

THE 'SHADOW' OF RIGHT TO EDUCATION FOR SOCIAL JUSTICE IN INDIA: ELUCIDATING BARRIERS AND CREATING OPPORTUNITIES

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India is home to the largest number of illiterate populace in the world. Although it is claimed that literacy rates in the country are speedily increasing, vast numbers of Indians who are officially counted as literate are hardly so in the true sense of the term. Human rights are civil rights that are basic in nature and entitled to every human being, irrespective of his nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Such rights would include right to life, equality before the law, freedom of expression, the right to work, right to social security, right to education, collective rights, such as the rights to development and self-determination, etc. Therefore as is evident human rights are inseparable, interrelated and interdependent. The improvement of one right makes the progress of the others possible. Education is one of the most powerful instrument for reducing poverty and inequality of society. Education is the key to enhance India's competitiveness in the global economy. Therefore ensuring access to quality education for all, in particular for the poor and rural population, is central to the economic and social development. Even after 65 years of political independence, India has remained a developing country. The Indian elementary education system has been successful to some extent in achieving higher levels of funding, access, enrollment and infrastructure. However, high drop-out rates, low attendance, universal, equitable and quality elementary education for all continue to be a challenge. The RTE Act is a path breaking Act in the history of Indian Education towards providing quality elementary education to all, it is not without loopholes. The paper tries to bring out the meaning of much awaited Right to Education (RTE) 2009 as human right and compulsory education as per right to education act 2010, and its effect in government and to understand the problems faced by RTE.

Keywords: Human right, HRD, Primary Education, Government, RTE e

INTRODUCTION

India lives in its villages –this statement of Mahatma Gandhi is valid today literally and from the social, economic and political perspectives. In India, around 65% of the State's population live in rural areas. As such, people in rural areas should have the same quality of life as is enjoyed by people living in sub urban and urban areas. Further there are cascading effects of poverty, unemployment, poor and inadequate infrastructure in rural areas on urban centers causing slums and consequential social and economic tensions manifesting in economic deprivation and urban poverty. Hence, Rural Development, which is concerned with economic growth and social justice, improvement in the living standard of the rural people

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by providing adequate and quality social services and minimum basic needs, becomes essential.

India is home to the largest number of illiterate people in the world. Although it is claimed that literacy rates in the country are rapidly increasing, vast numbers of Indians who are officially counted as literate are hardly so in the true sense of the term. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. (Article 26 of the 1948 Universal Declaration of Human Rights). This UN recommendation has been reinforced in the provisions of the Right of Children to Free and Compulsory Education (RTE) Act (2009), which came into effect in India on 1 April 2010, enshrining in law for the first time the rights of all Indian children aged between six and 14 years to free and compulsory elementary education regardless of caste, class, gender, etc. The RTE Act, though deserves due credit for laying down in fairly specific terms state's responsibility towards education, it would be appropriate to examine the status and awareness on the part of schools and concern authority to provide free elementary education to the children aging between six to fourteen years of old. Social Justice is a revolutionary concept which provides meaning and significance to life and makes the rule of law dynamic. When Indian Society seeks to meet the challenge of socio-economic inequality by its legislation and with the assistance of the rule of Law; it seeks to achieve economic Justice without any violent conflict. The Idea of welfare state is that the claims of social Justice must be treated as cardinal and paramount. Social Justice is not a blind concept. It seeks to do Justice to all the citizen of the state.

OBJECTIVE OF THE STUDY

The significance 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. The RTE Act is a path-breaking Act in the history of Indian Education towards providing quality elementary education to all, it is not without loopholes. The objective of this research study is :

- To understand the meaning of much Right to Education (RTE) 2009 as human right.
- To reveal the status of RTE.
- To study the problems faced by RTE.
- Initiatives taken by the Indian government to endorse right to education.

LITERATURE REVIEW

This paragraph presents a comprehensive review of literature on this subject. Education is now widely valued not only for its intrinsic value in enriching the

lives of individuals but also for its functional value in the development of the human capital of a nation. Till the nineteenth century, education in India was an exclusive right available only to a small section of society. 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 endeavor 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. But nothing much happened towards universalization of elementary education. National Policy on Education, 1968 was the first official document which attested Indian Government’s commitment towards elementary education. This was further emphasized in the National Policy on Education, 1986. In the review of the policy in 1990, it was recommended to include Right to Education as a fundamental right in the constitution, on the basis of which National policy on Education 1992 was formulated. In the meantime 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.

Thus, right to education, understood in the context of Article 45 and 41 means

- (a) every child/ citizen of this country has a right to free education until he/ she completes the age of fourteen years and
- (b) after a child / citizen completes 14 years, his/her right to education is circumscribed by the limits of the economic capacity of the State and its development” 1.

Finally, in 2002, the amendment of the Constitution of India made education a fundamental right, but qualified it by adding that the manner of this right would be as determined by a follow up consequential legislation. 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’, passed by parliament in August 2009, and notified into force in April 2010. Based on this Act, a subordinate legislation, the Model Rules, was framed by the centre to provide guidelines to states for implementing the Act. Every child of the Age of six to fourteen years shall have a right to free and compulsory Education in neighborhood school till completion of elementary education ‘Section 3(1), Right to Education Act, 2009’, Government of India.’ 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’ Article 29, United Nations Convention on the Rights of Child (UNCRC), 1989. The 1960 UNESCO Convention against Discrimination in Education defines education in Article 1(2) as: “all types and levels of education, (including) access to education, the standard

and quality of education, and the conditions under which it is given. In a wider sense education may be described as “all activities by which a human group transmits knowledge, skills and a moral code which enables the group to subsist”

According to recent statistics, the total number of government schools imparting elementary education (EE) in India was 10, 02,915 in 2007-08 and that constituted an overall share of 80.18 percent of the total number of schools imparting EE in India. The term ‘government school’ includes the schools run by the Department of Education, the Tribal/Social Welfare Department, Local Bodies and other government managed schools. On the other hand, the number of private schools imparting EE was 2, 43,895 in 2007-08 and that constituted a share of 19.50 percent of the total number of schools imparting EE in India. The World Bank (2000) acknowledged the importance of technical and higher education for countries not to be left behind in a global economy based on knowledge. Criticizing an analysis that measures the benefits of higher education solely in terms of incremental earnings accruing to individuals, higher education is regarded as ‘simultaneously improves individual’s lives and enriches wider society’ (World Bank, 2000). In summary, education is a powerful tool for reducing poverty, unemployment and inequality, improving health and nutrition and promoting sustained human development led growth (World Bank (2004), p.69). One of the Millennium Development Goals (MDGs) agreed in September 2000 at a UN summit of world leaders is the achievement of universal primary school.

RESEARCH METHODOLOGY

Methodology used here is secondary data and discursive analysis. The present study is descriptive cum exploratory. It is primarily based on secondary data collected from various sources like national reports and economic surveys, websites etc. of state and national level departments of education. Secondary data was accumulated through various sources like internet, reference materials, newspapers, magazines etc.

SOCIAL JUSTICE APPROACH TO EDUCATION

It is the preamble from where the Constitution of India commences and it is the preamble that embodies its spirit and backbone. The preamble promises to secure for all citizens of India;

Justice; social, economic, and political;
Liberty of thought, expression, belief, faith and worship;
Equality of status and opportunity;
and to promote among them all
Fraternity assuring the dignity of
Individual and the unity of the Nation

Social Justice are the Human rights that are basic in nature and entitled to every human being, irrespective of his nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Such human rights would comprise right to life, equality before the law, freedom of expression, the right to work, right to social security, right to education, collective rights, such as the rights to expansion and self-determination, etc. Therefore as is evident human rights are inseparable, interrelated and interdependent. The development of one right makes the advancement of the others possible. Correspondingly, the rejection of one right has negating affects on the others. The basic right that is protected by the term human right is right to life with dignity. A human rights-based approach to education is therefore necessitated since it assures every child a quality education that respects and promotes her or his right to dignity and optimum development. The right to education is marked priority on the agenda of the international community since right to education is not only a human right in itself but also is quintessential for the exercise of all other human rights. A number of human rights treaties accepted and recognized internationally, identifies right to education as a fundamental aspect for development and social transformation. The right to education also includes a responsibility to provide basic education for individuals who have not completed primary education. In addition to this access to educational provisions, the right to education encompasses the obligation to rule out discrimination at all levels of the educational system, to set minimum standards and to improve quality of education. Human rights are based on respect for the dignity and worth of all human beings and seek to ensure freedom from fear and wants. It is the responsibility of every individual and every organ of society to promote respect for human rights and Right to Education to ensure their universal recognition and observance. Violation of human rights and Right to Education is one of the most worrying problems of our times for social justice in the entire world civilisation. Education as a right is essential for full development of human personality and for human happiness. It is an important right to freedom, subsistence and decent civilized life. The right of life is treated as most precious fundamental right. Right to life is guaranteed by Article 21 of Indian constitution. It means no person can live without the means of living. This right includes standard of living of human being i.e. food, clothing, shelter, medical aid, facilities for reading writing and expressing oneself in diverse form, freely moving etc. The right to life involves:

- ❖ Right to shelter.
- ❖ Right to livelihood.
- ❖ Right to live in healthy environment.
- ❖ Right to education.
- ❖ Right to health.
- ❖ Right to human dignity.

- ❖ Right to access to road.
- ❖ Right to terminate pregnancy.
- ❖ Right to preserve life.
- ❖ Right to die.
- ❖ Right to social security

RIGHT TO EDUCATION: THE INDIAN CONSTITUTIONAL PERSPECTIVE

“Education is the most powerful weapon which you can use to change the world.”

Nelson Mandela

Education being one of the most important factors responsible to shape the personality of an individual has manifold functions. It is the potent source of material and human development. Quality is the most cherished goal in human endeavor and especially in the field of education. *Education is an important policy priority in creating a knowledgeable, skilled and adaptable workforce* able to contribute to the country’s competitiveness and social cohesion. The Indian Constitution is known to be a document committed to social justice. Right to Education Act was first passed in 2009, its critics were skeptical about what possible ends it could achieve. as per the 86th Constitution Amendment Act added Article 21A. The right to education act seeks to give effect to this amendment. The government schools shall provide free education to all the children and the schools will be managed by School Management Committees (SMC). Private schools shall admit at least 25% of the children in their schools without any fee. The National Commission for Elementary Education shall be constituted to monitor all aspects of elementary education including quality. While RTE is undoubtedly not a miracle that will simply dissolve the challenges of rendering education to the disadvantaged children, it has a part to play. By insisting that all schools have certain basic facilities, the RTE restored a certain dignity in the schooling system of the disadvantaged.

OBJECTIVES OF RTE

- (i) Right of children to free and compulsory education till completion of elementary education in a neighborhood school.
- (ii) Children, who have either dropped out from schools or have never been to any educational institution, will be enrolled in the schools with no school refusing admission to any child
- (iii) 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.

- (iv) The Act also prohibits donation or capitation fees and no admission test or interview of the child or parent for admission.
- (v) It makes provisions for a non-admitted child to be admitted to an age appropriate class.
- (vi) 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.
- (vii) It lays down the norms and standards relating inter alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teacher-working hours.
- (viii) 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.
- (ix) It provides for appointment of appropriately trained teachers, i.e. teachers with the requisite entry and academic qualifications.
- (x) The National Council for the Protection of Child Rights shall monitor the implementation of the act, together with Commissions to be set up by the states.
- (xi) 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.

PRESENT STATUS OF RTE

The present Act has its history in the drafting of the Indian constitution at the time of Independence. However, are more specifically to the Constitutional Amendment that included the Article 21 A in the Indian constitution making Education a Fundamental Right. This amendment, however, specified the need for a legislation to describe the mode of implementation of the same which necessitated the drafting

of a separate Education Bill. The 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 subcommittee of the CABE 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. The government drafting this piece of legislation, however lost the elections, and the new government came up with its own version. This passed the approval of the cabinet on November 1, 2008, was tabled in Parliament in 2008 and passed in 2009.

EFFECT OF RTE ON GOVERNMENT SCHOOLS

The government schooling system has been plagued with dropouts and low retention. One of the major causes of low retention is dull classroom activity. UNICEF has long been working on the 'joyful mode' of imparting education to children. The National Curriculum Framework 2005 had also underlined the primacy of the learner and a flexible evaluation system. However, learning achievements seem to be a major drawback of the government school system. It needs to be mentioned here that Learning Achievements (LA) is the most important parameter in judging the school system and the school quality. The Annual ASER surveys reveal that a Grade V student of an average government school is unable to compete in literacy and numeracy tasks marked for grade II. The JRM (Joint Review Mission) which monitored government schools during the SSA (SarbaShikshaAbhiyan) also stressed on the increased focus on LA. The fact that government schools are severely deficient in LA scores has financial implications. The government is struggling with the increased financial input necessary to redesign the educational system as per RTE mandates. While the solvent class is choosing private schools (which are evidently better) over government schools, it is to be remembered that the government schooling system needs immediate refurbishment. The prime reason for this—despite the 25% reservation mandated by the RTE—is that government schools are the primary choice of a majority of the disadvantaged children.

EFFECT OF RTE ON PRIVATE SCHOOLS

The 'elite' private school sector considers the 25% reservation for the disadvantaged, as mandated by the RTE, to be too much of a burden given the inadequate reimbursement rates of the government. In fact, they had contested with the said issue in court. However, the verdict after a long legal battle, upheld the point of view of the state, that the private school sector is obliged to share the task of educating disadvantaged children. The private schools, by no means, were satisfied with such a verdict and have gone for an appeal. The cheaper private schools, in

spite of recognizing government subsidy as an important contributing factor, prefer to remain autonomous to avoid amplified government scrutiny.

CHALLENGES FACED BY RTE

The major issues that come across the students day after day are:

- It is imperative to remember that the RTE is not a magic wand which will make the existing problems of educating disadvantaged children simply go away. The problems exist and they are substantial. The RTE merely mandates the educational apparatus of the state to impart proper education to the disadvantaged and backward children. Considering this perspective, such children can use all the support available to them, especially when, in most cases, the parents are too preoccupied in the struggle for sustenance in this society of high inequality.
- The most precarious position is of the students of government schools, whose educational experience is severely deterred by migration, illness, and necessity of child labor during agriculture seasons. All these contribute to the irregular attendance in schools, compounded by food insecurity. It is to be mentioned here that, in such cases, the families of the said students are extremely marginalized, with practically no schooling background.
- Modest but necessary facilities like toilets are absent in most elementary government schools. Surveys indicate that only 49% of the schools are equipped with a girls' toilet, due to the high dropout rate of adolescent girls. Also, only 43% schools have electricity, which makes circumstances extremely adverse to imparting of proper education.
- Only 15% schools have computers, even though exposure to computer technology is an integral part of the education system in the current perspective. However, there has been a notable progress and the infrastructure is improving.
- Another problem faced by the students is the language. The students whose mother tongue is Maithili or Bhojpuri are profusely uncomfortable with the Hindi language textbooks and it takes them almost eight years to be proficient. Hence, more language-bridging programs should be in place to make the imparting of education an effective process.
- Another major cause of concern is the National Commission for Protection of Child Rights (NCPCR), which has been vested with the responsibility of implementation and monitoring of the RTE. As it turns out, NCPCR is heavily fund-starved and plagued with interfering factors which serve as bottlenecks in effective monitoring of the RTE.
- It is not only the government schools that suffer from low LA. In fact the entire schooling system of our country suffers from a low achievement

syndrome. Students perform well with questions regarding information recall, but are unable to perform smoothly when application-based questions are concerned, and this is applicable equally for the elite schools. The results of the last international PISA tests confirm above-mentioned inferences. While the elite schools lost no time in resorting to the more scientific and child-friendly Continuous and Comprehensive Evaluation (CCE), the government schools are still clueless as to what mode of education should be set as standard.

- While the RTE compels a teacher training program, the educationists inform that the current teacher training apparatus is not adequate for the said mandatory program and it will take some time to rectify it. This obviously puts RTE in a precarious position.

INITIATIVES TAKEN BY THE INDIAN GOVERNMENT TO ENDORSE RIGHT TO EDUCATION

<i>Schemes</i>	<i>Objectives</i>
Sarva Shiksha Abhiyan (SSA)	Was started in 2001, to provide education to children between 6–14 years by 2010. The programme focuses specially on girls and children with challenged social or financial backgrounds
Mid-Day Meal Scheme(MDMS)	Was launched in 1995 to enhance enrolment, retention, and participation of children in primary schools, simultaneously improving their nutritional status.
National Policy on Education(NPE)	Was introduced in 1968. There have so far been mainly two comprehensive statements of the National Policy on Education, viz. those of 1968 and 1986. The national policy of education (1986) and program of action (1992) lay down the objectives and features of Indian education policy such as promotion of equality, common educational structure, education for women's equality, adult education etc.
District Primary Education Programme (DPEP)	This programme was initiated in 1994, with an aim to provide access to all children to primary education through formal primary schools or its equivalent through alternatives.
District Information System for Education (DISE)	This is the first database software created by NIEPA in 1995. This software was again redesigned as per recommendation from SSA, to provide computerized data and statistical analysis of the various data

Source: Adapted From Human Rights vis-a-vis Right to Education in Indian Context pdf

PROTECTION OF CHILD RIGHTS THROUGH GRIEVANCE REDRESSAL AND MONITORING

Introduction

The RTE which came into effect in April 2010 mandates that the implementation of the rights enshrined in this Act be monitored by the NCPCR and the corresponding SCPCRs [Section 31]. This is a radical new feature and sets a precedent in the legislative history of India, wherein an autonomous neutral body has been charged with monitoring the implementation of a fundamental right. It presents a great opportunity to institute a system of independent monitoring that ensures that the entitlements guaranteed in the Constitution are indeed being provided to the rights holders.

Grievance Redressal under the RTE Act

The RTE Act has made local authorities the grievance redressal agencies and the SCPCRs the appellate bodies at the State level. In this context it is necessary to establish the modalities through which violations can be dealt with. A well defined institutional mechanism for grievance redressal involves a system of registering, investigating and responding within a wellappointed time frame. This will have to be done along with the implementation agency which is charged with the actual redressal of the grievance by ensuring that the right under consideration is actually restored.

CONCLUSION

Every cohort looks up to the next cohort with the hope that they shall build up a nation better than the present. Therefore education which empowers the future generation should always be the main concern for any nation. It is now an undoubted fact that right to education can be realized on a national level only through obligatory education, or better say, through free obligatory primary education. However due to the widespread poverty and various prejudices in the society, the efforts to develop an educational system in India with full access, equality and eminence of education has not been achieved. Therefore, in the concluding remarks it is wished to state that passing an act is not sufficient. The need of hour is to implement and monitor the act properly. Implementation of the Government Plan, however, will not be a straightforward undertaking. There will be a constant need for careful monitoring in order to systematize learning by doing, and to adapt the Plan to changing circumstances and events. The sequencing, pace and phasing of implementation will, to a large extent, be determined by the development of increased management capacities at all levels of the education system and by the availability of the necessary financial resources. The consistent monitoring and intention of the political will is a must to make it successful. According to the UNESCO s Education for All Global

Monitoring Report 2010, about 135 countries have constitutional provisions for free and non-discriminatory education for all. While the government schools are undergoing refurbishment, the status of the private school sector is not very transparent. What is obvious is that, imparting education to the disadvantaged children of our country still faces massive challenges. Factors like curriculum, textbooks, cost of education, language barrier, including a disarrayed teacher-training program, need considerable rethinking. A positive implementation of the RTE necessitates all the building blocks to be in the right places. The education system of our country needs to exert itself more to honor a child's constitutional right to education. The success and failure of RTE would largely depend on consistent political attention.

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