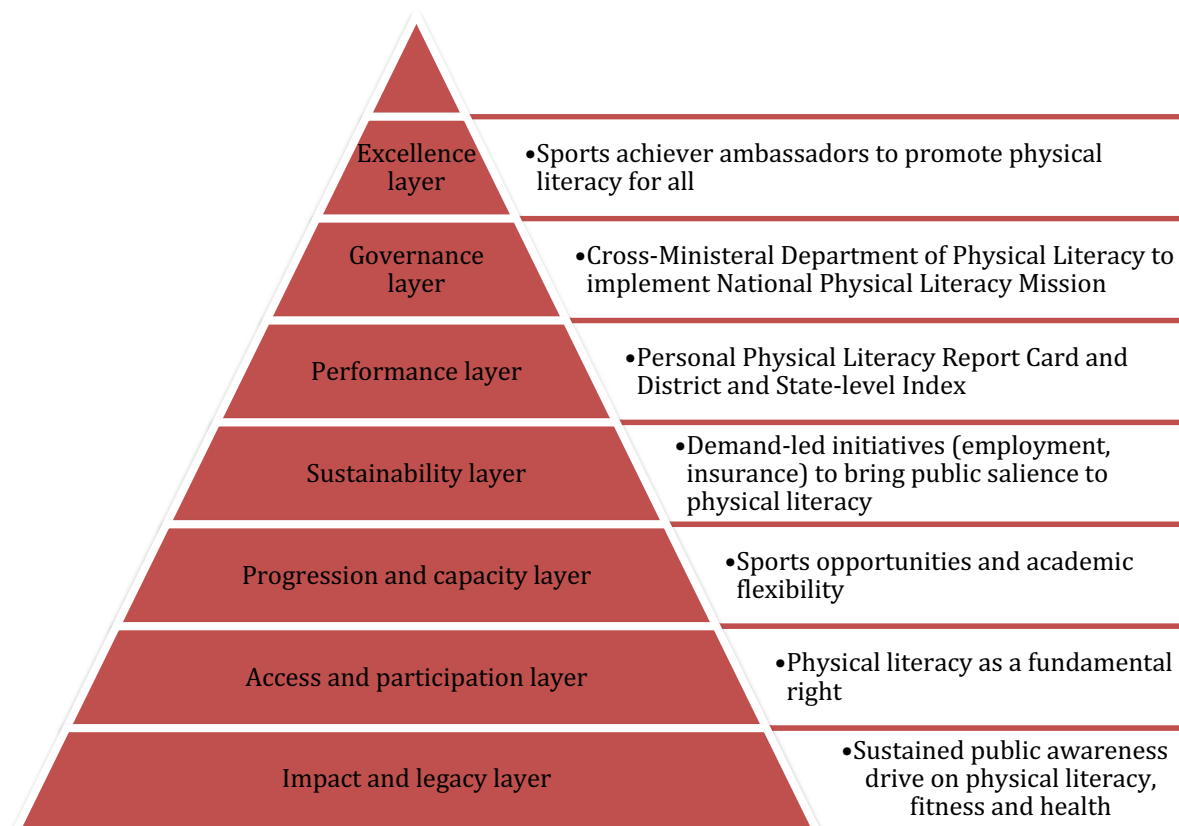
ways in which the right may be asserted, actualised and enforced. A snapshot of the policy framework is shown in the following graphic.

Full Stack Approach

The considerable diversity of the forms and contexts of physical education, physical activity and sport suggests that a great deal of their relevance for civil society lies in their variety and adaptability to local requirements and conditions.

To fully realize their potential, a full stack approach is recommended with cooperation required across public policy sectors, such as health, education, city development, infrastructure, and transport, as well as with private stakeholders, to develop and implement legislations, regulations and national plans of action to bring salience and understanding to the value of physical literacy both at personal and societal levels.

These actions, conducted in synergy, promote continuity of practice and access to physical activities at all ages. They aim to foster autonomy, both in an individual and a collective context, and prevent withdrawal from practice (for example, because of age, life events, social and health conditions, discrimination). Toolkits and other support mechanisms to support such cross-sector collaboration need to be further identified, developed and shared.



Additional examples of possible interventions could include those at the district/panchayat level. A key touchpoint activated by technology could be an instant

messaging/streaming physical literacy education module, further activated by Physical Education teachers at the village or district levels who could separately receive upskilling in these aspects, language and ability tailored. This could be supplemented through an active awareness focus at the district level, to help inform youngsters of all ages as to their physical literacy fundamental rights. Asha workers may be incentivized to perform this role. Similarly, a touch point through school and college boards could be through a Physical Education Cards Programme – a concept borrowed by CBSE from the British Council to build a healthy and fit generation and initiate a trend of joyful learning. In this, physical education and other subject teachers have been specially trained to execute and create games in tandem with the primary school curriculum.¹²³ This would be a useful integration to inculcate education on physical literacy.

At a point in time in India where efforts are being made to establish us as a trailblazer in several reformative initiatives, a right to physical literacy provides the multi-faceted opportunity to truly and universally benefit each and every Indian. Led by the Government of India and supported by both the states and the private participants, physical literacy must now be a national priority and a national mission. The time for stasis is done. It is time for movement and a movement that provides long term benefits to every citizen to live the healthiest life that they are capable of, at their own terms.

¹²³ Neha Pushkarna, *Physical Education Cards (PEC): A New Concept in CBSE Schools*, iCBSE (2010).

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About the Sports Law & Policy Centre

The Sports Law & Policy Centre is an independent think-tank focused on interdisciplinary research, scholarship, education and institutional support for public and private enterprises in areas relating to the legal, policy and ethical issues affecting amateur and professional sports in India. The Centre's activities span a wide spectrum ranging from conducting workshops and training sessions on legal and policy issues in sport to carrying out research and drafting engagements for a wide network of actors including the central government and various state governments. The Sports Law & Policy Centre is housed at the Sports and Society Accelerator.

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About the Authors

Nandan Kamath is specialist in sports law, governance and regulation. He is the Founder and Principal Lawyer at LawNK, representing a wide array of clients including athletes, federations, sports organizations, and leagues. He is also the co-founder and Managing Trustee of GoSports Foundation, a National Award-winning excellence and performance organization for elite athletes. Nandan has worked extensively on the policy side including as a member of the committee to re-draft the National Sports Code, the committee to conceptualise and implement the Target Olympic Podium, of the NITI Aayog constituted Working Group for the policy paper on a national Justice Stack, and of several sports committees at the state and central government level. He was the Co-Editor of '*Go! India's Sports Transformation*', Penguin Random House, 2019, teaches Sports Law as Visiting Faculty at the National Law School of India University and writes and speaks regularly on sports matters. Nandan is a graduate of Harvard Law School, the University of Oxford and the National Law School of India University, Bangalore. He was a national-level cricketer at the junior level.

Desh Gaurav Sekhri is a policy specialist and a dual-qualified lawyer, licensed to practice in India and New York. He has extensive experience in policy matters, and practiced for several years as a sports lawyer, with a focus on sports governance and sports policy. Over the past several years, Desh has worked exclusively in policy, having most recently served as Officer on Special Duty at NITI Aayog for Sports and Law from 2017-2021. At NITI, he also headed the Access to Justice vertical. Prior to his time at NITI, Desh was associated with the Government of the National Capital Territory of Delhi on policy matters in sports governance and sports law from 2016-17. In 2009, he established and headed the Sports law practice at J. Sagar Associates, a premier national law firm, until August 2016, and represented a wide range of Indian and international clients in sports-related and adjacent matters. Desh is a frequent columnist, writing in leading dailies and is the author of '*Not Out! The incredible story of the Indian Premier League*', published by Penguin Random House in April 2016. Desh completed his B.A. (Honors) in Economics from St. Stephen's College, New Delhi. He is also a former junior national lawn tennis singles finalist.

Shubham Jain is a Research Fellow at the Sports Law & Policy Centre and at LawNK, Bangalore. He focusses on using a rights-based approach to sports to enhance access and fulfil sustainable development goals. He is also a Legal Advisor to Fair Game UK, advising on issues concerning the governance and sustainability of football in the UK. Previously, he has practiced law in London at Linklaters LLP including as part of their sports law group. He is a graduate of the University of Cambridge and the National Law School of India University, Bangalore.

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For further information write to us at:
Sports Law & Policy Centre
411-4M, 4th Main Rd
East of NGEF Layout, Kasturi Nagar
Bengaluru, Karnataka 560016