ABSTRACT

The right to education occupies a central place in human right law and is of key importance for the exercise of all other human rights. No civil, political, economic and social right can be exercised by individuals without basic education. It promotes individual freedom and empowerment and yields important developmental benefits. Keeping this thing in view Government of India has conferred Right to Education to every child in the age group of 6-14 years. The right to education includes responsibility to provide basic education for individuals who have not completed primary education. In addition to these access to education provisions, the right to education encompasses the obligation to rule out discrimination at all levels of the education system, to ensure minimum standards and to improve quality of education. This research paper gives a glimpse of governmental efforts in this direction and encircles problematic areas regarding implementation and gives some practical suggestions regarding its successful implementation.

INTRODUCTION

Education is a movement from darkness to light. Education in India has a history dating back to the old town centers of learning at Taxila and Nalanda. Education is the key which opens the door to life by widening one’s vision. It develops the sense of concern towards the fellow beings
and thus promotes national development. A recent report on gender biasness and discrimination against women observes education as a system of training and instruction designed to provide systematic knowledge, to develop skill, abilities, aptitude, character and mental power as the result of such training. Education is the most crucial element in the development of any society. For the all round development of general masses role of education is universally acknowledged.

EDUCATION: THEMATIC FRAMEWORK

The development and growth of a nation emanates from its literate population. National Literacy Mission observes Literacy as acquiring the skills of reading, writing, arithmetic and ability to apply them to one’s day to day life. Literacy increases the possibility of improving one’s economic condition and enhances one’s capability to function more effectively in a public domain. The schooling and education is the edifice on which the pillars of a healthy society are built and a nation of character stands. The term “education” is derived from three Latin words- Educare i.e. to bring up, Educere i.e. to lead out and Educo i.e. to lead forth. Swami Vivekanand said, “Education is manifestation of perfection, already in man.” Also observed by Kant, “Education to an individual is all the perfection of which he is capable.”

Education in its general sense is a form of learning in which the knowledge, skills and aptitude of group of people are transferred from one generation to the next through teaching, research and extension. According to the thinkers of ancient India, education is the third eye of a person. A traditional common saying in India is that a king is respected in his own kingdom while a literate man is worshipped everywhere. Since independence, the policy makers have argued for universal education and for making education a tool for bringing about social equality and social transformation. The system of education imparted by the nation is comprised of various levels: primary, middle, high, secondary and higher. The elementary education provides the base upon which the remaining levels of education are built. Right to Education is provided at elementary education level.

According to the Census of 2001, “every person above the age of 7 years who can read and write in any language is said to be literate.” According to this criterion, the 2011 survey holds the National Literacy Rate to be around 70.04%. Government statistics of 2011 also holds that the rate of increase in literacy is more in rural areas than in urban areas. Female literacy was at a national average of 65.46% whereas the male literacy was 82.14%. Within the Indian states, Kerala has shown the highest literacy rates of 93.91% whereas Bihar averaged lower literacy i.e. 63.82%, the lowest in India. The 2011 statistics also indicated that the total number of ‘absolute non-literacy’ in the country was 181.96 million.¹

RIGHT TO EDUCATION ACT: HISTORICAL BACKGROUND

Till the 19th 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. Under Article 45 free and compulsory education to all children until they complete the age of 14 years was ensured. But nothing much happened towards universalisation of elementary education. National Policy on Education, 1968 was the first official document which reveals 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 mean time India signed the Universal Convention on the Right of the Child in 1992 and initiated the process of adopting legislation to make education a fundamental right of the child. In 1992 itself, in the case of Mohini Jain vs State of Karnataka, the Supreme Court of India held that right to education is concomitant to fundamental rights enshrined under Part-III of the Constitution and that every citizen has a right to education under the Constitution. 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 passed by parliament in August 2009 and notified into force on 1st April 2010. Based on this Act, a subordinated legislation, the model rules, was framed by the centre to provide guidelines to states for implementing the Act.

RIGHT TO EDUCATION: A VIEW

The right to education occupies a central place in human right law and is of key importance for the exercise of all other human rights. No civil, political, economic and social right can be exercised by individuals without basic education. It promotes individual freedom and empowerment and yields important developmental benefits. The right to education includes responsibility to provide basic education for individuals who have not completed primary education. In addition to these access to education provisions, the right to education encompasses the obligation to rule out discrimination at all levels of the education system, to ensure minimum standards and to improve quality of education.

As early as in 1992, the Supreme Court of India has widened the scope of Article 21 of Indian Constitution. The Court then held that the right to education flows directly from the right to life and the dignity of an individual cannot be assured unless it is accompanied by the right to education.

The system of education now existing in India was originally introduced by the British rulers in the mid-19th century to serve the colonial economic, political and administrative interests. It is inherited by the state managers after independence as a colonial legacy and has been expanded phenomenally during the last six decades. Post independence education in India is seen as one of the ways to upward social mobility. Education System in India currently represents a great paradox. On the one hand we have IIMs & IITs that rank among the best institutes in the world and on the other hand there are number of schools in the country that don’t even have the minimum basic infrastructure. Even after more than sixty years after independence we are far away from the goal of universal literacy. But on the positive note, Indian professionals are considered among the best in the world and are in great demand. This signifies the inherent strength of Indian education system.

In the year 2020, India will have a surplus of 47 millions people in the working age-group. By the same year, USA will be short of human capital by 17 millions, China by 10 millions, Japan by 9 millions and Russia by 6 millions. Suddenly, our biggest bane- the population problem can be turned on its heads to become our greatest asset provided hard measures are taken fast by strengthening foundation of education system in India.
On 1st April, 2010, India joined a group of few countries in the world with historic law making education a fundamental right of every child coming into force. Making elementary education an entitlement for children in the 6-14 age groups, the Right of Children to Free and Compulsory Education Act will directly benefit children who do not go to school at present.

The Act has now become a reality and there is an atmosphere of jubilation, anticipation and enthusiasm all around. Inclusive education has become the need of the hour. Apart from legalizing the right to education, the Act places the onus on government and local authorities to provide schools and sets out standards and norms covering numbers of teachers in the next five years and retain existing teachers.

The Act is indeed a comprehensive piece of legislation which includes provisions relating to schools, teachers, curriculum, evaluation, access and specific division of duties and responsibilities of the different stakeholders. On the basis of this Act, the government has framed subordinate legislation called modal rules as guidelines to states for the implementation of the Act. For a country which is aiming to touch double digit growth rate, this Act would have far reaching impact. The Act, which was passed by Parliament in August 2009, also remarks 25 percent seats to children from economically weaker section in private school.

RIGHT TO EDUCATION ACT: SALIENT FEATURES

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 age group of 6 to 14 years.
- 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, who has not been admitted in any school or though admitted, could not complete his or her elementary education than he or she shall be admitted in a class appropriate to his or her age.
- Where a child is directly admitted in a class appropriate to his or her age than he or she shall have a right to receive special training.
- A child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.
- No child shall be denied admission in a school for lack of age proof.
- A child who completes elementary education shall be awarded a certification.
- Calls for a fixed student – teacher ratio for smooth education.
- This applies 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.

• This Act specifies minimum norms in government schools.

• It ensures improvement in quality of education.

• School teacher will need adequate professional degree within five years otherwise will lose job.

• Ensure school infrastructure for efficient education environment.

• Financial burden to be shared between state and central government in the ratio of 35 to 65.

• The Right of Education of persons with disabilities until 18 years of age has also been made a fundamental right.

• Towards this, the State would ensure the availability of neighborhood school within a period of three years from commencement of this Act.

• In case of non-availability of neighborhood school, the State shall provide free transportation to the nearest school or provide free residential school facilities.

• The National Commission for Elementary Education shall be constituted to monitor all aspects of elementary education including quality.⁴

RIGHT TO EDUCATION ACT: NORMS AND STANDARDS FOR A SCHOOL

There are some rules and regulations for the success of any work. For this some norms and standards are determined. To implement and improve education in India these norms and standards are determined⁵ as under:-
## NORM AND STANDARD FOR A SCHOOL

<table>
<thead>
<tr>
<th>Sr. no.</th>
<th>Item</th>
<th>Norms and Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Number of Teacher</td>
<td>30:1 (for class I-V)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>35:1 (for class VI-VII)</td>
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<tr>
<td></td>
<td></td>
<td>At least three subject teacher (for class VI-VIII)</td>
</tr>
<tr>
<td>2</td>
<td>Building</td>
<td>All-weather building consisting of</td>
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<tr>
<td></td>
<td></td>
<td>• One classroom per teacher</td>
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<tr>
<td></td>
<td></td>
<td>• One office-cum-store for headmaster</td>
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<tr>
<td></td>
<td></td>
<td>• Barrier-free access</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Separate toilets for boys and girls</td>
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<tr>
<td></td>
<td></td>
<td>• Safe and adequate drinking water</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Kitchen for mid-day meal preparation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Playground</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Boundary wall</td>
</tr>
<tr>
<td>3</td>
<td>Minimum number of working days/instructional</td>
<td>220 working days and 800 instructional hours (for class I-V)</td>
</tr>
<tr>
<td></td>
<td>hours in an academic year</td>
<td>220 working days and 1000 instructional hours (for class VI-VII)</td>
</tr>
<tr>
<td>4</td>
<td>Minimum number of working hours per week for a</td>
<td>45 teaching including preparation hours</td>
</tr>
<tr>
<td></td>
<td>teacher</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Teaching/Learning equipments</td>
<td>Provided to each class</td>
</tr>
<tr>
<td>6</td>
<td>Library</td>
<td>Provided to each school</td>
</tr>
<tr>
<td>7</td>
<td>Play material, games, sports equipments</td>
<td>Provided to each class</td>
</tr>
</tbody>
</table>
RIGHT TO EDUCATION ACT: PROBLEMS IN IMPLEMENTATION

Right to Education Act has been started with a good spirit but keeping in view the present situation in India, there may be following problems in the implementation of this Act-

- There is dearth of good and qualified teachers in India. In the absence of competent teachers who are considered the pillars of education, it would be next to impossible for the Act to achieve its goals.

- The current licensing and regulatory restriction in the education sector discourage well-intentioned ‘edupreneurs’ from opening more schools.

- Normally there are seventy-eighty students in one class and there is a huge gap between the training imparted to teachers and what is actually practiced on the ground.

- Now, the school drop-outs, left-outs and others would be brought back into the education stream once again and it will require almost double the number of teachers.

- It is a challenge to find quality teachers without any performance based salaries or any incentives.

- This Act has put India in the same league as USA and 130 other nation as far as the right to education is concerned. Nothing can change overnight but there is a ray of hope. A hope that if all these hurdles and shortcomings are tackled and loopholes removed, then this will lead towards an educative and proud India.5

- In the absence of clear demarcations between the responsibilities of the Centre and State, it would be a challenge to work out the details.

- There may be persons to strike a balance between a six year old child who has just entered school and a child who has been to a school since the age of three.

- There are more than twelve million children in India who are engaged in child labour and these are just official figures. Unless and until a special provision is made in Act, it is a challenge to bring back these children to school.6

- School Management Committees comprising seventy five percent parents/guardians can adversely affect the existing management structure of schools.

- No disciplinary action is chartered under RTE for teacher in view of their absence on non-adherence to teaching norms.7

- There is nothing in the Act that can prevent unaided private schools from charging students for activities that are not mentioned under the provisions of this Act.
Outcomes of RTE Act have been overestimated in the light of existing scheme of inefficient, fraudulent and unaccountable institutions of learning in our nation.

According to several activities the bill allows only children between the age 6-14 to get the privileges. Think is so shallow. But as per Universal Charter free education should be made compulsory to children of 0-18 years old.

The Act is deemed to be excessively input oriented rather than output oriented. The Act guarantees for the admission of the children, but does not promise the quality of education.

The Act stipulated that the child should be assigned the class according to age, which is a good step because wasted years can be saved, but no bridge course is suggested that can prepare the child to adjust to the admitted class.

The existing elementary teacher education programmes (known variously in different parts of the country as JBT, D.Ed., PTC, BSTC etc) lack a benchmark and proper definition.

The Act talks about twenty five percent seat reservation in private/public unaided school for lesser privileged children. Who will bear this deficit portion? Obviously the remaining seventy five percent of the students. For a certain class of society who provides education to their kids on these private schools already by stretching their means this extra burden might prove too much. It’s like providing benefit to one at the cost of other.

Modest but necessary facilities like toilets are absent in most elementary government schools. Surveys indicate that only forty nine percent of the schools are equipped with a girls’ toilet, and only forty three percent schools have electricity, which makes circumstances extremely adverse to imparting of proper education.

Only fifteen percent schools have computers, even though exposure to computer technology is an integral part of the education system in the current perspective.

While the RTE compels a teacher training programme, the educationists inform that the current teacher training apparatus is not adequate for the said mandatory programme and it will take some time to rectify it. This no doubt, puts RTE in a strange position.

It’s a strange irony that while on the one hand the government wants to provide quality education to all children, across all barriers on the other hand it recognizes four kinds of schools under the RTE Act. Government schools, Government-aided schools, Special schools recognized by the government such as Kendriya Vidyalayas, Navodya Vidyalaya & Sainik schools and private schools with such a variety of schools, it is only natural that quality of education varies.
As per the latest data nine percent of the elementary schools are still being managed by a single teacher. There are schools in the remote areas without any teacher. In some schools the teachers do not come regularly. In such a circumstance how Right to Education can be ensured.

A Delhi based NGO ‘JOSH’ surveyed about implementation status of Right to Education in Delhi. But findings of survey presents a discouraging picture, because survey concluded that RTE implementation is not over eight percent across India.\(^{11}\)

In an urban setting, the loose definition of mental harassment becomes a problem. Here, students are more empowered, and find easy to report any behavior which would constitute ‘mental harassment’ in their opinion. In schools, errant correction can be misinterpreted as mental harassment.

In most of the villages communities are not aware about to keep check on government school’s working. Participation level of parent member of Village Education Committees (VECs) and Parent Teacher Association (PTA) is zero.\(^{12}\)

**RIGHT TO EDUCATION ACT: SUGGESTION FOR EFFECTIVE IMPLEMENTATION**

For quality education to truly reach every child in the country, it is necessary that the following steps are taken:-

- Each state should prepare a set of model rules for implementation of the right to education, with the participation of the community and other stakeholders.

- Although the RTE Act puts the applicable age-group at 6-14, it has been left to the states to decide whether they want to widen this group. States should think about including more children under the ambit of this Act.

- With the Act coming into effect, it has been found that there is shortage of 12-13 lakh teachers in schools. The government should ensure that all government schools are well-equipped to take in students, so that they are not left with the sole choice of going to private schools.

- School Management Committees should take it upon themselves to spread awareness about the Act at the community level, so that people are encouraged to send their children to school.\(^{13}\)

- School Management Committees should be provided with the necessary financial and other support by the states to so that they can perform their duties.

- There is a conflict between the child labour law and the Right to Education Act, although both deal with related issues and promote the overall development of children. It is important to bring them in tune with each other to avoid confusion.
• To effectively implement the RTE Act, the Human Resource Development Ministry, Women and Child Development Ministry, Labour Ministry, Panchayati Raj Ministry and Rural Development Ministry have to work together. There should be an umbrella body that brings all these agencies together to work towards a common goal.

• The government must make every effort to become self-sufficient by adopting the education cases and other taxes to effectively implement the RTE Act.

• Along with ensuring implementation of RTE Act which stipulates focused reforms in government schools and regulation for private schools, we need to broaden our vision so as to create an ecosystem conducive to automatic private involvement.

• The salary mechanism will need some serious revisions and the disparities should be removed before any influx of efficient teachers can take place.

• Creative and sustained initiatives are crucial to train more than one million new and untrained teachers within the next five years and to reinforce the skill and aptitude of in-service teachers to ensure child-friendly education.

• Families and communities also have a large role to play to ensure child-friendly education for each and every girls and boys in India who should be in elementary school today.

• Until we can establish consistent and high standards for the delivery of education only through recognized institutions, we should allow unrecognized institution to function. The data shows that they are at par with, if not better than, their government counterparts.

• There should be incentive based compensation system. Research shows that these are much more effective at ensuring better teaching than improved school infrastructure. This step will also help to resolve the issue of teacher underperformance in schools.

• There should be change in school organization structure and focus on improvement in work.

• There is need of O & M technique on tune with the provisions of this Act. It has been observed that teachers are not serious about their classes. As a result they do not cover syllabus in the class and students will approach them for tuitions. Thus they are much greedy to earn more money. Therefore tuition should be strictly banned.

• Last but not the least an escalation and reporting mechanism is very important to ensure that the system works. Deviations should be punished severely.
CONCLUSION

In nutshell, it can be said that an integrated vision and implementation strategy has to be evolved, which embraces equally adults as well as children and the poor as much as the rich. Consistent, real time and complementary policies are also needed so that what is given with one hand is not taken away with the other. Most well-meaning legislations fail to make significant changes without proper awareness and grass root pressure. Schools need to be undertaken through mass awareness programmes as well as ensuring proper understanding by all the stakeholders responsible for its implementation.

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