

# Right to Education (RTE): A Critical Appraisal

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## Abstract:

*The importance of education cannot be denied in one's life. It sustains the human values which contribute to the individual and collective well-being. It forms the basis for lifelong learning and inspires confidence to face challenges. It provides the skills to individuals to become more self-reliant and aware of right opportunities. It also enhances the ability of individuals to act more responsible and more informed citizens and have a voice in politics and society, which is essential for sustaining democracy. It is essential for eradicating poverty and it allows people to be more productive and playing greater roles in economic life and earning a better living. The education is the key which allows people to move up in the world, seek better jobs, and ultimately succeed in their lives. So education is very important, and none should be deprived of it. The importance of primary education has been neglected by India since independence knowingly or unknowingly. However, Government of India now is willing to improve primary education by bringing legislation i.e. Right to Education. The paper tries to bring out the meaning of much awaited Right to Education (RTE) 2009, act and tries to bring out the critical appraisal of the Act after three years since its passage.*

*A rough draft of the bill was composed in year 2005. It received much opposition due to its mandatory provision to provide 25% reservation for disadvantaged children in private schools. The sub-committee of the Central Advisory Board of Education which prepared the draft Bill held this provision as a significant prerequisite for creating a democratic and egalitarian society. Indian Law commission had initially proposed 50% reservation for disadvantaged students in*

*private schools.<sup>[3]</sup> On 7 May 2014, The Supreme Court of India ruled that Right to Education Act is not applicable to Minority institutions.<sup>[4]</sup>*

*The bill was approved by the cabinet on 2 July 2009.<sup>[5]</sup> Rajya Sabha passed the bill on 20 July 2009<sup>[6]</sup> and the Lok Sabha on 4 August 2009.<sup>[7]</sup> It received Presidential assent and was notified as law on 26 August 2009 as The Children's Right to Free and Compulsory Education Act.<sup>[8]</sup> The law came into effect in the whole of India except the state of Jammu and Kashmir from 1 April 2010, the first time in the history of India a law was brought into force by a speech by the Prime Minister. In his speech, Manmohan Singh, Prime Minister of India stated that, "We are committed to ensuring that all children, irrespective of gender and social category, have access to education. An education that enables them to acquire the skills, knowledge, values and attitudes necessary to become responsible and active citizens of India."<sup>[9]</sup>*

***The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE),** is an Act of the Parliament of India enacted on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between 6-14 in India under Article 21A of the Indian Constitution.<sup>[1]</sup> India became one of 135 countries to make education a fundamental right of every child when the act came into force on 1 April 2010.<sup>[2]</sup>*

## Implementation and funding

Education in the Indian constitution is a concurrent issue and both centre and states can legislate on the issue. The Act lays down

specific responsibilities for the centre, state and local bodies for its implementation. The states have been clamoring that they lack financial capacity to deliver education of appropriate standard in all the schools needed for universal education.<sup>[10]</sup> Thus it was clear that the central government (which collects most of the revenue) will be required to subsidize the states.

A committee set up to study the funds requirement and funding initially estimated that Rs. 1710 billion or 1.71 trillion (US\$38.2 billion) across five years was required to implement the Act, and in April 2010 the central government agreed to sharing the funding for implementing the law in the ratio of 65 to 35 between the centre and the states, and a ratio of 90 to 10 for the north-eastern states.<sup>[11]</sup> However, in mid-2010, this figure was upgraded to Rs. 2310 billion, and the center agreed to raise its share to 68%. There is some confusion on this, with other media reports stating that the centre's share of the implementation expenses would now be 70%.<sup>[12]</sup> At that rate, most states may not need to increase their education budgets substantially.

A critical development in 2011 has been the decision taken in principle to extend the right to education till Class X (age 16)<sup>[13]</sup> and into the preschool age range. The CABE committee is in the process of looking into the implications of making these changes.

### **Status of Implementation**

A report on the status of implementation of the Act was released by the Ministry of Human Resource Development on the one year anniversary of the Act. The report admits that 8.1 million children in the age group six-14 remain out of school and there's a shortage of 508,000 teachers country-wide. A shadow report by the RTE

Forum representing the leading education networks in the country, however, challenging the findings pointing out that several key legal commitments are falling behind the schedule.<sup>[14]</sup> The Supreme Court of India has also intervened to demand implementation of the Act in the Northeast.<sup>[15]</sup> It has also provided the legal basis for ensuring pay parity between teachers in government and government aided schools<sup>[16]</sup>

The RTE Act provides for the: Right of children to free and compulsory education till completion of elementary education in a neighborhood school. It clarifies that 'compulsory education' means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the six to fourteen age group. 'Free' means that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education. It makes provisions for a non-admitted child to be admitted to an age appropriate class. It specifies the duties and responsibilities of appropriate Governments, local authority and parents in providing free and compulsory education, and sharing of financial and other responsibilities between the Central and State Governments. It lays down the norms and standards relating inter alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teacher-working hours. It provides for rational deployment of teachers by ensuring that the specified pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban-rural imbalance in teacher postings. It also provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief. It provides

for appointment of appropriately trained teachers, i.e. teachers with the requisite entry and academic qualifications. It prohibits (a) physical punishment and mental harassment; (b) screening procedures for admission of children; (c) capitation fee; (d) private tuition by teachers and (e) running of schools without recognition. It provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building on the child's knowledge, potentiality and talent and making the child free of fear, trauma and anxiety through a system of child friendly and child centered learning.

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Some Problems with the Act:

The Act does not make provisions for a second shift for children who have to work. Child labour is a rampant problem in our country but denying an education to child labourers only further closes all opportunities to escape from their conditions. According to the norms laid out in the Act, all schools must provide a minimum of 4 hours of instruction every day if primary and 4.5 hours if upper primary. It is also suggested that schools function for a minimum of 6 hours daily to enable children to participate in extra-curricular activities as well. This schedule makes it difficult to run 2 shifts a day in a school.

This Act makes it compulsory for unaided schools to admit 25% of its students from SCs, STs, low-income and other disadvantaged or weaker groups, for which they shall be partly reimbursed, as the Act stipulates. But the majority of such private, unaided schools are voicing their strong opposition to this move, obviously because for them education is a business, and such a move translates into huge losses. Moreover, the 93rd amendment does not include reservations for economically backward classes and thus implementing it via

this Act could lead to its constitutional validity being challenged.

Another obvious problem is the quality of education meted out. The Act provides for the right to schooling and physical infrastructure but does not guarantee the quality of education. Even the teacher's duties are only related to punctuality, attendance, etc. and not to learning achievements of their students, with a majority of students passing out and still not proficient in the three R's of education; Reading, wRiting and aRithmetic.

### Findings

RTE talks about the age group which starts from the age 6. However, in India the elementary education starts with the age of 2 and half years of age. The schools take the kids in pre-nursery if they are three years of age. A child who has an early schooling since the age of 3 will be far ahead from the child who enters the school at the age of 6. Therefore, the act does not take care of the age below six. The age taken cannot be justified and right. The act should be reviewed again and the age should be revised in this regard.

Some of the **main challenges** brought forward are as follows:

- **Financial Challenges:** Government of India is already beset with various financial hurdles and challenges because of the implementation of RTE. According to Act the fiscal burden has to be shared between the center and the states in the ratio of 55:45 and 90:10 for the North-Eastern States. This project involves funds to the tune of Rs.15,000 crore. Many states of India like Bihar, Uttar Pradesh and Punjab have already expressed their incapability to mobilize funds that they would not be able to implement the Act in the absence of funds from the centre and a situation of dispute has raised between the centre and the states. The state of Orissa wants the same status as by the North Eastern states with respect to the Act. The

achievement as far as the financial matters are concerned largely depends upon the co-operation between the states and the center. It has been reported that the striving project is already falling short of around Rs.7,000 crore in the very commencing year. In view of the fact the Act involves improving the infrastructure of schools, training of teachers, creating more facilities in the schools besides the manifold increase in intake, big investments would be involved and it is an uphill task to predict how the economics of it all will be worked out.

- **Challenge of Hiring Qualified Teachers:** The scarcity of good and qualified teachers for government schools is going to be one of the hardest tasks to be achieved in implementing the act. The teachers are considered to be the backbone of education, in their absence the act cannot achieve the goals. It is a fact that, about one fourth of the teachers of government school remains on leave in India at any given point of time and most of them are not able to do full justice to their professions due to numerous reasons.
- **Challenge to Provide Infrastructure:** The survey done in the Government Primary Schools of Mohali city schools revealed that there are no basic facilities provided to children. The students sit on the floors and there are no separate toilets for students in the school. The principal does not have a separate office. No separate kitchen to prepare mid-day meals could be seen in all of the primary schools. Another survey on 'Elementary Education in India', conducted by the National University of Educational Planning and Administration (NUEPA), add to the fact that almost half of the recognized elementary schools in the country do

not have separate toilets for girls. This brings out the sorry picture of India's schools are in. To achieve requisite infrastructure that the Act expects is a great challenge to provide. The Act also demands that the buildings of all the schools should be weather proof. Basic facilities of drinking water, playground for kids, and barrier free entries are also lacking in most of the government schools. Also the teacher pupil ratio should be 1:30, which is not there. It has been reported that only about 40% of the schools have ramps. The current scenario seems that to provide the necessary infrastructure to the schools is a great challenge. There is no clear demarcation between the responsibilities of the center and state and it seems to be a challenge to work out the details.

- **Quality in Education:** Human Resource Minister has paved the way for huge challenges ahead by promising quality education to all. As it has already been brought out that it will be difficult to do so in the absence of good teachers. The Act says that no student would be dropped from school or not passed till the age of 14. The starkest finding of three consecutive annual statuses of education reports published by Prahtam, a community-based organization, reveals more than half of class V students across India's government primary schools, can't read basic class II text book. This raises the quality issues being compromised through the act.
- **Enforcement of 25% Quota for Weaker Sections:** The act gives a clause of reservation of 25% of seats for weaker sections by private unaided schools turns out to be a boon or a bane. By this clause the government itself accepts that the government schools are not

capable of giving good quality education. Meanwhile, confront is to define weaker sections. The interviews with the parents of slum near Chandigarh (Janta Colony) revealed that they would like to avail this Right and put their child in a good private primary school it was found that they preferred private school, as they feel that they provide better education and infrastructure, However, the working maids in Delhi prefer government schools, the reasons which had been observed were that being illiterate, making the certificates to prove the weaker section, was a hassle for them and moreover they were not comfortable in putting their child in such a vast economically different environment plus they feel that the teachers and the principals themselves actually do not want to give admissions to their wards and if forced to give admissions to their children they are not given due respect and love by the teachers and class mates, so to avoid any mental pressure or agony, the poor still prefer government schools. It would indeed be challenging for the teachers to maintain equilibrium and create an environment for them to blend together.

- **Challenge to Bring Child Labourers to Schools:** RTE has become a fundamental right of each and every child, therefore, the children who are out of schools and are child labours should be brought back to schools. There are more than 12 million children in India who are engaged in child labor according to official figures. The act brings India in the same league as USA and 130 nations which have the concern for right to education. Therefore to be up to mark with this nations India has to work hard for this child labor issue and providing education.

- Preference of Parents: The parents prefer private schools for the primary schooling for their kids. The interviews with most primary school teachers, authorities" in Mohali and Chandigarh region revealed that they had preferred or will prefer private schools for their kids. 95% people surveyed online and interviewed had preferred private primary schools for their kids. The reasons cited were that the private schools provide better infrastructure, qualified staff and quality education. The environment of private primary schools inculcates a great confidence in the personality of the kid. However, all these people agreed that private schools charge the fees on their discretion. And one more interesting fact that came out that none of the surveyed or interviewed person agreed that the child who gets education in government primary schools lags behind in the career opportunities. Still the preferred choice of parents came out to be Private Primary schools.

### **Suggestions:**

The above discussion brings that that it is a great responsibility for government to shoulder if the promises of the acts to be kept. Some suggestions in this regard have been put forward. Right to Education (RTE):

- Provision of Infrastructure in Schools: The government should give the time based projects. First the government should invest in the building and infrastructure and then open a school. But here it is different. The school appears in papers and files first the building appears years" later. The other solution is that the government has many good government senior secondary schools like central schools, JawaharNavodayaVidyalayas and other government senior secondary schools with better infrastructures. These

buildings can be used for primary schools. The shifts can be made for the school timings. The 11th and 12th class can have evening shifts. This can save a lot of investments to be made in the infrastructure of government primary schools.

- The Regional Balance in Opening New Schools should be maintained: The government schools should be opened where they are needed very much. An imbalance can be seen in the rural and urban sector of the school. For example in Mohali, Chandigarh and Dehradun city, one can find many government and private recognized school within the range of 1 Km, whereas you cannot find a good school in the remote rural areas of India. The government primary schools in these areas are in very pitiable conditions. The government can take care of this regional imbalance while opening or giving recognition to these schools. The government can instruct private sector to come forward to open the schools in the remote rural areas where the schools are far. It will solve the purpose of imparting quality education in the far furlong areas as well. The schools should be only there where they are needed i.e. remote rural areas to vanish the regional imbalance in imparting the education.
- The Teachers of Primary School Should be Free from Extra duties: According to the teachers of primary schools in Mohali city the teachers are involved in many other duties other than teaching for example, the maintenance of building, to supervise the construction work and supply of the material, to check the preparation of mid-day meal and to send the correspondences. All these disturb the main function of the teachers. Their main duty is to provide education to the children. Therefore, it

is suggested that the teachers should be involved into their basic duties of imparting education.

- Active Youth, NGOs and Civil Society's Participation: The awareness through civil society, youth, and NGOs has to be made for the weaker section to avail the rights and to accept them as a part of our society. All of us have to accept them with open heart to study with our kids" disregard of the fact of their socio economic background.

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