



Dream of Achieving Hundred Percent Universalization of Elementary Education and Implementation of Right to Education Act in India: Aren't They Two Realities of the Same Coin

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Abstract

There has been a long cherished dream of achieving hundred percent Universalization of Elementary Education in India since independence. India has achieved close to Universal enrolment. The small proportion of children who are still out of school, the hardest to reach, will be pulled in by the efforts emanating from 'The Right to Education (RTE) Act'. It is expected that an estimated over one crore children, who have either dropped out of school or who have neither been to any educational institution or school will get free and compulsory education, as it would be binding on the part of local, State and Central governments so as to ensure that all children in the age six to 14 years age group get schooling. Further, there is a strong need to generate awareness among various stakeholders responsible for its implementation, especially primary education in the rural areas, needs to be focused with a special attention. There is an urgent need to address some issues and challenges which are very critical for the success of RTE Act. Some of the issues are shortage of qualified teachers, infrastructure in schools, requirement of new schools and finances. Schools must also be made aware of provision of the twenty five percent reservations under the schedule. Rigorous efforts should be made to implement this Act, especially in rural areas, where more than 70% child labourer work in agriculture and where access to school is severely limited and the non-availability of qualified and trained teachers makes the situation worse.

There is not an iota of doubt that the RTE Act (2009) is a milestone initiative of the Government of India to strengthen the education system, but at the same time, it is also very necessary to involve the Panchayati Raj Institutions (PRIs) in rural areas for universalizing the elementary education. If PRI members are monitoring the enrolment procedure of their jurisdiction, then success would automatically come through this Act. Community participation and mobilization can also help to solve many existing problems, financial as

well as physical, which are related to RTE-Act. The author in the present paper tries to highlight the need of achieving hundred percent UEE, in the background of effective implementation of RTE Act. The present paper also focuses upon the various issues and challenges which are there in the effective implementation of RTE Act. The author has also tried to elaborate upon various shortcomings and gaps which have been noticed in the RTE Act, and therefore the author has given various suggestions for strengthening and improving the present RTE Act.

Key Words: *Right to Education Act-2009, Sarva Shiksha Abhiyan, UEE, Panchayati Raj*

Institutions

PART-II

Importance of Right to Education in India

In India, education has been recognized as one of the best financial investments. States can make; and globally it is acknowledged that access to good quality elementary education, at minimum, must be treated as a fundamental right (Ramachandaran et al., 2003)²¹. During the World Education Forum held in Dakar, Senegal in 2000, the right to education was strongly re-affirmed through the 'Education for All', (EFA) goals. According to the UNESCO's 'Education for All Global Monitoring Report, 2010', about 135 countries (Dhar, 2010)⁹ have constitutional provisions for free and non-discriminatory education for all. In India, the Right to Education received considerable impetus during the last decade as a result of the concerted efforts of many groups and agencies that made determined efforts to ensure that all children in India receive at least minimum of education irrespective of their socio-economic status and their ability to pay for education in a situation of continuous impoverishment and erosion of basic needs (Aradhya and Kashyap, 2006)⁵. Finally, sixty-three years after the independence, India enforced a historic the 'Right of Children to Free and Compulsory Education', (RTE)²⁶ Act that promises freedom from illiteracy for this vast and diverse country. The RTE guarantees every Indian child the most basic fundamental right, 'The Right to Education'. The Act—with its latest amendment—that became operationalized on April 1st, 2010 guarantees every child in the 6-14 age groups up to class 8th, both free and compulsory education. The enactment of Act is a step in the right direction (Jha & Parvati, 2010)¹⁴ and a matter of national importance. Through this Act, Government of India would be responsible for providing elementary education to every child up to eighth standard, free of cost, irrespective of class and gender.

The Act envisages providing quality and compulsory education to all children and equip them with knowledge, skills and values so as to make them enlightened, citizens of India. Considering that today there are about a crore of children across the country out of schools, this is indeed is a huge task. The realization of this goal, therefore calls for a united effort by all the stakeholders—the parents, the teachers, the schools, the NGO's, the society at large, the state governments and the Central government.

Excellent Provisions of Right to Education Act

The RTE Act has many excellent provisions. The Act is not just about taking children to school. This is the Act that speaks about the physical infrastructure, teacher-pupil ratio, qualification of teachers and many other concerned matters. The RTE Act makes it obligatory on part of the state governments and local bodies to ensure that every child in the age group of 6-14 years get 08 years of elementary education in a school in the vicinity/neighbourhood. This means that such child does not have to pay a single penny as regard books, uniforms etc. It shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to a school in the neighbourhood providing elementary education. No child shall be denied admission for want of documents; no child shall be turned away if the admission cycle in the school is over and no child shall be asked to take an admission test. It is also mentioned that no child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education. No child shall be required to pass any board examination till the completion of elementary education. No child shall be subjected to physical punishment or mental harassment. Children with disabilities will also be educated in the mainstream schools. All the private schools shall be required to enrol children from weaker sections and disadvantaged communities in their incoming class to the extent of 25% of their enrolment, by simple random selection. No seats in quota can be left vacant. However, the reservation for weaker sections would be implemented from the session, 2011-2012. These children will be treated at par with all other children in the school and subsidized by the state at the rate of average per learner costs in the government school (unless the per costs in the private are lower). All schools will have to prescribe to the norms and standards laid out in the Act (Table-10) and no school that does not fulfil these standards within 03 years will be allowed to function.

All private schools will have to apply for recognition, failing which they will be penalised to the tune of Rs. 1 lakh and if they still continue to function, they will be liable to pay Rs. 10,000 per day as fine. The government will evolve some mechanism to help marginalized schools comply with the provisions of the Act. Any person possessing minimum qualifications, as laid down by an academic authority, authorised by the central government, by notification, shall be eligible for appointment of teacher. It is also important to note that no teacher shall engage himself or herself in private tuition or private teaching activity. There is requirement of a teacher student ratio of 1:30 at each of these schools that ought to be met within a given time frame. Unaided and private schools shall ensure that children from weaker sections and disadvantaged groups shall not be segregated from the other children in the classrooms nor shall their classes be held at places and timings different from the classes held for other children. The centre and states have agreed to share the financial burden in the ratio of 55:45, while the Finance Commission has given Rs. 25,000 crore to the states for implementation of the Act.

Table-10 Schedule Outlining Norms and Standards for Schools as given in the Act, 2009

No.	Item	Norms and Standard
1.	Number of teachers	
	For Class I-VI For Class VI-VIII	30:1 35:1 At least three subjects teachers (VI-VIII)
2.	Building	
		1 classroom for every teacher and an office cum store cum head teacher's room. Barrier free Access Separate toilets for boys and girls. Safe and adequate drinking water facility. I kitchen for mid day meal. Playground and boundary wall.
3.	Minimum working days in an academic year/hours	
		200 working days (for class I-V)/800 instructional hours. 220 working days (for VI-VIII)/1000 instructional hours.
4.	Minimum number of working hours per week for the teacher	
		45 teaching hours including preparation hours
5.	Teaching Learning Equipment	
		Shall be provided to each class.
6.	Library	

		Shall to be provided to each class.
7.	Play, material, games, sports equipment	
		Shall be provided to each class.

Source: The Right of Children to Free and Compulsory Education Act, 2009; pp 12-13.

The centre government may issue such guidelines to the appropriate government or, as the case may be, the local authority, as it deems fit for the purpose of implementation of this Act.

Some Significant and Salient Features of the Right to Education Act-2009

According to Article 45 of the Indian Constitution there is a provision that every child should get free and compulsory education. It is also made clear that the fulfilment of this should come before 1950. But because of the increasing population, this provision could not be fulfilled not only until 1960, but till now. The Right of Children to Free and Compulsory Education Act which was passed by the Indian parliament on 4th August 2009 describes the modalities of the provision of free and compulsory education for children between 6 and 14 in India under Article 21 A of the Indian Constitution.

The salient feature of the Right of Children for Free and Compulsory Education Act are as follows:

1. Free and Compulsory education to all children of India in the age group of 6-14 years.
2. No child shall be held back, expelled, or required to pass board examination until completion
of elementary education.
3. A child above is six years of age, who has not been admitted in any school or though admitted,
could not complete his or her elementary education, then, he or she shall be admitted in a class
appropriate to his or her age; provided that where a child is directly admitted in a class
appropriate to his or her age, then he or she shall, in order to be at par with others, have a right
to receive special training, in such a manner, and within such time limits, as may be prescribed;

Provided further that a child so admitted to elementary education shall be entitled to free

education till completion of elementary education even after fourteen years.

4. Proof of age for admission: For the purpose of admission to elementary education, the age of a

child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1856 or on the basis of such

other document, as may be prescribed. No child shall be denied admission in a school for lack

of age proof;

5. A child who completes elementary education shall be awarded a certificate;

6. Calls for fixed student-teacher ratio;

7. Will apply to all of India except Jammu & Kashmir;

8. Provides for 25 percent reservation for economically disadvantaged communities in admission

to Class One in all private schools;

9. Mandates improvement in quality of education;

10. School teachers will need adequate professional degree within five years or else will lose job.

11. School infrastructure (where there is problem) to be improved in three years, else recognition

cancelled;

12. Financial burden will be shared between State and Central government.

13. No child shall be subjected to physical punishment or mental harassment.

14. To constitute a school management committee consisting of the elected representatives of the

local authority, parents or guardians of children.

15. No teacher shall be deployed for any non-educational purposes.

16. No teacher shall engage himself or herself in private tuition.

The Present Scenario of Elementary Education in the context of RTE Act

Currently; more than 5.23 lakh teacher posts are vacant in 1.3 million elementary schools. To bring the pupil-teacher ratio to 30:1 as prescribed by the RTE Act, (2009)²⁶ an additional force of 6.1 lakh trained teachers is required. Already; there are 5.1 lakh elementary schools are there with pupil-teacher ratio less than 30:1. On top of that there are 5.48 lakh untrained teachers at the primary and 2.25 lakh untrained teachers at the upper primary level who have to acquire necessary qualifications within five years of the RTE Act coming into force (HT, 2010)¹³.

Provisions and Prospects of the RTE Act, 2009

The following are the provisions and prospects of the Act:

1. It makes compulsory for private aided (partially funded by the government) and unaided schools to take 25 percent children belonging to the Scheduled Castes and Scheduled Tribes and other backward classes, socially and educationally backward classes, and economically weaker sections. The Ministry of Human Resource Development has clarified that disabled persons were part of the category of the 'disadvantaged sections' and they would get reservations. The schools would not fail any students till class VIII.
2. The law provides for building neighbourhood schools in three years whose definition and location will be decided by the states.
3. The law aims to do away with the practice of schools taking capitation fees before admission.
4. The law has forbidden screening of parents for any admission procedure.
5. The RTE Act has set down guidelines for states and the centre to execute and enforce free and compulsory education a fundamental right.
6. Both Centre and the states will be responsible for the finances.
7. The Centre will prepare the capital and the recurring expenditure and provide it as grants-in-aid to each state. On infrastructure, there was a provision for establishing recognition authority in every state of the country. Under this all the schools would have to fulfil the minimum

requirement of infrastructure within three years. If they fail in doing such, they will lose recognition.

8. As per the stipulations, the school management committee to have 50 percent women members.

Controversies surrounding RTE Act

There many controversies which have been surrounding the RTE Act, 2009. Some of these are as following:-

1. There is still doubt over the bill not exempting minority institutions from reservation. As a result of this, a few groups have warned that the bill could be challenged in the court as violative of Constitution. However, the HRD Ministry has clarified that the minority institutions could give quota to disadvantaged sections among the minorities.
2. The implementation of RTE may be very costly as it is likely to be Rs 12,000 crore annually.

This will add burden to the treasury. The Ministry has estimated that Rs. 2.28 lakh crore would be required in the next seven years to implement the constitutional obligations.
3. The private unaided schools said that they would be forced to hike fees if government did not pay the full tuition fees for the reserved seats.
4. Further, the provision of 25 percent reservation may affect the quality of education in private schools.
5. Even the clear cut instruction about the medium of instruction, is not given. The HRD Ministry has clarified that there was a provision to provide elementary education, as far as possible, in the mother tongue of the child.
6. Considering the available infrastructure, the provisions of the law may ultimately be proved

ineffective. The three years time-frame seems to be over ambitious at this point of time.

The Flaws and Shortcomings in the Right to Education Bill

There are few flaws and shortcomings in the Right to Education Bill, which are as following:

a) Children in the Age Group 0-6 Years Not Covered

- The Supreme Court's historic (Unnikrishnan) judgement in 1993, gave all children up to 14 years of age, a Fundamental Right to Education. However, the 86th Constitutional Amendment Act, Article 21A (Sripati,V & Thiruvengadam,A.K.(2004)²⁵, limited the fundamental right to education to 6-14 years and this RTE Act will reinforce this huge mistake by not recognizing the importance of early years. This is in contradiction to India's own commitment at the Jomtien Global Conference on Basic Education (1990), acknowledging expansion of early childhood care and development activities as an integral part of the "Education for All" objectives. Globally, recognition exists that the early years are the most crucial years for lifelong development.
- Research has noted that neglect during the early years of the childhood can often lead to irreversible reduction in the full development of the brain's potential of the child. On the other hand, researches undertaken all over the world has underlined the short and long term benefits of good quality early childhood care and development programmes especially in contexts of deprivation, leading to improvement in children's health, cognitive ability and performance at school.
- India cannot afford to deprive its young 16 crore population of a right to nutrition, health and early childhood education as enshrined in the Convention of the Rights of Children, to which India is a signatory.

b) Bill Does not Promote a Common School System and Legitimizes Inequality Through a

Multi-Layered System

- The Bill mentions in Chapter III 6 (1) of the RTE Act, that it will the responsibility of the state to provide free and compulsory education in a neighbourhood school within a period of three years from the commencement of the Bill. With the Millennium Development Goals (MDGs) set for 2015, India cannot afford to wait this long and it should be enforced in a maximum of two years.
- While clause 6(4) and (5) espouse that children should be given an equitable education as enshrined in the Constitution and economic, social, cultural, linguistic, location, disability related barriers should not prevent a child from participating in and completing their education, there are no provisions to create an equitable infrastructure required for this task. Unless a common school system that encompasses all government, private and

aided/unaided schools is envisaged with effective monitoring mechanisms to ensure quality of education, the Bill will not be able to meet its obligations.

Some Significant shortcomings have also been noticed in the RTE Act, which are as following:

1. All the components of the RTE should cover all categories of schools and not just state or aided schools. While some provisions apply to all schools, some apply only to aided/state schools, such as the constitution of a school management committee. The RTE leaves out a large chunk of unaided schools and high-end private schools which really defeats the purpose

of an equitable education.

2. While the clause requiring private schools to reserve 25% seats for free quota is significant, the

basis on which one can get admission is not mentioned. Unlike for private schools, the process

of attaining recognition for state schools are not prescribed. RTE does not mention the course

of action that state schools will have to face, in case of failure to adhere to minimum norms for

quality mentioned in the schedule.

3. While the RTE lays down minimum criteria for teacher qualifications, it may be hard to expect

quality improvement, in a true sense, unless the very foundations/principles, Content and methodologies of pre and in- service training of teachers are relooked at and changed. In addition to this, there needs to be a tight mechanism to prevent mushrooming of innumerable

substandard private teacher training colleges and institutes in the country.

4. While the bill specifies a PTR of 1:30 for primary schools whose enrolment is within 120 students, it arbitrarily lowers standards for schools whose enrolment exceeds that limit. There

should be a uniform PTR for all primary schools which should not exceed 1:30.

5. While ensuring that every child who traverses through the elementary education system acquires a certificate of completion, the Bill fails to guarantee that a child has acquired competencies deriving from said education process. No standards are set for learning outcomes. A case of guaranteeing graduation but not education. Failure of the child to attest

to acquisition of competencies is also not flagged for remedial action and/or systemic enhancements. The bill should also define a framework to measure the quality of education imparted.

6. The legislation draws no attention on the existing shortcomings of the institutional structures

for teachers' training and innovation. There should be more clear and strict provisions for capacitating the educational support structures, like SCERT, SIEMAT and DIET. Formations o

of a separate cadre of these organizations would greatly contribute towards professionalizing

teaching. However, the RTE hardly talks of interventions required for the academic support

structures themselves.

7. Vulnerable groups of children such as those of migrant labourers, an ever burgeoning section

of urban population these days, require special facilities to consummate their education.

Residential hostels and linguistically and culturally appropriate curricula need to be

formulated for their consumption.

Equitable Quality of Education

RTE bill includes, 'provision of equitable quality of education' as one of its objectives, but fails to define the term 'equitable' unequivocally. The term 'equitable' quality should refer to fulfilling certain minimum infrastructure, administrative (including those related to teachers, library), financial, curricular, pedagogic, linguistic and socio-cultural norms. The Bill specifies norms for physical infrastructure (number of rooms, teachers, toilets, etc) but does not outline expectations on learning outcomes. Some of the mandates

like, “A child cannot be held back in any grade or expelled from a school till class 8th”, emphasize a no-detention policy, but makes no mention of the learning levels of children.

Monitoring of the Right to Education Act

The National Commission for Protection of Child Rights (NCPCR) has been mandated to monitor the implementation of this historic Right. A special division within NCPCR will undertake this huge and important task in the coming months and years. A special toll free helpline to register complaints will be set up by the NCPCR for this purpose. NCPCR welcomes the formal notification of this Act and looks forward to playing an active role in ensuring its successful implementation. NCPCR also invites all civil society groups, students, teachers, administrators, artists, writers, government personnel, legislators, members of the judiciary and all other stakeholders to join hands and work together to build a movement to ensure that every child of this country is in school and gets at least eight years of quality education.

Challenges Lying Ahead in Effective Implementation of Right to Education Act

The RTE Act is an essential step towards improving each child’s accessibility to secondary and higher education, bringing India closer to achieving national educational development goals, as well as the Millennium Development Goals (MDG) and Education for All (EFA)¹¹. Highlighting the importance of RTE Act, UNESCO Director-General said that, “without India, world cannot reach the MDG of having every child complete primary education by 2015. It is expected that the Act will propel to even greater heights of prosperity and productivity for all, guaranteeing children their right to quality education and a brighter future. But the RTE Act, that promises to provide compulsory and free elementary education to all children of India, is set to face many challenges in its implementation. First hurdle is shortage of funds. In the first year, the Act is likely to face shortage of Rs. 7,000 crore. The RTE will have a funding system similar to the Sarva Shiksha Abhiyan which is already being carried out successfully in the country. The central and state funding pattern for the scheme will be 55:45. However, for executing the scheme in all eighty North Eastern States the central government will be responsible for the 90 percent of the cost of the scheme. So, if all the states cooperate with the centre, the scheme will have about Rs. 27,000 crore including the Rs. 15,000 crore with the HRD Ministry, but with a shortage of Rs. 7,000 crore, the scheme will require an estimated sum of nearly Rs. 34,000 crore for a period of five years (Kulkarni, 2011)¹⁵. States like Orissa, UP and Bihar have already conveyed the message that they require funds for implementation of the Act to HRD Ministry in their respective states. The Orissa government has also demanded that the state should be considered as a special category like states in North East. Karnataka, Madhya Pradesh and Gujarat and have also expressed reservations about the huge financial burden, the ground breaking legislation will entail for them.

Second challenge is related with infrastructure. The Act will monitor the infrastructure in schools including the number of classrooms, separate toilets for boys and

girls, facility of drinking water, kitchen for mid-day meal, playground and barrier free access for physically challenged students. But thousands of schools still do not have required infrastructure. Infrastructure facilities and other general conditions of private and public schools in India are very dismal and inadequate (Table-11). In a survey, conducted by National University of Educational Planning and Administration (NUEPA), it has been found that almost half of the recognised elementary schools in the country do not have accessible separate toilets for girls. District Information Systems for Education (DISE) Report (2008-09) on elementary education in India gives a bleak picture –of the 1.29 million government and private schools covered, over 60 percent did not have electricity, 46.4% did not have toilets for girls and at most 50% did not have boundary walls so as to ensure safety of the students. For example, Uttar Pradesh needs to construct 100,000 rooms to satisfy the norms laid down by the RTE Act. This goes out to prove and depict the sorry state that our schools are in and going to be a challenge to provide the requisite infrastructure that the Act expects.

Third important challenge and problem with the implementation of the Act is related with accountability aspect of the schools defined by the Act. In the most private and public schools the accountability among the teaching staff is lacking. The ultimate victims of these malpractices are the innocents who would like to excel in life. To ensure the culture of accountability, the Act requires that all schools, except those that are unaided, constitute School Management Committee (SMC). But, the Act is not clear why unaided schools are left out of purview of accountability with regard to the provisions contained in Section 21.1, disclaimers that are provided. Section 37 of the Act also maintains that legal proceedings against such actions of the government cannot be initiated in the event that these have been undertaken in good faith and in the best interest of children. Rather than pursuing an objective vision, the Act is ridden with loopholes.

Fourth Herculean challenge in implementation of Right to Education Act, is the massive shortage of qualified and trained teachers. Both the government and private schools lack many thousands teachers. But major shortages of teachers are in government schools- especially schools situated in rural areas and semi-urban areas. There are number of untrained teachers in the countries that range from 10-40 per cent of the total strength. This problem is mainly related with private schools as in the government schools teacher are appointed as per the government rules. The Annual Status of Education Report (2009)⁴ says half of India's children in Class V cannot read a class II level textbook and fewer still can do basic mathematics in rural areas. A major cause for this is the lack of trained teachers (Table-11)

Table-11 Conditions of Private and Public Schools in India-2009

S.No.	Infrastructure for Teaching in Schools	Government	Private
1.	Percent teacher present in school	87.6	89.4
2.	Percent of teacher trained	85.9	43.9

3.	Percent teacher with college degree	43.7	64.4
4.	Percent student present in school	86.9	91.9
5.	Some subject taught in English	26.8	51.1
6.	English Instruction begins in 1 st standard	53.2	88.2
7.	Toilet facility	60.9	78.3
8.	Chairs/desk for all students	29.2	63.5
9.	Blackboard in all classrooms	95.4	98.1
10.	Computer available for students	5.9	29.2
11.	School has fans	28.4	63.3
12.	Kitchen has cooked meals	41.3	10.8
13.	Cook employed by school	74.9	11.1
14.	Any teaching material on the wall	77.3	78.9
15.	Children's work on the wall	67.6	73.9

Source: Human Development Survey, 2008 by NCEAR

The average student-to-teacher ratio in a classroom at present stands at 50:1, and as the Act envisages that his ratio should be 30:1; it implies that at least 12 lakh more trained teachers will be required within six months of notification of the Act. However, inadequate staff is only par of the problem. A World Bank Report (2005)²⁹ said that, 25 percent of teachers were absent form schools and only half of those present, taught anything. Added to this, even presently there are hundreds of students in some classes and there is a huge gap between the training imparted to teachers and what they practice on the ground. In the absence of competent teachers, who are considered the pillars of education, it would be next to impossible for the Act to realistically achieve its goals.

Fifth, the RTE Act is to be implemented through the Public-Private-Partnership (PPP). It implies that the private sector will be encouraged to start primary and middle schools in non served areas and they will have to admit wards of the weaker sections up to at least 25% of their total intake in each class, in the case of unaided schools and up top the percentage of annual recurring grant-in-aid to their annual expenditure in the case of aided schools. This arrangement raised a question that at one hand it is feared that interfering in the functioning of private schools will have an adverse effect on the quality of education. These institutes claim to have brought some semblance of order to the education system in our

country (Nitst, 2010)²⁰. Sixth, Section 4 of the Act prescribes that a child must be admitted to a class appropriate to his age. This would mean that if a child aged nine years approaches a private, unaided school to get admission, the management would be bound to admit him to the appropriate class, in this case Class V or VI, irrespective of the fact he had no formal education in the past. This raises a very pertinent question whether the purpose of the Act is really to educate children or merely produce certificate holders.

Added to these challenges, the Act has many other limitations. The RTE Act is highly criticized primarily for setting an age limit of 6 to 14 years for the beneficiaries. The Act ensures compulsory admission, attendances and completion of elementary education by every child in the age group of 6-14 years. But, early childhood care and development (3-6 years) is currently left out of the RTE Act. This group is critical for brain development and sets the foundation for sound learning in later years. It is difficult to understand the logic of not including the child between age group 3-5 when more than 50 percent of children, five years old, are enrolled on regular basis. Another problem with the Act is continuation of the traditional emphasis on inputs without adequate attention to outcomes. If a child goes to school for two years, four years, six years or even eight years, what should his/her learning achievement be? If some basic minimum learning is not achieved, should it not be considered a violation of the child's right to education (Nitst, 2010)²⁰. Last but not the least; it is tough task to bring together children from varying economical and social backgrounds on the same platform. It would be indeed be challenging for the teachers to maintain equilibrium and create an environment for them to blend together.

Suggestions towards Successful Implementation of RTE Act

The plight of millions of children and adults with no access to basic education in today's knowledge society' calls for sweeping measures to guarantee education for all. RTE Act gave new impetus to an international movement for achievement of the right to education for all. Despite many limitations, the Act has mane remarkable provisions. However, the successes of the Act will depend on the successful implementation of theses provisions. In fact, it is the first step taken by the Government of India, but more is needed to be done to achieve its objectives. There are some suggestions towards successful implementation of RTE Act. First, as stated above, there is acute shortage of trained and qualified teachers and without qualified trained teachers it is almost impossible to equip the children with knowledge. It is therefore absolutely critical that the government makes clear budgetary provisions to appoint new teachers and impart training to them to make them capable to deliver the knowledge what is really needed in 21st century. Second, the RTE Act can only become real when it gives all children, be it the 3-6 age group or out of school children, equal opportunity to realize their fundamental right. It is therefore, important for the government to pay more focussed attention to pre-school education and to primary education by enhancing financial as well as academic resource to create good quality school accessible to all children (Ramachandran, 2009)²¹. Third, to attract and retain the children of poor families in the schools, it is possible through neither the compulsion alone, nor it a question of opening of schools in the neighbourhood. The children of these families remain uneducated because of

the mere accident of their birth in such families. They must not be allowed to suffer for no fault of theirs. They have right to be educated like many others. The state has to take some initiatives in this direction. Schooling may be provided when the children are freed from domestic duties or paid or unpaid work through the night schools, mobile schools and the like. This will involve no cultural break and no cost of the family. Involvement of NGOs and teacher entrepreneurs would be necessary in such conditions (Mehta and Kapoor, 2010)¹⁷.

Fourth, convergence of various schemes, with the right to education is needed. All families with working children should be covered under below poverty line (BPL), the houseless families whose children have no address should be provided with housing; the children of migrants' labourers should be admitted in boarding schools and so on so forth. Similarly, convergence could be in terms of creating infrastructure as well. For instance, National Rural Employment Guarantee (NREGA) should be used to create schools, playgrounds, etc. The specialized agencies like Sports Council or Art schools need to be linked with the efforts of implementing RTE Act. When the Child Labour (Prohibition and Regulations) Act, 1986 allows a child to be hired and taken for work during school hours, the right to education cannot be ensured. The Child Labour (Prohibition and Regulations) Act, 1986 should be amended to ban any kind of work up to 14 years of age. Under Chapter VII entitled Miscellaneous, a new section be added to remove these inconsistencies. It should be specifically mentioned in this section that, "provisions of this Act shall override the provisions of any other Act that are inconsistent with this RTE Act". The Child Labour (Prohibition and Regulations) Act, 1986 should be specifically mentioned in this section as a reference. Sixth, schools to which children of the underprivileged have access are run by the state or local authorities. The curriculum and teaching methodologies in these schools stand obsolete and outdated, with the emphasis being on rote-learning and merely developing reading and writing skills instead of holistic education. Lack of vocational training and non-availability of such courses renders students with barely any employable skills at the end of their schooling (Shubhi, 2009)²³. By and large, these have a poor record of performance and there is no mechanism specified for ensuring quality education. The present Act is also silent in this regard. Therefore, there is dire need of specified mechanism for ensuring quality education. It is suggested that in Chapter 2 a new section should be added, "especial provisions for first generation learners". The section should specify special tuitions, counselling and care of the children whose parents are illiterates and know nothing about education.

Further, the Act has made only three penal provisions with regard to charging of capitation fee (Sec 13 (2), running an unrecognised school {Sec 18 (5)} and running of derecognized school {Sec 19(5)}. There is no general penal clause for violation of the provisions of the Act. There are several important provisions which do not specify penalty for violation. For instance, if a non-aided school does not fill-in 25% free seats; no penal action has been specified. There should be a general penal provision that should penalize any one who violates any provision of the Act. This penal provision should be included in Chapter VI. The penalty clauses should include monetary, derecognizing of a school and imprisonment.

There should be a minimum monetary penalty specified. Last but not the least, private schools have been given the freedom to form their own management committees, however, there are no rules and guidelines regarding community participation in the management of private schools. Therefore, a set of guidelines needs to be developed by the government so that the communities are included.

Bridging the Gaps— Recommendations for Strengthening the Act

The 86th Amendment Act to the Constitution along with the 'Right of the Children to free and Compulsory Education Act', both of which have come into force from 1st April, 2010, can be debated in the context of constitutional provisions and other related matters. The following are the gaps in the Act to be bridged:

1. The 86th Amendment Act to Constitution of India denied the right to preschool education to

crores of children from poor and disadvantaged families. While Supreme Court in

Unnikrishnan Case read article 45 (Free and Compulsory Education up to age 14) with article

21 (Right to Life) of Indian Constitution and interpreted that the right of the child to free and

compulsory education up to 14 (i.e. Pre-primary and Elementary Education) is a Fundamental

Right and it follows directly the Article 21(Right to Life). The 86th Amendment Act (2002) to

the Constitution brought out by the BJP lead NDA government with the open support of the

then opposition party (Congress) clipped off the fundamental right of the children to

pre-primary education and reduced the right to only elementary education for age group 6-14.

2. The Right to Education Act, 2009 only provides substandard Elementary Education based on multi grade teaching and disadvantaged background.

3. The RTE Act does not provide right to Secondary Education (classes 9 to 12). It ends the right

of the child abruptly at class 8. The government did not heed to the popular demand to extend

this right up to age 18 that is up to class 12. The student who completes class 8 neither can enter into the higher education nor can become a skill worker. He can only become an unskilled child labour. The definition of child extends up to age 18 in many Indian Acts and is

a point to be noted here.

4. The RTE Act legitimize the existing system with parallel streams of unequal schools. The Act

stands against the cardinal principle of the constitution, the right to equality. Even after the implementation of this Act, one can find highly differentiated schools on the basis provisions

of staff and infrastructure both in public and private sectors. This Act is against long cherished

goal of Common School System (CSS).

5. The RTE Act does not bring widely demanded ban on trade in Education. Rather it legitimized

Trade in education. Further, it lifts cap on maximum fee to be collected in unaided private schools from students/parents. The definition for Capitation Fee in this Act favours business

tycoons. A management in Private Unaided Schools can collect any amount of fee from the parents and what all it has to do is to openly announce the amount of fees to be collected

before the admissions. This Act nullifies the entire fee regulating Act made by different state

governments.

6. The most dangerous provision of this Act is reimbursement of fees to private managements from state exchequer resulting in siphoning of public finds to profit makers. Unfortunately,

many progressive people support this provision. The government claims that it introduced the

reimbursement system to enable the poor and disadvantaged children to get education of good

standards in private schools, whereby, it flatly declares that the education in government schools, even after the implementation of the new, 'Right to Education Act', would be of inferior quality. Of course, the proof is in the schedule of the Act. The schedule does not provide even one teacher for one class/subject. The protagonists of this Act step even further

and try to confuse the people at large that the reimbursement scheme is a step in furtherance of

Common School System where poor and rich study together. However, the truth is different.

The proposed reimbursement scheme is a scheme promoted as a part of Public-Private Partnership (PPP) in pursuance of the World Bank policies to siphon public funds to private operators to advance the trade in a given field.

7. Many children would leave government schools to join private schools under this reimbursement scheme. Government schools would gradually get closed within ten years or so. The corrupt practices in private sector would only get multifold. As yet present many private schools are not appointing qualified teachers. They pay very low salaries to the teachers. The recommended pedagogical method of teaching are not followed in these private schools. The students are being harassed for marks and ranks. Many private schools do not have any playground. Mass and organized copying is a general phenomenon in these private schools, as these private schools run on commercial basis. However, this Act only would add new dimensions of corrupt practices to the existing ones. They would enrol students from poor and disadvantaged sections, get reimbursement from state and also would

bleed parents white in the name of 'other expenditure' or 'remainder' fees. Again, there is every possibility that the private management make fake enrolments from poor and disadvantaged and make money from reimbursements. On all accounts, the entire future generation would be trained in commercial atmosphere. The children from poor families

would be discriminated in private schools because they would not be able to spend on good dresses, ice creams and picnics and so on so forth. The private managements, in all probability, while, collect reimbursement from state do not take care about participation of targeted children. No profit seeking private management can run a school in conformity with the values enshrined in the constitution.

Conclusion

There is not an iota of doubt, that the present RTE-Act, 2009, is a ground breaking step towards the universalization of elementary education in India. The present Act is praiseworthy and lot of attempts are being made by Government, both at State and Centre level, to provide free and compulsory education, but the real journey is not easy. The Government's assessment of the first year of the RTE Act's operation has revealed concerns. On April 2011, when Honourable Minister Shri Kapil Sibal released an RTE "Report Card", he said that, "It's unfortunate that, an estimated 8.1 million children in the age group of 06 to 14 years are still out of school. We have to bring all those children to school". Mr Sibal also said that, "one in five teachers was working without the requisite profession's qualifications and that at least 500,000 more teachers were needed" (Sibal, Kapil, 2011)²⁴. Therefore, it is the sole responsibility of each and every human being to help governmental machinery in proper way, as without cooperation and coordination of stakeholders of the society, any mechanism cannot succeed.

With this new Act operational, India has joined the bandwagon of over 135 countries, which have Legal guarantee to provide free and compulsory education to children and some 20 nations, including Afghanistan, China and Switzerland, provide free education for 08 years. In order to realize the dream of achieving hundred percent literacy in the year 2015, this RTE act has to be implemented strictly. It is expected that an estimated one crore children, who have either dropped out of school or who have never been to any educational institution or school will get free and compulsory elementary education, as it would be binding on the part of local, State and Central governments so as to ensure that all children in the six to 14 years age group get schooling. The Act is also being lauded for providing a platform to 'reach the unreached', as it contains specific provisions for disadvantaged groups, such as child labourers, migrant children, children with special needs, or those who have a disadvantage, owing to social, cultural, economical, geographical, linguistic, gender or such other factors. But to realize them is a Herculean task and challenge, which needs immediate attention of the Parliamentarians and must be removed as soon as possible. The sheer size of the out of school children is the biggest challenge facing the Government and other important stakeholders of the society. Shortage of qualified teachers, poor infrastructure in schools, requirement of new schools and finances are the other challenges. Successful implementation of RTE Act requires proper planning, awareness and concerted efforts by the concerned persons at the grass-root level.

Further, there is a strong need to generate awareness among various stakeholders responsible for its implementation. Schools must also be made aware of provisions of the 25% reservations under the schedule. This can be done through mass awareness programmes. Rigorous efforts should be made to implement this Act in rural areas, where more than 70% child labourer work in agriculture and where access to school is severely limited and the non-availability of qualified and trained teachers makes the situation worse. Another point which needs to be mentioned here is that, there is confusion in society, whether this Act is applicable to private institutions only or it is applicable to government institutions too. This confusion must be removed through various ways like advertisements in newspapers, television, radio etc.

There is also an urgent and strong need to address some issues which are very critical for the success for RTE Act, but has not been addressed adequately by the Act. The Act does not address the issue of under funding. It has no financial memorandum. The Act sets no deadline for universalization of education. Most importantly, some norms are mentioned in the Act, but only as they are qualified by the phrase, “As the Government may determine”. Although, the RTE-Act (2009)²⁶ is a landmark initiative of the Government to strengthen the education system in India, but it is very necessary also to involve the Panchayati Raj Institutions (PRIs) in rural areas for universalizing the elementary education. Whenever PRIs in rural areas have taken the initiative to protect child rights, development indicators in areas like education, health and child trafficking have improved dramatically. RTE-Act (2009)²⁶ has given ample scope to PRIs in rural areas for the Universalization of Elementary Education as a fundamental right. If PRI members are monitoring the enrolment procedure of their jurisdiction, then success would automatically come through this Act.

From the above discussion, one could conclude that some rigorous and concerted efforts is all that is required, in particularly in rural areas, where the problem is at large to improve the quality of education of the weaker section. Community participation and massive community mobilization can also help to solve many existing problems, financial as well as physical, which are related to RTE-Act. The movement for effectively implementing the RTE is gathering stem across the country. Whichever path we choose as a country or as states, it is clear that business as usual will fail to solve the problem of improving learning outcomes. All the recent empirical studies indicate that just inputs are not enough. New thinking, new strategies and new actions are needed. The RTE’s main objective is “age-appropriate streaming” for all children. This will occur only if the system changes curriculum, adopts practical pedagogy and begins to measure what works. The challenge is for policy makers and practitioners to take a hard look at reality absorb the available evidence and plot the new steps ahead that will genuinely enable every child in India to learn well. Thus, what is required is a systematic, accountable and transparent approach without piecemeal inputs. This would help to meet challenges of universal access to quality education and betterment of our downtrodden still existing in our society.

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