



AN UNDERSTANDING OF THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT 2009

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Abstract

Free and compulsory elementary education was made a fundamental right under Article 21A of the Constitution in December 2002 by the 86th Amendment. In bringing this into action, the Right of Children to Free and Compulsory Education Bill' was drafted in 2005. This was revised and became an Act in August 2009, but was enforced on 1st April 2010. The Right to Education Act is a detailed and comprehensive piece of legislation which includes provisions related to schools, teachers, curriculum, evaluation, access and specific division of duties and responsibilities of all concerned. Education should be affordable to all, with textbooks, supplies and uniforms provided to students at no additional costs. Any cost that prevents a child from accessing school will be borne by the state which shall have the responsibility of enrolling the child as well as ensuring attendance and completion of 8 years of schooling. 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. Children with disabilities will also be educated in the mainstream schools.

In the present paper author has discussed about Right to Education Bill and Its Implementation.

Keywords – RTE 2009, Understanding, Implementation



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1.0. Introduction

As the significant part of the whole educational system, primary education plays a major role in the development of resources. Elementary stage of educational setup is called primary education in India is important for the spreading mass literacy which is basic requirement for effective functioning of democratic institution. But making primary education available for all India has been one of the major challenges for the government of India. To meet this challenge government of India has made primary education a Right for every child of 6-14 years age group to have free and compulsory education, which is called The Right of the child to free and compulsory Education Act 2009. The Right to Education Act, which came into force on 1st April, 2010, has made free and compulsory education a fundamental right of every child. Now India has joined the group of those countries who provide for a

constitutional guarantee to free and compulsory education. The enforcement of this right has made it a joint responsibility of central and state governments to provide free and compulsory education to all children by all means.

According to the act all the children in the age group of 6-14 years will be provided 8 years of elementary education in an appropriate classroom in the vicinity of his neighbourhood and the cost of facilitating education to a child will be borne by the state. All schools will have to prescribe to norms and standards laid out in the act and no school that does not fulfil these standards within 3 years will be allowed to function.

The Government must ensure a primary school within 1 km radius and middle school in 3 km radius of all the habitation of the state to ensure 100% enrolment. It has also to ensure that child belonging to weaker sections and disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds and that the teachers should not be engaged for non-teaching functions. It must also ensure and monitor admission, attendance and completion of elementary education by every child and that the quality of elementary education conforms to the standards and norms specified in the schedule.

2. PROVISION OF THE RTE ACT, 2009

The RTE Act, 2009 provides for:

(i) The right of children to free and compulsory education till completion of elementary education in a neighbourhood school with an obligation of government for free and compulsory education and assurance of admission, attendance and completion from six to fourteen years of age.

(ii) RTE suggest shared responsibilities of government: state and central, authorities at local level, parents in arranging free and compulsory education and providing arrangements for admission of non admitted students.

(iii) It provided standard and norms for Students-Teachers Ration, Infrastructural, requirements, working hours and other obligations.

(iv) It specifies the appointment of properly trained teachers and prohibition of their deployment in non academic task.

(v) 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.

(ix) 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.

The right to education act is benefiting about one crore out-of- school children and a large number of drop-out children. As per an estimate, out of 22 crore children in the 6-14 years age group in the country, 4.6 percent children have no enrolment in any school.

The Right to Education Act is a detailed and comprehensive piece of legislation which includes provisions related to schools, teachers, curriculum, evaluation, access and specific division of duties and responsibilities of all concerned.

Legally, both India's central and state government has the concurrent responsibility for providing and using funds to improve school infrastructure as prescribed by RTE. The text of the act lays down specific criteria for school buildings

1. At least one classroom per teacher and an office-cum-store-cum headmaster's room.
2. Barrier-free access.
3. Separate toilets for boys and girls.
4. Safe and adequate drinking water facilities to all children.
5. A kitchen where mid-day meal is cooked in school.
6. A playground.
7. Arrangements for securing the school buildings by boundary wall or fencing.

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. The need to address inadequacies in retention, residual access, particularly of un-reached children, and the questions of quality are the most compelling reasons for the insertion of Article 21-A in the constitution of India and the passage of the RTE Act, 2009 in the parliament.

Article 21-A and the RTE Act came into effect on 1 April 2010. The title of their act incorporates the words 'free and compulsory'. 'Free education' means that no child, other than 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 rights perspective under the RTE act has also brought in new monitoring mechanisms to ensure that child rights under the act are protected. The RTE act provides for constitutionally created independent bodies like the national and state commissions for protection of child rights to perform this role. These bodies, with quasi-judicial powers bring inane element of monitoring new to the implementation of SSA, requiring that internal monitoring mechanisms under the SSA engage purposefully with these independent bodies.

Even as the education system seeks to reach out to every child by widening access and providing school infrastructure and teachers, the issue of quality presents daunting challenges. Indian education system is known for its inequitable character – there are high fee charging schools catering to the rich and privileged and ordinary government schools with extremely insufficient facilities to which the masses of people living in rural area and urban slums send their children. There is a range of government and private schools between these extremes. Time has come to make a decisive intervention to change this situation so that all children irrespective of their religion, caste, class, gender and location get an education of comparable quality.

Provision of schooling facilities to all children is the constitutional commitment opening a link according to the population size of the habitation and also the distance from the residence to school. A habitation is entitled to have a primary (population 300 and more), upper primary (500 and more), if it does not have the same within a walking distance of 1,3 and 5 km all children should have equal access to school services regardless of gender, race, religion, ethnicity or socio-economic status. Efforts should be made to ensure the inclusion of marginalized groups including children of refugees, the homeless or those with disabilities in short there should be universal access to education i.e. access to all.

There should be no forms of segregation or denial of access to any students. This includes ensuring that proper laws are in place against any child labour or exploitation to prevent children from obtaining primary or secondary education. Schools must be within a reasonable distance for children within the community, otherwise transportation should be provided to students, particularly those that might live in rural areas, to ensure ways to school are safe and convenient. Infrastructure development therefore is the key driver for providing universal

elementary education to India's children. The ASER study on rural education indicates that one of the major reasons for children staying out of school is inadequate infrastructure. The matter has been examined in the ministry. The intent of inclusion of playground as an infrastructural requirement of a school is to ensure that children have sufficient open space for sports and other physical activities during school hours. It is not necessary that the school management provides this facility within the school premises. The above may be brought to the knowledge of all concerned for appropriate action.

The focus of infrastructure development for elementary education has been limited to construction of structures to meet the quantitative requirements of basic 'shelter' for educational activities. Typically, the built space for schools is conceptualized as a structure of four walls of classrooms with certain essential amenities, like drinking water and toilets. Education infrastructure development must, however, be sensitive to the needs and aspirations of children and teachers, address their physiological needs and comfort, and provide an environment conducive to children's physical, cognitive, social and emotional development. Infrastructure development should, therefore, not be confined to merely providing a building structure, but should also create an environment that can enhance the quality of children's learning processes and experiences. In the 12th plan school infrastructure development will be seen holistically as a physical manifestation of ideas encompassing children's access and retention for inclusive education of equitable quality in safe and secure environments.

3.0. AUGMENTING EXISTING SCHOOL FACILITIES

1. Classrooms: The requirement of classrooms needs to be reviewed from the perspective of spaces for seating, activities, storage and display spaces. The review should also address physiologic a needs of natural light, ventilation, thermal comfort, physical space for activities per child, with furniture, etc. Since a classroom is envisioned as an inclusive space, its design must provide for the comfort of children with special needs. New classrooms must factor in vertical and horizontal expansion at the design stage, as also adaptation, retrofitting or modification of the classroom space with respect to pedagogical requirements and from the perspective of reducing vulnerability from natural or human made hazards.

2. Head Teacher's room: Based on the various activities that the head teacher is required to perform as part of his/her academic and non-academic duties, the basic infrastructural requirements of adequate space for small meetings, storing resource and display material, registers, records, etc. need to be provided. Across the country, it is estimated that there are

about 3.8 lakh rooms that are in excess to RTE norms, located in schools that do not need additional classrooms, which can be used as head teachers' rooms.

3. Library: Library corners may be planned for each classroom with proper display and space for children to read books. In schools with rooms in excess of the numbers required, one such room may be converted into a library with built-in storage and display. Schools can also consider a school-time library in semi-open, outdoor spaces, which can also help inculcate reading habits in community members.

4. Amenities – Drinking water, urinals, and toilets, kitchen facilities: While many schools now have basic amenities in place, the adequacy of its numbers, functionality and effective use – especially of toilet and sanitation facilities - remains a matter of concern. In many cases existing, but dysfunctional facility, may need repair, even dismantling and re-constructing by recycling the material used.

5. Appropriate furniture: With evolving child-centred pedagogy, the requirements of furniture also need updating. Often, the tendency is to build and provide fixed furniture for all grades, hardly conducive to teaching-learning based on constructivist pedagogy, which require flexible seating arrangements. Today, a child is entitled to a dignified seating that goes beyond provision on the floor. Arrangements for small groups of 4-5 peers on low height round/square tables allow flexibility in seating. Grade specific, simple designs using local skills, materials or crafts and procured locally must be developed. This will ensure that their maintenance and repair can also be undertaken locally and at lower cost, while lending character to the classroom activities. Children with special needs in an inclusive classroom will require some special seating, activity areas as well as physical support systems, which can be moved to a new classroom, as the child moves on.

6. Development of outdoor, landscape and play space, including boundaries / fences: The school environment cannot be complete without well developed and well maintained outdoor spaces. This needs to be segregated from surrounding areas with a secure boundary or fence, so that this space is safe and secure. This can be done with green fence/hedge, bamboo fence, wire fence, wattle and daub (reeds in mud) boundary, stone boulder boundary, or a stone / brick masonry wall, depending upon the resources available. Play is an important aspect of child development, hence age-appropriate play spaces need to be provided in all schools. This does not imply large sports fields, but small pockets for games and play, depending upon space availability. Soft areas for play are important, and the tendency to hard-pave the outdoor areas must be discouraged. The school terrace can also be developed as a play space, where there is little space on the ground.

7. Development of school spaces and settings as learning resource: By innovatively treating school spaces – the classrooms, circulation spaces, outdoors, natural environment - and their constituent built elements, like floors, walls, ceilings, doors, windows, furniture, open ground, a range of learning situations and materials can be actively used as learning resources and aids to complement teaching and textbook information. A three-dimensional space can offer a unique setting for learning, because it can introduce a multiple sensory experience into an otherwise unit-sensory textbook or a black board teaching transacted by a teacher. It has the potential of making abstract concepts more concrete and real from the child's perspective. Universal access is an essential component of UEE. Access does not constitute mere physical availability of school; it implies facilitating full, free and joyful participation of children in learning. Any barrier to children's learning means that access has been denied fully or in part. Access comprises children's participation in learning by addressing social, economic and linguistic barriers in addition to barriers arising out of physical distance, topography and infrastructure etc. Interventions for universalizing access therefore cannot be limited to school infrastructure, residential facility or transportation, but must encompass curriculum, including 'Hidden' curriculum, pedagogy and assessment. Equitable access must amalgamate with equitable quality to institutionalize and sustain universal access.

This would be necessary for enabling real access to children disadvantaged in socio-economic, cultural and linguistic terms. Such an understanding of access must percolate to the grassroots level for enriching the process of planning, implementation and monitoring, and moving away from the present practice of viewing access as a stand-alone intervention dealing merely with the physical availability of school and infrastructure. States which are considered well provided in terms of physical access must introspect in this perspective to determine whether or not access is really available to all children.

States /UTs need to arrive at a clear picture of current availability of schools within defined area or limits of neighbourhoods. This will require mapping of neighbourhoods or habitations and linking them to specific schools. It is possible that a neighbourhood may be linked to more than one school. Similarly, a school may be linked to more than one neighbourhood. A comprehensive exercise will help identify gaps and areas where new schools need to be opened.

Section 12 of the RTE Act mandates that (a) all government and local body schools shall provide free and compulsory education to all children enrolled therein, (b) all aided schools receiving aid or grants to meet whole or part of its expenses shall provide free and compulsory education to such proportion of children as its annual recurring aid or grants,

subject to a minimum of 25%, and (c) all unaided and 'specified category' schools, namely Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik schools or any other school having a distinct character as specified by notification by the state government/UT, shall provide free and compulsory education to at least 25% children belonging to weaker sections and disadvantaged groups in the neighbourhood⁴. While determining the need for access of children to neighbourhood schools, the mapping exercise should factor in the availability of seats for children from disadvantaged groups and weaker sections not only in government and local body schools, but also in aided, unaided and special category schools as provided under the RTE act.

The significance of social access in universalizing elementary education cannot be undermined. India is a multi-cultural society of numerous regional and local cultures. Hierarchies of caste, economic status and gender relations that characterize Indian society, deeply influence children's access to education. The accident of birth in a particular religion, class, caste or gender should not define and restrict a child's life chances for all times to come.

It is important to ensure that the schools respect India's diversity and plurality, and recognize differences arising out of uneven social and economic development. If the language of instruction, even in Class I, in a school in a tribal area is the state language, the child will find the school environment alienating. If teachers in the school are not sensitized to actively dispel traditional perceptions regarding gender or caste roles, they are unlikely to take measures which would help girls, children from disadvantaged groups and weaker sections pursue education which is equitable and free of anxiety.

The teachers' own patterns of communication with children: the seating arrangements in the classroom, allocation of work between children reinforce or dispel societal perceptions about the 'proper' role and place of girls or children from SC/ST and minority communities.

Government schools have a high proportion of first generation school goers and children from marginalized communities. Teachers need to be sensitive to the fact that the home environments of many of these children may not facilitate 'time-dot' punctuality of children or homework or revision of school work. If these are perceived as 'lapses' and the child is punished or the school does not help such children cope with learning, the child is likely to feel discouraged and dropout of formal schooling.

The curriculum and textbooks also need to be intrinsically connected with the child's life outside the school, and should reinforce the child's pride in her language, society and way of life, at the same time affording opportunities for learning about the wider world. Teachers

and educational administrators must be sensitive to these children, and ensure that, given their difficult circumstances, the children are enabled to participate in and complete elementary education.

School access therefore demands not merely physical access to a neighbourhood school within a notified distance, but also social access by way of addressing all exclusionary practices in the school, especially those based on caste, class, gender and special needs. Lack of buildings because of the high cost of real estate in cities is the severest bottle-neck to providing facilities for urban Deprived, vulnerable children.

The government can at best fund a few 'model' hostels, but this would not cover the tens of thousands of street children in every city. Most State and local governments have large unused and under-utilized buildings and infrastructure, which need to be redeployed and shared with street children. The best and most economical Approach, and one that has the potential to reach every street child, is to share spaces in existing schools that are vacant. Such buildings may need only small additions for toilets, bathing places and a kitchen. Such an approach also has the potential to lead to integration, dignity and the learning hands-on of egalitarian compassion and pluralism.

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