



INDIAN CONSTITUTION & RIGHT TO EDUCATION

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Abstract

India made a constitutional commitment to provide free & compulsory education to all children up to the age of 14, by adding this provision in article 45 of the directive principles of state policy. It is now a legally enforceable duty of the Centre & the states, to provide free & compulsory education. This act is an essential step towards improving each child's accessibility to secondary & higher education. The act also contains specific provisions for disadvantaged groups such as child laborers, migrant children, children with special needs, or those who have a disadvantage owing to social, cultural, economical, geographical, linguistic, gender or any such factor. The aim of compulsory education is to protect children's right to education because children have no way of asserting that right for themselves when through neglect or ignorance, no attention is paid to this need.

Key words – Indian constitution, Right to Education act



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Dr. B.R. Ambedkar had used appropriate words at the time of birth of the constitution of India to put forth the goal of building a new India on the lines of the ideals & goals embodied in the constitution created by her own people & representing the masses; adopted to secure the ideals of social justice, equality & equity.

Present Act has its history in the drafting of the Indian constitution at the time of Independence but is more specifically to the Constitutional Amendment of 2002 that included the Article 21A 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.

A rough draft of the bill was composed in year 2005. It received much opposition due to its mandatory provision to provide 25% reservation for disadvantaged children in private schools. The sub-committee of the Central Advisory Board of Education which prepared the draft Bill held this provision as a significant prerequisite for creating a democratic and egalitarian society. Indian Law commission had initially proposed 50% reservation for disadvantaged students in private schools. On 7 May 2014, The Supreme Court of India ruled that Right to Education Act is not applicable to Minority institutions.

Right of Children to Free and Compulsory Education Act

Meaning

The right to education is a universal entitlement to education, recognized in the International Covenant on Economic, Social and Cultural Rights as a human right that includes the right to free, compulsory primary education for all, an obligation to develop secondary education accessible to all, in particular by the progressive introduction of free secondary education, as well as an obligation to develop equitable access to higher education, ideally by the progressive introduction of free higher education.

The right to education also includes a 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 educational system, to set minimum standards and to improve quality of education. The Constitution (Eighty-sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine. The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the consequential legislation envisaged under Article 21-A, means that every child has a right to full

time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.

Article 21-A and the RTE Act came into effect on 1 April 2010. The title of the RTE Act incorporates the words 'free and compulsory'. 'Free education' means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, 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. 'Compulsory education' casts an obligation on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age groups. With this, India has moved forward to a rights based framework that casts a legal obligation on the Central and State Governments to implement this fundamental child right as enshrined in the Article 21A of the Constitution, in accordance with the provisions of the RTE Act.

The RTE Act provides for the:

Right of children to free and compulsory education till completion of elementary education in a neighborhood school.

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

provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief.

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

Main Provisions of the RTE Act

- All children of the age of six to fourteen years have a right to free and compulsory education in a neighbourhood government school till completion of elementary education (Classes 1-8). This neighbourhood school is to be established by 2013.
- All children have a right to full-time elementary education in a recognised school. No part-time classes/non-formal schools or unrecognized schools are considered as legal alternatives.
- All recognised schools must provide good quality education which includes a set of basic facilities, minimum instructional hours and an adequate number of teachers, as specified in the Act? These provisions are to be implemented by 2013. All teachers in recognised schools must be qualified by 2015.
- Under the 25% reservation requirement of the Act, some economically and socially disadvantaged children, as well as those with disabilities will receive free education in private unaided and minority aided schools, as well as specified schools such as Kendriya Vidyalayas, Navodaya Vidyalayas and Sainik Schools.
- No school can charge donations or capitation fees, and neither can student admissions be based on the testing of children or any screening procedure, including the interviews of either children or their parents.

- No child can be subject to physical punishment or mental harassment, be held back in a class, or be expelled from school till completion of elementary education.
- Most schools are required to constitute a School Management Committee (SMC), composed mainly of parents. Its main functions are to monitor the working of the school, monitor the utilisation of school grants and prepare the school development plan.
- While Central and State Governments have joint funding responsibilities, the State Governments and Local Authorities are mainly responsible for implementation of the Act.
- The National Commission for Protection of Child Rights (NCPCR) and every State Commission for Protection of Child Rights (SCPCR) is responsible for monitoring the implementation of the Act, and for inquiring into complaints against violations of the Act.
- A small proportion of schools are exempt from all or some of the provisions of the RTE Act.
In brief:
 - It is an empowerment right
 - It lifts marginalised groups out of poverty
 - It is an indispensable means of realising other rights
 - It contributes to the full development of the human personality.

What is the content of the right to education?

The right to education encompasses both entitlements and freedoms, including:

1. Right to free and compulsory primary education
2. Right to available and accessible secondary education (including technical and vocational education and training), made progressively free
3. Right to equal access to higher education on the basis of capacity made progressively free
4. Right to fundamental education for those who have not received or completed primary education
5. Right to [quality education](#) both in public and private schools
6. Freedom of parents to choose schools for their children which are in conformity with their religious and moral convictions
7. Freedom of individuals and bodies to establish and direct education institutions in conformity with minimum standards established by the State
8. Academic freedom of teachers and students.

Education is a fundamental human right essential for the empowerment & development of an individual & the society as a whole. The enforcement of the Right to Education Act brings the country closer to achieving the objectives & mission of the Millennium Development Goals & Education for All & hence is a historic step taken by the Government of India.

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