



THE PROGRESSIVE MOVEMENT AND CHALLENGES IN IMPLEMENTATION OF RTE ACT, 2009

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Abstract

Education plays an indispensable role in the growth of a country and its citizen. Education acts as medicine for social evils and prejudices which afflict the country. Primary education is the foundation on which the development of a country and every citizen as whole depend. To strength the roots of elementary education in India, on 4th Aug 2009, Indian government approved a landmark legislation in parliament, the right of children to get free and compulsory education (RTE) Act 2009³ which entered prevalence and communal from 1 April 2010. This law guarantees the free and required education for all children of age group 6 to 14, irrespective of their sex, religion, caste-creed, and family income. According to section 12(1)(c) of RTE Act, all schools- aided, unaided, and private special schools are forced to ensure 25% of their total enrollment seats for economically weaker students (EWS) and disadvantage group (DG)⁴ students with their fees on the government shoulders. After the enactment of Act, with increase in enrollment of such students in private schools, many serious challenges have been faced in implementation of the Act. This paper deals with an attempt to look at RTE act 2009, what are challenges in implementation of this act especially in private unaided school, to understand what is happening at the ground level and what can be done.

Keywords: RTE Act 2009, Section 12(1)(c), Economically Weaker Students (EWS), DG

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³ Right of children to free and compulsory education Act 2009 (New Delhi MHRD), 2009.

⁴ Disadvantage group includes Scheduled Cast, Scheduled tribe, non-creamy OBC, transgender, Disable and HIV/AIDS victims.

Introduction

Huge number of revolutions, struggles, and sacrifices results freedom of India, and then there was need of strong constitution. Under the guidance of Dr. B.R Ambedkar⁵, father of Indian constitution, final draft of Indian constitution had been framed and came in to force from 26th jan1950. After independence the Indian government faced various challenges such as to improve infrastructure, to be economically strong and to enhance the standards of quality education. The economic growth and development of a country relies on the standards of the basic education system. The education system paves way for creating new culture and acts as trapper for culture of the nation. Education is a significant instrument for empowering an individual to stand on their own feet. A famous educationist John Dewey, one of the founding fathers of sociology Emile Durkheim and many social activists discern education provides a path for social transformation and disengagement of an individual and of a community.

During the struggle for freedom of India, Jyotiba Phule in the year 1882, put provisions in front of Sir William Hunter, head of Indian education commission and demanded that state should take responsibilities to deliver free and compulsory education for all children until the age of 12. Afterwards in, G. Krishna presented an individual bill in the Imperial legislative assembly in the year 1991, which also demanded, free and compulsory education. A welfare state, India has implemented several progressive executive orders, policy decision and legislation from time to time. Post-independence, in the article 45 of Constitution of India, the list of “**Directive principles of the state policy**”⁶ which interpret that all children, the age of 0 to 14 have the right to free and compulsory education provided by the states, within 10years of inception of Indian constitution. However, the goal to achieve universal free and compulsory education was not attained by states even after five decades of independence.

Sarva Shiksha Abhiyan (SSA) program⁷ has been launched by the Indian government to achieve the Millenium Development Goals (MDGs) as set by UN sponsored Millenium declaration. In the year 2002, 86th amendment, included in 3rd chapter of Indian constitution was adopted with uninsured cheers in parliament. A new Article 21-A was inserted which mandates the provision of free and obligatory education as fundamental right without exclusion

⁵ Dr.B.R Ambedkar accepted the amendment proposal that was given by Mr.Maitra, suggesting the deletion of the words “every citizen is entitled to free primary education”. After amendment every child shall be kept in an educational institution under training until the child of 14 years.

⁶ Indian Constitution at Art 45.

⁷ SSA-Sarva Shiksha Abhiyan launched in 2001-02 in partnership with local self-governments and state governments and is a comprehensive and integrated flagship programme to attain universal elementary education.

of any child from ages 6-14. Subsequently, the President signed the bill on Aug 26, 2009 granting children the right to free and compulsory education. This Act came into existence from 1st April 2010 and India became one of the 135 nations that declared the right to education to be a fundamental human right. This Act is found as one of the most revolutionary legal techniques by which Indian government guarantees every youngster between the ages of six and fourteen entitled to get free public education.

According to RTE Act section 12(1)(c), all schools including private ones are required to set aside 25% of their registered seats for children belongs to economically underprivileged and disadvantaged groups between age 6 and 14 for endeavouring the equity and quality education⁸. The introduction of privatization and globalization policies played a crucial role in the development of various sectors in the world. The educational framework throughout the world has been changed with initiation of the policies of privatization and globalization. Even in India, the education system is found to be affected in several fields such as violation of RTE, enhancement in the cost of education, exclusion of children of marginal communities and disadvantaged groups, inequalities in education, the primary motive of private educational institutions is to made profit not to endeavour valuable education.

Most of data presented in this paper is taken from official website and government agencies. This article is divided in to three different segments; the first part discusses the historic development of Indian education system and the constitutional provisions providing free and compulsory education. The second part mainly focus on the key features of RTE Act 2009 and challenges in its implementation. The third part of the article suggest recommendations for better implementation of RTE Act 2009.

A Progressive Journey to RTE Act 2009:

In India, during the ancient and medieval periods, the concept of compulsory education to all was not prevalent and the government or king was not directly responsible for providing education. During these periods royal nobility supported educational institutions. Many social reformers and social activists thought to deliver the concept of education to all. Prior to independence, the parliament instructed the East India Company to assume responsibilities for

⁸ The respective state rules for understanding the income criterion for classifying economically weaker section and class of people who are classified under the disadvantaged category, under the RTE Act.

Indian citizens education under the terms of 1813 Charter Act⁹. This was the first breakthrough related to right of education where it was stated the availability of public revenues for arrangement of education system.

In 1838, **William Adam** was appointed for enforcement of compulsory basic education and to report on suffrage education of the people of Bengal, Bihar, Orissa. Following the passage of England's compulsory education in 1870, a demand of enforcement of this Act was raised in all British colonies and in rest of India. The **first Hunter education commission** (1882) also known as Indian education commission led by William Hunter was given the task of analyzing the state of elementary education in British territory at this moment and making recommendations for how to make it better and more comprehensive. **Dadabhai Naoroji and Jyotiba Phule** demanded to make laws for primary education to be compulsory. In 1882, J. Phule cocked the theme of right to education, however this demand was strongly opposed by British Raj, Nawabs, Landowners and upper class. In 1884, the deputy education, **Shri Shastri Ji** also perceived the initiative of compulsory education. In 1891, a proposal similar to the demand of J. Phule proposed free and compulsory education for all, in the Imperial legislative assembly but the governing British and upper class rejected it once more. The positive impact of these demands come out when prince of Baroda **Sir Sahaji Rao Gaikwad** introduced the scheme for free and mandatory education program in his state in 1896. Later in 1906, primary education was made compulsory for boys of age between 6 to 12 years and for girls of age 6 to 10 years throughout the state. The Indian congress called for primary education to be free and required for both boys and girls during that same session all over the country. In 1911, **Gokhle** presented a private bill and demanded to make better laws for extension of basic education in India.

After the enforcement of Government of India Act in 1919, the responsibility to control the elementary education was given to the Indian ministers and more work has been done towards the path of compulsory education in the decade 1917-1927. When the congress came in political power in seven states in 1937, **Wardha scheme** of Ghandhi ji for basic education was an important step toward making basic education mandatory. The **Kher committee** in 1938 recommended the universalization of elementary education as Sergent plan (1944) recommended the provisions requiring all children aged 6 to 14 to get free education. Kher committee suggestions served as foundation for article 45 of the Indian constitution's Directive

⁹ This act directed the East India company to spend 1 lakh rupees on the education of Indian to encourage toward study of literature and science in India.

Principles of state policy. Later Dr. B.R Ambedkar brought up the subject of fundamental right to education.

In 1966, **Kothari commission** recommended for neighborhood school and common school system for development of elementary education in India. NPE, 1968 also advised for compulsory basic education. The Indian government adopted the proposal on the national policy for children in 1974 to achieve outlined in the UN declaration on the rights of child. **The Acharya Ramamurti** committee (1990) officially first time recommended for including right to education as fundamental right. Ramamurti committee (1990), 73rd and 74th amendment Act (1992) and UN declaration on rights of the child (1992) recommended Gram Panchayat to take responsibility of compulsory primary education. In 1991, the privatization of education in India affected by implementation of privatization, liberalization, and globalization policies. The case of “**Mohini Jain vs state of Karnataka 1992, 3 SCC 666**”,¹⁰ often known as the capitation fee case, marked the first instance in which the supreme court acknowledged the right to education as substantive right. According to the Supreme Court, a citizen's right to education is guaranteed by article 21 of the constitution and cannot be restricted by paying a higher capitation tax. The right to life is the foundation for the right to education, and one cannot assess someone's dignity in isolation from their right to education. In a different case, “**Unnikrishnan Vs. State of Andhra Pradesh (1993), 1 SCC 645**”,¹¹ the Supreme Court limited the scope of the basic right to education by declaring that it is only granted to children up to the age of 14. The implementation of secondary and higher education will be contingent upon the state's development and economic capacity limitation. There are several provisions in part IV, relating to the right to education which pellucidly speak of it.

- **Article 41** states that “the state shall make effective provisions for implementing and securing the rights to education, right to work and to public assistance in unemployment cases within limits of its economic capacity and development”.
- **Article 45** state that within 10 years of the Indian constitution’s adoption, the state shall work to offer early childcare as well as free and mandatory education for children ages six to fourteen.

¹⁰ Mohini Jain Vs. State of Karnataka AIR1992, 3 SCC 666 (India).

¹¹ J.P Unni Krishnan Vs. State of Andhra Pradesh (1993) 1 SCC 645 (India).

- **Article 46** promotes the states to make the educational, economical and welfare policies for people of weaker sections particularly Scheduled Tribes (ST) and Scheduled Castes (SC) to shield them from exploitation and social injustice.

In the light of these three articles 41, 45 and 46, the parameter of right to education will have to be determine¹². One of the signposts was the 86th constitutional amendment act 2002 which added a new Article 21A to the document guaranteeing all children between the ages of 6 and 14 the basic right to free and compulsory education. The second drive was the emphasis on education of a 2% levy on all taxes in 2004 to raise more money for education. The ministry of education reported that in 2005, 57 years after gaining political independence, school enrolment had finally reached 100% for the first time. In 2005, the 93rd constitutional amendment act introduced Article 15(5) granting the state-the authority to make any special provision regarding the admission of citizen of scheduled cast and tribes to private unaided and aided educational institutions, or for the development of socially and educationally backward classes of people. The Supreme Court raised the issue and delivered the notices about the obligations to provide education for all children from aged 6 to 14, which faced by state and central government.

However, the central and state governments launched a number of policies and legislation to fulfil the provisions regarding free and compulsory education. A crucial breakthrough came when the RTE Act 2009, which guaranteed children's access to free and compulsory education, was approved by the Indian parliament on August 4, 2009 and it became operative on April 1, 2010. This Act empowered to endeavor the free and obligatory education for every child of age group between 6 and 14. The important section 12 (1) (c) of RTE Act 2009 ensure to reserve the 25% of total enrolled seats for the children of disadvantage groups (DG) and economically weaker students (EWS) in the educational institutions including private unaided¹³ and aided institutions.

Key Features of RTE Act 2009:

- Section 14 of RTE remarked that admission of any child cannot be denied in absence of his/her birth certificate or transfer certificate.

¹² Society for unaided private schools of Rajasthan v Union of India (2012) 6 SCC 1 (India) at 256 ('articles 41,45 and 46 of Part IV of the constitution cast the duty and constitutional obligations on the state under article 21-A')

¹³ The school operated by an individual and does not receive any financial assistance from either government or the local authority.

- The No Detention policy¹⁴, established by section 16 of the RTE Act, prohibits any kid up to the eighth grade from being held in any class or expelled until they have completed their elementary education. However, from the academic year 2018, MHRD has decided to remove the provision of No Detention Policy.
- Section 17 of the RTE prohibits any kind of emotional harassment or physical punishment.
- RTE also banned (i) the test or interview procedure for admission of children (ii) the private tuition by government teacher (iii) conducting the unrecognized school (iv) any type of donation or capitation fee¹⁵.
- The most radical clause of RTE Act's section 12(1)(c) which ensure reservation of 25% seats of their class strength for the youngsters from socially, disadvantage groups and economically weaker section through random selection process in private aided and unaided school. No seat can be vacant in this quota. These children's fees will be reimbursed by the state, meaning that the state will support them at the average cost per student in government schools. This section also ensures that private schools must take liabilities to fulfill this important social goal.
- RTE focused on Pupil Teacher Ratio (PTR)¹⁶. It mandated that at primary level, teachers should be appointed for every thirty children (PTR should be 30:1) and for thirty-five children at upper primary level (PTR should be 35:1).
- It also lays down the norms and standards related with, building infrastructural facilities including safe drinking water, separate toilets for girls and boys, playground with boundary wall or fencing, school-working days, teacher working hours, existing curriculum, evaluation, inclusive aspects, school management committees (SMCs) and role of community.
- This act stipulated that neighborhood schools must be located within a radius of one kilometer for primary level pupils (class I through V) and three kilometers for upper primary level students (class VI through VIII).
- If a school fails to comply with the Act's standards and norms within three years, it will not be permitted to continue operating. It will be necessary for all unrecognized schools

¹⁴ No-Detention policy, enshrined in RTE Act 2009 groundbreaking concept which prevents the detention or failure of students to class 8.

¹⁵ Capitation fee refers to transaction in which an organisation that provides educational services collect a fee higher than that approved by regulatory norms.

¹⁶ (AISHE Survey) Pupil Teacher Ratio is average number of students per teacher at a specific level of education in given school-year.

to apply for recognition. If the schools are still operating, they would have to pay a punishment of Rs 10,000 per day for failing to meet the norms and requirements.

- All teachers in schools must subscribe to the training norms and standards of minimum credentials required by an academic body within 5 years of passing the Act.
- This Act mandates the recruitment of huge no. of teachers (approx. 15 lacs more teachers) and made a provision of training for teachers as well as teacher educators. So that para teachers should be banned.
- It offers opportunities for curricular development that guarantee a child's holistic growth and liberate them from fear and anxiety by creating a welcoming learning atmosphere.
- Section 4 of the RTE Act states that older student or children who dropouts the school, can accept a class that is age appropriate to manage the squandered years to enable them to be par with their peers by receiving special training.

Challenges in implementation of RTE:

- Finance is a vital challenge in the implementation of the RTE Act. Without sufficient fund, the basic necessary infrastructure facilities as laid down in the Act, such as access to drinking water, availability of playground, separate toilets for girls and boys, implementation of pupil-teacher ratio, and quality teacher training is not possible. States like Orissa and Bihar require financial assistance from the federal government. In the current scenario, it is going to extremely challenging to provide the basic infrastructure with growth in the quantity of educators and learners.
- Lack of education among the parents/guardians of children is a big issue in the implementation of RTE Act, because doing so makes it more difficult for the school management committee (SMCs) to be formed and oversee the school growth plans, teacher accountability and leaves the stakeholders unaware regarding the provisions of RTE act.
- Enforcement of 25% reservation of seats in private/public unaided schools for children of underprivileged group and disadvantage group is another big challenge. The state government will refund these students' tuition fees at the government rate. The amount that government reimburses for education, however, differs significantly from the cost of education for each child who will finish this piece of deficit. The provision under article 12(1)(c) leads other questions like what about fee charged by Elite schools other than tuition fee under different heads such as expenditure on uniforms, unnecessary

textbooks, stationary, or in the name of annual day, sports day, picnic after admission of 25% quota students? Can the poor students pay the huge amount under different heads other than the tuition fee? The more chances are that the parents feel scared to send their children to private schools. What about the poor students admitted in private school after 8th class because this facility has been provided for the children of age 6-14? What about the donation demanded by these schools.

- Lack of coordination among different ministries, child right commission, local bodies, and police regarding implementation of RTE is one of the vital hurdles. The implementing agency does not penalize properly. So, times hamper occurs in taking decision for implementation. If the authorities fail to provide the right to elementary education, there is no provision of specific penalty.
- Child labor is another big challenge as many children start laboring to manage food for their family and drop out the school without completing primary education.
- One major obstacle to the implementation of RTE is the general lack of knowledge among teachers and parents regarding its requirements particularly among parents who are members of the poor and economically weaker sections of society.
- Despite having a high pupil-teacher ratio in schools, the deployment of teachers on the places other than academic works such as in decennial census, involving in local, legislative elections and disaster relief is another big challenge.
- The fact that implication of “No Detention Policy” is good step to away the children from stress and anxiety but the education system should take the responsibility to prepare them to handle any kind of pressure, stress or anxiety and should provide path for successful life. Automatic passage of every student to next class can promote lethargy and deception towards their studies among the students and slackness among teachers. Thus, the children evaluation is another challenge in all round development as our education system is predominantly focused on scholastic aspects.
- For children aged 6 to 14 the Act offers free and required education, but what about youngsters aged 0 to 6 and 15 to 18? even so India has ratified the United Nation charter which stipulates that children between the age of 0 and 18 receive free and compulsory education.
- Many school administrations continue to persist in submitting the birth certificates, transfer certificates and other documents which violates RTE act, as though these

documents are imperative for regime of schools. It results either in dropping out of school or leaving the parents to cope with the school system and a no. of procedures.

- Most private/public schools even some government schools have flouted the provisions by continuing to conduct test or interview procedure for admission of children and explode them in favor of giving priorities to meritorious students. These screening test procedures create discrimination, banishment and decline equal opportunities. So, there is need to conceive a transparent procedure for inclusion.
- Although mental harassment and corporal punishment to the students has been banned by RTE, there still complaints of physical punishment are registered by the parents/guardians which is the breach of provisions of RTE Act.
- The act prohibits private tuition by government teachers, but it is observed that tuition is very common, and a no. of students are taking tuition by their schoolteachers violating RTE. Such teachers do not give their hundred percent to students in classrooms.
- This act specifies that children should be admitted to class according to age to save wasted years but there is no special training or bridge course to train late admitted students to adjust the admitted class. To overcome this challenge there is need of extra efforts by teachers which is injustice with low salaried and overloaded teachers.
- One of the biggest obstacles to the RTE Act's implementation is the instructor's lack of training and proper knowledge of it. Our elementary education system already suffers from a shortage of qualified and trained teachers and huge no. of teachers are untrained. It is herculean task to get qualified and trained teacher within the period as stipulated by RTE norms. On demand of more teachers large no. of contractual teachers or para teachers have been appointed, but these teachers have diluted the teaching quality and identity of the teacher as professional. Without providing any details on how the RTE Act will be put into practice, most instructors said that it enhances their obligations.
- The RTE Act is for the youngster of aged 6 to 14 years studying in class I to VIII, there is no standard definition of teaching eligibility for the teachers for class I to VIII because the teachers trained for primary classes are only eligible to teach classes from 1st to 5th and teachers who are trained to teach secondary classes are eligible only for middle classes from V to VIII.
- The inclusion of minority schools in this bill conflict with article 30 of Indian constitution as it permits minorities to set up educational institution independently.

Recommendations to overcome the challenges in implementation of RTE:

After enactment of RTE Act, versatile challenges have been faced in context with its smooth implementation. The recommendations, need to be made to nullify the challenges in the implementation of this Act are as follows.

- The implementing agencies should take responsibility to conduct the awareness programs to educate the untrained teachers and the parents /guardians especially those of the target groups about the significant RTE Act provisions.
- There is a strong need to introduce special training and bridge courses for late admitted students to the class, according to their age, to enable them at par with their peers on learning scales.
- There should be provision under the RTE Act for children of the age 0-18 years to get free and compulsory education.
- To build a proper panel or coordination among the implementing agencies.
- To provide sufficient infrastructure facilities such as clean and separate toilets for girls, safe drinking water, more classrooms with proper safety, computers for students, sufficient furniture for students and teachers.
- To endeavor the textbooks in sufficient number in time.
- To manage the no. of sections of a class and the pupil-teacher ratio to the desired level of 30:1 at primary level and 35:1 at upper primary level, there should be recruitment of large no. of qualified and trained teachers.
- To remove the complaints of corporal punishment given to the students which is the breach of RTE.
- To guarantee a 25% seats reservation in private and public schools for pupils in the EWS and DG groups.
- To check the donation demanded by the school at time of admission.
- To employ well trained and qualified teachers and avoid deploying them at non-educational works.
- The assessment of schools should be on a quantitative and qualitative basis after regular and proper inspection by the concerned officer and check strictly the enforcement of provisions of RTE Act. There should be provision of punishment if RTE is violated.
- To minimize the no. of children who drop out the school whatever the reason may be and protect the child from laboring.

- Centralizing learning based on activity to adjourn the students in the schools and their potential can be channelized properly.
- To allocate sufficient funds for education to fulfill the indebtedness of panchayat (section 9 of RTE Act).
- To use teaching aids and appropriate methods of teaching to generate the interest of children in studying.
- RTE Act preview should include children with special needs (CWSN)¹⁷.
- To ensure the role of local government in the development of schools.
- To provide the special training for teachers to prepare them potentially viable to teach the children as laid down under RTE and to develop professionally them to away from the act of tuition. The standards of the schools can be improved by providing good quality education.
- To check the corruption involved in implementation of policies regarding elementary education and to avoid nepotism in education sector.
- To check the absenteeism of teachers strictly and to focus on curriculum that should be vocational on the line of elementary education.
- To supply the professional needed to resolve issues with school development plans (SDPs) and school management committees (SMCs)¹⁸.
- To check the extra burden on the shoulders of parents/guardians of children EWS and DG to pay in the name of unnecessary textbooks, picnics, and annual day in public/private aided or unaided schools.

Conclusion:

According to the study's findings, education is the single most powerful factor that can alter a person's or a nation's fate and is essential to a citizen's socioeconomic progress in any nation. In India pre-independence and post-independence, various provisions and policies have been launched to strength the roots of elementary education. The RTE act is an effective tool to guarantee every child, aged 6 to 14, the right to free and compulsory education, regardless of gender, caste, creed, or color. After the enactment of RTE Act 2009, the enrollment of children in the schools has maximized, however there was need to provide good quality education by

¹⁷ CWSN-children with special needs, which are young adolescents and determined to need exceptional care and necessities.

¹⁸ The school management committee is responsible to construct or to form school development plans and members of committee have major responsibility to monitor the utilization of government grants and funds along with whole school environment.

smooth implementation. With the increase in enrollment of children, a lot of challenges have been faced in the RTE Act's implementation.

Teachers are frontline providers of education services and act as mentors who can give the right shape to children, however this study reveals that few no. of teachers and principals are aware of the RTE Act's provisions. RTE's primary goals are not being achieved. Teachers who are heavily involved in the RTE act's implementation are subject to explicit guidelines. This study focused on special training of teacher time to time, on providing the material required for teaching. In present study the infrastructure facility like clean classrooms, clean separate toilets for girls and safe drinking water, is pointed as major challenge. The RTE Act has been in effect for 14 years, but the primary schools still need to make progress towards providing all students with access to high quality education.
