



## CHALLENGES TO RIGHT TO EDUCATION ACT IN INDIA- A VIEW

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## KEYWORDS :

*"Education is a human right with immense power to transform. On its foundation rest the cornerstones of freedom, democracy and sustainable human development"*

-Kofi Annan

Education is the means to attain sustainable development. It is like a life- long insurance for the transformation of an individual. In fact, education is an essential and powerful instrument invented by the human being to shape and mould him in a desirable manner. The developing countries have also realized that education is the sole criteria for their development and a key to success. The democratic countries also can achieve their democracy only after inculcating democratic spirits in their citizens which can be done by imbuing democratic values in them. For it, education is the only tool which can make this happen. India is the biggest democratic country in the world and it cannot even think about maintaining its democracy if it doesn't give its rightful recognition and place to education.

The right to education is essential for economic, social and cultural rights. Achieving it and implementing it to the fullest extent is one of the major challenges of the present times. It is important that right to education in its various dimensions is incorporated by letter and spirit. Thus, right to education is a defined feature of democracy and a necessity for the future of the country. Thus right to education is crucial for the development of the country and it is a basic human right. The significance of education for social and national development is reflected in its recognition as a human right. The child's right should be extended to ensure quality education i.e., without discrimination on the ground of child's social, economic and cultural background and should not be restricted only to free and compulsory education. The right of child to free and compulsory education has now become a part of the fundamental rights under Article 21 A of the Constitution of India. The violation of the fundamental rights of the children is because of the total indifference of the governmental authorities. Happy, P.V. (2011) criticized the Indian Public education system of today because of its low quality. A common feature in all government schools is education's poor level of quality, with weak infrastructure and inadequate pedagogic attention. One of the ways in which the problem of poor quality of education can be tackled is through common schooling. The agenda of empowerment of schools for creation of a Common School System must receive topmost priority in national political system. **Sonkamble, U.B.** (2011) said that there are various reasons for lagging behind of the marginalized classes in the Third World countries. Substantial growth can be evidenced only in the urban and specific social classes but as of the marginalized classes like backward castes, smaller ethnic tribal groups and women are concerned, it is significantly slow. To accelerate their involvement in the educational programmes, fair and proper execution programmes is a must and the non-responsive units should be encouraged.

**Need for the recognition of RTE**

The foremost question that generally arises is, what is the need for the recognition of Right to Education? To understand it, we have to know first the significance of education. In the present times, the importance of education goes much beyond literacy. It signifies now the sole criteria of the existence of human being. The aim of modern education is to develop individuality of a person along with his/her social efficiency and dynamism. Educational development has become a prerequisite for the all-round development of the society in social, cultural and economic terms. Education guides to eliminate gender and racial discriminations, eradicate poverty, stabilize population growth, prevent environmental degradation, resolve employment and health problems, promote democracy and nationalism. Prof. Amartya Sen has also explored the importance of education. He says that, compulsory education is important for the economic development of the country. The dynamic process of education is the most concerned issue of both the developing and developed countries in order to uplift the human lives.

**Main features of Right to Education Act, 2009****The salient features of the Right of Children for Free and Compulsory Education Act are-**

- Free and compulsory education to all children of India in the six to fourteen age group.
- No child shall be held back, expelled, or required to pass a board examination until completion of elementary education.

A child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age; Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time limits, as may be prescribed. Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.

- Proof of age for admission: For the purposes of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1856 or on the basis of such other document, as may be prescribed. No child shall be denied admission in a school for lack of age proof.
- A child who completes elementary education shall be awarded a certificate.
- Calls for a fixed student-teacher ratio.
- Will apply to all of India except Jammu and Kashmir.
- Provides for twenty-five percent reservation for economically disadvantaged communities in admission to Class One in all private schools.
- Mandates improvement in quality of education.

- School teachers will need adequate professional degree within five years or else will lose job.
- School infrastructure (where there is problem) to be improved in three years, else recognition cancelled.
- Financial burden will be shared between state and central government.

### Shortcomings of the RTE Act, 2009

Public discourse and debate upon the RTE Act has unfortunately been restricted, in the large part, to the provision which mandates that every school must admit at least 25 percent of the kids in the 1st grade from weaker sections of society. The real cause for concern however, arises from certain from certain other provisions.

### 1. Abolition of Unrecognized Schools and Infrastructural Norms:

In the last decade or so, many unrecognized schools have mushroomed all across the country. Out of the 13 lakh schools functioning in our country, nearly one-fifth are unrecognized and provide education to a significant population. And yet, the RTE Act wants to abolish each one of them. Section 18 (1) of the RTE Act specifies that subsequent to the commencement of the Act, no school can function without obtaining a certificate of recognition. Further Section 19 (1) makes it clear that no school may be established or granted recognition without fulfilling the criteria laid out in the Schedule which include inter alia, specifications for teacher-student ratio, preference of a play ground and a library etc. This is highly problematic for several reasons. Furthermost among them is the fact that unrecognized schools have actually been quite instrumental in furthering the spread of education in our country. Students across states, including Punjab, Bihar and Kerala have shown that a large percentage of the total enrollments are in unrecognized schools. In the last five years, 12 lakh students in Nagpur alone, have shifted from government run institutions to private ones. The primary reason for this has been the poor quality of education that is imparted at government schools, even though they are free. Unrecognized schools on the other hand, require payment of fees but also provide a higher standard of education as compared to government-run schools. Faced with a choice between these two, parents often opt for the latter. However, the reason that these unrecognized schools are able to function in the manner is because they don't make use of expensive facilities or pay high salaries. If they are to satisfy the requirements under the RTE Act, most of them will either shut down or will be forced to drastically increase fees, making them inaccessible to the poor in either case.

Secondly, many schools which may be currently recognized, now face imminent de-recognition because they fail to match up to the infrastructural standards laid down in the RTE Act. For example, it has been shown that 99 percent of the schools do not possess the adequate infrastructure facilities that they require in order to be allowed to function. In a day and age where inflation is reaching new highs and land prices are sky-rocketing, development of the additional facilities required to meet RTE Act standards requires not just resources but also time. The short time frame given by the RTE Act is hardly enough and may sound the death bell for many of these schools.

Thirdly, as far as quality of education is concerned, unrecognized schools are again ahead as compared to government schools simply because they function in a competitive environment where market forces are at play. Their revenues and sustenance are based on the quality of their output, as opposed to government schools when there is no accountability and remuneration is never tied to performance. Therefore, closing down such schools would actually be detrimental to the spread of literacy in our country.

### 2. Funding and Resources:

Another major impediment in the full effective implementation of RTE Act is the resource crunch that most of the States in India are facing. The Act has several sections that required Financial aid and grants from the concerned State Governments but many state governments are not in opposition to shoulder the burden of the financial requirements. Some states like Uttar Pradesh have in fact declared that their governments do not have sufficient money to implement the provisions contained in the Act fully in true spirit. Unless state governments cooperate and make an effort to execute the procedures laid down in the Act, the objective of RTE Act may come to an abrupt halt.

Amongst the obligations that are imposed upon the state governments, the first one is specified under sections 6 which mandates that the government must take steps to establish schools in all prescribed areas which lack even a single school and provide time period for establishment within a three years time. In addition to governments are obliged to provide resources for school building learning equipment and training up teachers as per section 8 of the Act. According to section 12 (2), the governments are also responsible for reimbursing the schools for expenditure incurred on the 25 percent students. However, such payments will only be made to schools that are completely unaided and will be based on the expenditure incurred by the state. The essentially boils down to the fact that the burden of this extra expenditure on 25 percent of the children will be borne by the other 75 percent students, resulting in double taxation, driving up fees and making education even more unaffordable for poor people. Ultimately, it is the poor who will suffer again. Hence, lack of adequate funding is major issue that needs to be addressed to make the RTE Act a success.

### 3. Quality of Education:

The biggest stumbling block that the RTE Act must overcome is ensuring not just universality but also good quality of education. For years, the appalling state of our government schools has been a talking point. But under the RTE regime more than ever, these government schools have a very significant role to play. And if quality of education is not guaranteed, the vision of 100 percent literacy in India could suffer a major set back.

This is especially crucial if we look this in light of broader framework of the Right to Development. If realization of this right to education truly aims to propel the people of our country, specially the poor, towards a path of greater development then they should be allowed to participate in the process of implementation in a full and effective manner. The scenario is however, quite the opposite. Not only are they being stripped of the choice of sending their children to better (though unrecognized) schools but they are, in fact, being coerced into either getting low quality education from government run institutions or not getting educated at all. If we go to the root of this problem, we find that there is one primary factor that is responsible for the complete lack of quality education in government schools- lack of qualified teachers in the villages, majority of education is imparted by 'para' teachers, who themselves are barely qualified. While the RTE Act emphasizes on certain minimum standards for physical infrastructure, except for a few cursory provisions, it leaves the issue of teachers untouched. Leave alone standards, there are not even punishments laid out for teachers and schools that do not teach. Therefore, it is up to the state governments to find ways to incentivize teachers and properly train the existing ones to improve standards.

### 4. Integration of the Children :

Yet another issue that the execution of the RTE Act faces is the integration of the children from backward sections, into class

rooms that are comprised of 75 percent students from higher classes. In fact, the very success of this entire endeavour hinges upon the extent to which these children are integrated into the private school culture. This signals a radical change, not just for the 25 percent children who will have to adapt to a new culture, but also for the other 75 percent who will grapple with having lesser privileged counterparts in the same class room. For the latter, this may be a good thing because they will be forced to confront their own notions of privilege and get exposure to a more diverse group of children from an earlier age. But the more important concern is the impact such a move will have on the former group, which will face a potentially unfriendly, not to mention alien environment, even though some academicians feel such fears are unfounded. Additionally, these kids will suffer further setbacks due to inaccessibility of ancillary support systems like parental guidance. If measures are not taken to bring them up to speed, the constant lagging behind could serve to greatly demotivate them.

In fact, research has shown that when they are aware of the social inequality prevailing in the environment, children from weaker sections tend to perform 20 percent worse than their peers. Further, in a recent case in Bangalore, a school took the liberty to chop of locks of hair off the heads of some children, in order to distinguish them as kids admitted under the RTE Act quota. This shows that these kids may have to struggle with not just discrimination from peers but also from resentful school authorities and teachers, many of whom are against this move, especially in completely unaided schools. Most importantly, when we look at this in the larger picture, it seems like such social changes are in fact, taking away from these children's right to development in multiple ways. As observed earlier, development does not simply mean moving forward in one dimension. Real development includes a holistic process wherein the affected individuals are not the objects of development, but are participants in the process instead. And one important aspect of such a process is the ability to choose your path of development. For example, the right to adequate housing includes not just the right to have a secure and peaceful place to live but also to choose the place itself. The State or anyone else cannot provide certain housing and then decide that you must live there.

Similarly, the right to education should imply the ability to fully participate in the process of realization and be able to choose from equally viable options. Unfortunately however, in the current scenario, children from poor sections are being thrust into an educational environment where they face a plethora of daunting challenges, in addition to social discrimination. This not only takes away from their enjoyment of the right to education but also negatively impacts other rights like the right to equality of opportunity. On paper it may seem like the RTE Act is actually providing them equal opportunities but the inferiority-superiority complex that they face actually prevents them from making use of such an opportunity and leaves deep psychological impacts on their minds. In addition, by closing off other avenues, the RTE Act indirectly pushes them into choosing a particular path. And for the larger section of the poor, who still can't make it to the limited private school seats, the act actually leaves them worse off. The overall impact therefore, causes deterioration in the value of the vector of rights instead of improving it.

### 5. Other Issues:

Apart from the major problems enumerated above, the RTE Act has several other smaller shortcomings which need to be duly addressed. First, as per Section 18 of the Act, the local authority or state education department are wholly responsible for granting recognition to schools. This is alarming because it leaves enormous scope for the corruption and also leaves open the possibility non-meritorious schools

getting recognition, which would defeat the very purpose of the RTE Act. Secondly, the very method of determining the 'disadvantaged' and 'weaker' kids who are supposed to be the primary beneficiary of Act, is questionable. The Act itself lays down no objective criteria determining the manner in which the 25 percent seats have to be filled up. As a result, different states have adopted different methods, due to which there is no uniformity across the country. The lack of objectivity and transparency easily translate into misuse of discretion and that would affect the poor directly. Thirdly, Section 28 of the Act specifies that no teacher appointed to a school under the RTE Act can hereafter engaging "private tuition or private teaching activity". Private tuitions often pay more than a teacher's job and faced with a choice between the two, many may opt for the former, thereby further reducing the number of teachers available for recruitment in schools. Lastly, the Act does not envisage what is to become of these children once they finish their elementary education in good schools and cannot afford higher education of the same quality. Such a drastic change in educational standards could be traumatic and cause great harm. The important thing to focus on therefore, is how the situation can be improved.

### Suggestions Offered:

The primary thing that could be done is to allow unrecognized schools to function (at least temporarily), until the standard in government schools can be improved. Once, such a transformation occurs, the need and the market for unrecognized schools will automatically collapse because good education will be available for free. Secondly, instead of mandating that private schools admit 25 percent students from backward sections, they could be obliged to assist in uplifting the standard of existing government institutions by providing training for teachers, assistance in infrastructure development etc. Thirdly, the government should consider Public-Private Partnerships (PPP) in order to improve quality standards in government schools. And lastly, the basis for recognizing schools could be modified to include performance and output-based indicators rather than requirements of purely physical infrastructure.

### CONCLUSION:

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