

RIGHT TO EDUCATION: CHALLENGES AND ACCESSIBILITY

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INTRODUCTION

The significance of education in the life of an individual can't be esteemed. It is noteworthy to make a kid rationally solid and dynamic native. Education is must for the improvement of a nation. Education is similar to a flame which illuminates and uproots the dimness of lack of awareness. It is just with the education that ignorance passes away and proficiency spreads. The Right to Education is a universal entitlement to education, a right that is recognized as a human right. The right to education is enshrined in Article 26 of the Universal Declaration of Human Rights and Article 13 and 14 of the International Covenant on economic, social and cultural rights.

India being the second most populous country in the world also has the largest number of illiterates in the world¹. We all recognize that illiteracy is bad, that it prevents the cultural growth of a person.² Therefore RTE, Act was introduced in to deal with the problems and challenges that India was facing in eradicating illiteracy. This paper has been divided into four parts. First part introduces with the subject of the paper i.e., Education and its need. Second part emphasizes that how Right to Education became Fundamental Right. Third part highlights the Challenges and Accessibility of Education in India and concluding with suggestions is listed in the last part.

RIGHT TO EDUCATION: A FUNDMENTAL RIGHT

Till the nineteenth century, education in India was an exclusive right available only to a small section of society³. Under British rule, in spite of compulsory education laws, not much progress was made in this direction. Post-independence, Article 45 of the newly framed Constitution stated that "the State shall endeavour to provide within a period of 10 years from the commencement of the Constitution, free and compulsory education to all children until they complete the age of 14 years".⁴ But nothing much happened towards universalization of elementary education. The Indian Education Commission (Kothari Commission) 1964–1968, reviewed the status of education in India and made several recommendations. Most important amongst these is its recommendation of a common school system with a view to eliminating inequality in educational opportunities⁵. Immediately thereafter, the National Policy on Education (NPE), 1968 was formed. This Policy was the first official document evidencing the Indian Government's commitment towards school education. This was further emphasized in the National Policy on Education, 1986.⁶ It dealt with issues of equalisation of educational opportunity and sought to adopt a common school system in order to promote social cohesion.⁷

The first official recommendation for the inclusion of a fundamental right to education was made in 1990 by the Acharya Ramamurti Committee.⁸ Thereafter, several political as well as policy level changes influenced the course of FCE. The country witnessed an increased international focus on its initiatives regarding FCE after its participation in the World Conference on Education for All in 1990. In the meanwhile, India signed the UN Convention on the Rights of the Child (CRC), in 1992 and initiated the process of adopting legislation to make education a fundamental right of the child. Inroads in this direction were already made in 1976 through amendment to the Constitution to enable the Government at the centre to also make legislation for school education, the power for which until then, had solely been in the hands of the state governments. In 1992, in the case of *Mohini Jain v.*

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¹ <http://www.thehindu.com/news/national/article2845316.ece>

² <http://www.preservearticles.com/201103244638/essay-on-the-problem-of-illiteracy-in-india.html>

³ Aradhya N. and Kashyap A., The 'Fundamentals' of the Fundamental Right to Education in India, Books for change

⁴ Pillai Chandrasekharan, Right to Education in India, A report, Second International Conference on Law, organized by UNESCO, New Delhi and the Indian Society of International Law (2004)

⁵ J. P. Naik, The Main Recommendations of the Education Commission, A Summary

⁶ MHRD: National Policy on Education (New Delhi, MHRD), ¶ 3.2. (1986)

⁷ National Policy on Education, 1968, ¶ 4(4)

⁸ Acharya Ramamurti Committee Report, supra note 5, at ¶ 6.1.2 and 6.1.3.

State of Karnataka,⁹ the Supreme Court of India held that right to education is concomitant to fundamental rights enshrined under Part III of the constitution and that every citizen has a right to education under the constitution.¹⁰ Subsequently, in the case of Unnikrishnan J.P. v. State of Andhra Pradesh,¹¹ Supreme Court limited the right to education age wise and held that every child/citizen has a right to free education up to the age of 14 years and thereafter it is subject to limits of economic capacity and development of the State. Furthermore, two committees were formed to consider the state of education in India. The first, a Joint Committee of State Government Ministers of Education (the Saikia Committee) concluded in 1997 that the Constitution should be amended to create as a “fundamental right” the right to free and compulsory education from six to fourteen years of age, and to impose a “fundamental duty” on parents to provide opportunities for education to their children in this age group.¹² Article 21 A was inserted in the Constitution of India by 86th Constitutional Amendment Act, 2002 which made the education of the children a fundamental right. It provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may by law determine. This follow up legislation referred to in the 2002 Amendment of the Constitution of India (the Constitution 86th Amendment) is the “The Right of Children to free and compulsory Education Act 2009”¹³, passed by parliament in August 2009, and came into force in April 2010.

MAIN FEATURES OF RIGHT TO EDUCATION ACT, 2009

RTE provides a ripe platform to reach the unreached, with specific provisions for disadvantaged groups, such as child labourers, migrant children, children with special needs, or those who have a “disadvantage owing to social, cultural economical, geographical, linguistic, gender or such other factor.” RTE focuses on the quality of teaching and learning. The main aim of the act is to provide free and compulsory education for children between the ages of 6 to 14 years. Beside that it provides 25% reservation for economically disadvantaged communities in admission to class one in all private schools. RTE Act aims to set up the National Commission for Elementary Education to monitor all aspects of elementary education including quality.

Thus, through the RTE Act, the government has made a promise to millions of children to provide educational facilities. It ensures that every child is equal before law and all of them should have access to the same quality of education.

CHALLENGES AND ACCESSIBILITY OF EDUCATION IN INDIA

No doubt the RTE have far reaching consequences for implementing the mission of free and compulsory elementary education. This task, however, is not much easy as it appears because, the prevailing harsh socio-cultural and economic ground realities pose daunting challenges for executing RTE, Act. Some of the major challenges are:

Out of School Children: The number of out of school children is a challenge before the government. With more than one-third of its population below 18 years, India has the largest young population in the world. Out of every 100 children, 19 continue to be out of school.¹⁴ According to UNESCO’s report on progress in primary education, around 7.74 crore children around the world are out of school. Three-fourths of these out-of-school children reside in 15 countries including India, Bangladesh, Pakistan, Indonesia, China, Brazil and the African nations. With one-third of the world’s illiterate, the report places India 105th among 128 nations.¹⁵

Financial Constraints: Availability of funds is a challenge in accessibility of education. Funding of the Right to Education Act, which is done through the Sarva Shiksha Abhiyan (SSA) is another area of concern. The enactment of RTE saw the approval of Rs 2.31 lakh crore for implementation of RTE-

⁹ A.I.R. 1992 S.C. 1858

¹⁰ Aradhya N. and Kashyap A., The „Fundamentals” of the Fundamental Right to Education in India, Books for change, Bangalore (2006)

¹¹ (1993) 1 SCC 645

¹² Philip Alston and Nehal Bhuta, Human Rights and Public Goods: Education as a Fundamental Right in India in Human Rights and Development towards mutual reinforcement, page no. 242 & 254.

¹³ <http://indiacode.nic.in/coiweb/amend/amend86.html>

¹⁴ <http://infochangeindia.org/agenda/child-rights-in-india/status-of-children-in-india.html>

¹⁵ <http://infochangeindia.org/education/backgrounders/challenges-in-implementing-the-rte-act.html>

SSA. The total funds provided in the Eleventh Plan amounted to Rs 78,000 crore, a figure that is not much higher than the original approved outlay of Rs 71,000 crore, without provision for RTE-related expenses. There is a significant shortfall of funds required for implementation of the RTE-SSA programme, because Government has just 70% of the funds allocated for the SSA and RTE in 2010-11 compared to 78% the previous year.¹⁶

Insufficiency of Teachers: Vacant seats of teachers, non-availability of teachers and slow process of recruitment of teachers are also a challenge before accessing education. Two years after the Right to Education, 36% of sanctioned teacher posts lie vacant; several states do not meet the required pupil: teacher ratio.¹⁷ According to the Union Human Resource Development Ministry, in 2010-11; 907,951 teacher posts have been lying vacant in primary schools across the country. Lack of commitment among teachers is a serious problem and this tendency is a grave concern all for all stakeholders. Lack of professionally qualified teachers at elementary school level is a barrier in implementation of RTE, Act.

Lack of Infrastructure: Lack of infrastructure is also a challenge in accessibility of education. According to the RTE Act, a school must have at least one classroom for each teacher, a room that serves as the office, headmaster's room and store, separate toilets for boys and girls, clean drinking water, kitchen, playground, library and a boundary wall or fence by April 1, 2012. It is very unfortunate that due to financial constraints many constructions projects of new schools and toilets are restrained. Children are not able to get the basic facilities like toilets, drinking water, etc. This is an overall situation, but if counting will go deeper up to separate toilets for girls, situation will be more horrible. Central Government along with State Government should find a way to get funds for implementation of RTE, Act.

Poverty: Poverty is the strongest barrier in access to education for all. Poverty is the reason for why learners drop-out of school. Inability to pay school fees, the costs of uniform, shoes, transport, stationary etc. is all because of poverty. Right to Education Act provides that private schools and special category schools will have to take 25% of their class strength from the weaker section and disadvantaged groups of the society through a random selection process.¹⁸ But this is not sufficient because 40% of the population in India is living below poverty line. Child labour is also a hurdle in accessing education. According to the NSSO's latest statistics – about 4.5 million children of school-going age continue to spend their days working for a livelihood for themselves and their families, instead of attending school.

SUGGESTION & CONCLUSION

It is evident that the recent changes introduced by the legislature in the Constitution are an important step in achieving the eventual goal of education for all. However the goal is far from achieved. Much more is yet to be done to fulfil the noble objective of the right of every child to education. It can be achieved by collective efforts of all the stakeholders. There is a need for coordination, with strong political will and commitment, between the Central and State Government agencies. Inaction a law alone cannot guarantee the right to education in the country. The stakeholders such as, teachers, head of the institutions, village panchayat, school management committee, parents, non-government organizations, and key persons of society can collectively make quality education accessible to every child under the overall umbrella of the Central and State Governments. For practical shape, the ground level functionaries should be taken into confidence and constructively involved in preparing strategies in this regard. The ground level realities must find place in the preparation and implementation of plan for quality elementary education. Due to social political, economic and geographical constraints, it is challenge before the country to implement the RTE ACT in true sense. Still there is a lot of spadework to be done, in terms of creating the frameworks, action plans as well as creating the infrastructures and enabling environment both at centre and states, for implementing the RTE across all schools. Every literate person should also come forward and spread the usefulness of education to illiterate parents who are unable to appreciate the relevance of education in curbing the social evils.

¹⁶ <http://infochangeindia.org/education/features/report-card-on-rte-two-years-after.html>

¹⁷ <http://infochangeindia.org/education/features/report-card-on-rte-two-years-after.html>

¹⁸ <http://socialissuesindia.files.wordpress.com/2010/07/right-to-education-act-2009.pdf>

The most important challenge, if the ground reality is taken into account is poverty, which further perpetuates child labour and illiteracy. The poverty coupled with population explosion emerges as the root causes of depriving the children their right to education.

Succinctly, it can be said that it is only the light of education which can remove the darkness of ignorance in the life and make a citizen responsible and efficient personality which is the need of the day for the development and progress of India.
