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Education – Struggle of X Years.

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Abstract

The accomplishment over the 10 years through the Act that had been enforced in 2010 has been remarkable but has failed to uphold the fort in the hopes of which it was enforced. The landmark of Right to Education in India has completed its decadal anniversary. The implemented Act continues to scuffle with the performance of the schools on the educational level, highlighting the scope of increasing the varying requirements in the hope for decentralization and focusing on the quality of education and the need to include early child care. The effect of the enforcement of the RTE Act in 2010 led to the active participation of people towards education. The problem of educating the girl child in remote areas remains even after the enforcement of the Act. After 10 years of applicability, the criticism that has been acknowledged by the Government hasn't been looked after. The compulsory promotion and eliminating the fear of failure has caused pirated literacy in the states and the country as a whole. Moreover, the paper further takes notes on the differences between pre to post era of the Act. It also considers issues such as the "discrimination" towards the reserved category, ensuring the non-violation of rights and providing the necessary means. The paper also includes the recommendations such as to improve the no-detention policy and the 25% reservation system, vis-à-vis successful enrolment rates but a failure in administration.

Introduction

The Right of Children to Free and Compulsory Education (RTE) Act, 2009², an Act passed by the Parliament on 1st April 2010 for the amelioration of the youth, furthermore to advance the

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² The Right of Children to free and compulsory Education Act, 2009, No. 35, Parliament of India, 2005 (India)

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literacy rate of the nation, celebrated its decadal anniversary amid the pandemic. Before the commencement of the Act, it originally was mentioned and was a part of the Indian Constitution, under Article 45 and Article 39(f) of DPSP under Part IV.³ The novelty started after the 42nd Amendment of the Indian Constitution in 1976, which enabled the source of education in the nation bringing the education into the Concurrent List while empowering Central and State Governments with the responsibility. Later in 1990, the first official document regarding education was released by the **Ramamurti Committee**. Later in the year 1993, the Apex Court's benchmark decision in *Unnikrishnan JP vs State of Andhra Pradesh & Others*⁴ held that Education is indeed a Fundamental Right constituted within the ambit of Article 21. Later, after the setting up of the **Tapas Majumdar Committee in 1999**, the insertion of Article 21A incorporated the Right to Education. The 86th Amendment of the Indian Constitution in 2002 enforced the Constitution to have the Right to Education as a Fundamental Right in part III of the Indian Constitution under Article 21A, which provided legal security to the education for children between 6-14 years. Before the Right to Education Act, a Right to Education Bill was a follow up from the 86th Amendment enacted in 2008, which ultimately resulted in the Right to Education Act 2010, to accomplish the visuals that have been expected from the Article 21A⁵. The Act laid down educational policies for the formal schools which would be of a certain acceptable standard. The State and local governments were legally bound to the norms laid down under the Act, which granted the States the power to refuse to grant recognition to schools or withdraw recognition that has been conferred, for schools that do not adhere to the prescribed minimum quality, standards, and rules.

³ Indian Constitution Art 45, & 39, cl. f.

⁴ Unnikrishnan JP vs State of Andhra Pradesh and Others, AIR 1993 SC 2178.

⁵ Indian Constitution. Art 21A.

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Influence of RTE on Country's Education System

The RTE Act has influenced the country's education system through multiple modes. The influence of the RTE Act can be understood under four major categories:

• **Enrolment** • **Quality** • **Teacher** • **Social infrastructure.**

Enrolment: The Enrolment rates in the pre-Act era were lower than in the post-Act era. The difference in ratio can be understood only by the margin of implementation of the Act. The free and compulsory education for all improved the studying conditions. Pre-Act era provided a 53.26% for boys and 48.38% with regard to girls under primary level education, whereas in the post-Act era in 2019, the percentage of the enrolments increased to 89.28% with respect to boys and 94.32% with respect to girls. Further, in secondary level education, the enrolments were at 48.32% for boys and just 26% which was a cause of underdevelopment of girl students; whereas in post-Act era, the percentage increased to 78% for boys and 81.32% for girls. The key execution of the RTE Act has been that it has licensed India to pursue almost 100 percent enrolment rates. Total primary level enrolment rates stand at 96.289 in 2019⁶, whereas total secondary level enrolment rates stand at 73.79⁷. Additionally, enrolment for girls on the primary level stands at 94.32% and just 89.28% for boys, while the enrolment rates are significantly lower at the secondary level where enrolment stands at 81.32 for girls and 78 percent for boys. Furthermore, the GPI (Gender Parity Index) (the number of females divided by the number of males enrolled in a given level) has increased from 0.93 in FY 2009-10 to 1.019 in FY 2019-20⁸. The enrolment numbers for Children with Special Needs (CWSN) have increased to nearly twice the number in FY 2009-10 and the annual dropout rate has considerably dropped from 9 percent in FY 2009-10 to less than 2.8% of children dropping out of school in India. It is the first time, the figure has fallen below 3 percent, bringing the total

⁶ World Bank (Oct. 7th, 2020, 5:23 pm), <https://data.worldbank.org/indicator/SE.PRM.ENRR?locations=IN>.

⁷ Trading Economics (Oct. 7th, 2020, 6:15pm), <https://tradingeconomics.com/india/school-enrollment-secondary-percent-gross-wb-data.html>.

⁸ World Bank (Oct 9th, 2020, 11:18 pm), <https://data.worldbank.org/indicator/SE.ENR.SECO.FM.ZS?locations=IN>

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school enrolment to a record 97.2 percent in 2018⁹. The Net Enrolment Rate (NER) in primary education increased from 84.5% in 2005-06 to 96.83% in 2019¹⁰, according to the World Bank collection of development indicators, compiled from officially recognized sources.

Quality: The states have adopted the curriculum mandated under the RTE Act according to the quality indicators. In government schools, around 55 percent in primary level and 61 percent in secondary level held a post-baccalaureate degree. However, average attendance of students and teachers in primary as well as upper secondary schools is still an area of concern.

Teachers: The increase in the number of teachers working in government and aided recognized schools is indicated by the teacher's indicators. There has been a drop in the number of schools that do not fulfill the Pupil-Teacher Ratio (PTR) as laid down by the Act.¹¹ The PTR ratio, as mentioned in the RTE Act, is meant to ensure that schools maintain smaller classrooms which will enable personal attention to each student by the teacher which would serve as the basis of the Continuous and Comprehensive Evaluation Policy. The percentage of primary schools that do not meet the PTR criteria has dropped from 46 percent in FY 2009-10 to 24 percent in FY 2019-20 and for upper primary schools, the percentage has dropped from 36 percent in FY 2009-10 to 16 percent in FY 2019-20. Yet, the number is still significantly high which stresses the importance of hiring more human resources and hence, the need for quality teacher training institutes in the nation.

Social Structure: Since the RTE was actualized in 2010, India figured out how to improve the foundation. The division of schools with usable ladies' washrooms multiplied, arriving at 66.4

⁹ Bloomberg (Oct. 10th, 1:27 pm), <https://www.bloomberquint.com/politics/fewer-children-out-of-school-but-basic-skills-stay-out-of-reach-new-study>

¹⁰ Trading Economics (Oct. 10th, 2:19 pm), <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewjT5N3JOLHsAhUCQH0KHVHQDQEQFjACegQIBhAC&url=https%3A%2F%2Ftradingeconomics.com%2Findia%2Fschool-enrollment-primary-percent-gross-wb-data.html&usg=AOvVaw1r32tr3GRfufvrLujNer5>

¹¹ The Right of Children to Free and Compulsory Education, Supra Note 1.

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percent in 2018, as per the Annual Status of Education Report (ASER).¹² The extent of schools with boundary walls registered an expansion of 13.4 rate and focuses to remain at 64.4 in 2018. The level of schools with a kitchen shed expanded from 82.1 to 91 percent. Schools with books, other than reading material, expanded from 62.6 to 74.2 percent over a similar period.

Criticism

The RTE Act¹³ called for a 25% reservation of seats in private schools. One of the most inclusive and reaching provisions of the RTE Act is to provide equal opportunities regarding the basic education for everyone under age 14, notwithstanding their socio-economic status. While the previous Act tries to accumulate the education revolved around the policy-making, RTE ensures that "Education for all" is in the form of a Fundamental Right, making it a legal and constitutional obligation.

Under Section 12(1)(c) of the RTE Act¹⁴, every school- private, aided, unaided or special category- must include at a minimum of 25% reservation of their educational seats at the primary level (class one) for students from EWS (economically weaker sections) and DGs (disadvantaged groups) and enforcement of the policymaking is at the hands of State, allowing them to make suitable rules after considering income levels and eligibility.

The criticism "25% reservation does not tackle the issues around integration and provision of extra help to those students" has been gyrated around the provision under Section 12(1)(c). Mere admissions of EWS and DG do not provide a sense of security to the quality of education given to the children. Many schools haven't been able to comply with the pupil-teacher ratio as endorsed by the RTE Act. Lack of social inclusion has been one of the biggest flaws of the RTE Act.

¹² Nilanjana Bhowmick, 10 Years Of Right To Education: A Progress Report, Reader's Digest (Feb. 18, 2021,

¹³ Supra Note 1.

¹⁴ The Right of Children to free and compulsory Education Act, 2009, § 12(1)(c), No. 35, Parliament of India, 2005 (India).

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No Detention Policy – A Bane

Section 16 of the Act¹⁵ implies that no child shall be held back in any standard or expelled from the school until the completion of their elementary education. The allowance of the no-detention policy serves as a mode to promote education without students doubting their abilities and has helped in achieving the higher number in school enrolments, additionally keeping the children in the school long enough to allow them to maintain a livelihood. But, the term "Failure" actually serves as a blessing but only in disguise. The authorities failed to appreciate that failure symbolizes what success means. The retention of children ensures the learning of an adaptive skill set before promotion to a higher standard. Hence, failing has encouraged the children to study solemnly. A promotion, without having meritoriously achieved a place in the next level is unfair to the ones who have earned it.

Restrictive approach towards Development

Further, the system has provided a section (**Section 4**) for special attention to the children who lack the skills and abilities.¹⁶ What authorities failed to consider was: Can a child who is unable to adapt to the previous standards, who has been promoted to a higher standard through the No Detention Policy, be able to bear the workload of the senior standard? The system then provides for special attention (through Section 4 of the Act) for such a child in the higher class, to make up for the deficiency in skills and abilities.

Under Section 18 of the Act¹⁷, the schools which do not possess a certificate of recognition from the recognized local authority or government shall not be allowed to function. The failure

¹⁵ The Right of Children to free and compulsory Education Act, 2009, § 16, No. 35, Parliament of India, 2005 (India).

¹⁶ The Right of Children to free and compulsory Education Act, 2009, § 4, No. 35, Parliament of India, 2005 (India).

¹⁷ The Right of Children to free and compulsory Education Act, 2009, § 18, No. 35, Parliament of India, 2005 (India).

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to do further requires the schools to be shut down. If such a school is already in function, the Act specifies it to be shut down within 3 years. Any new school that is set up shall be met with the norms specified in the Act or be shut down within 3 years. This erroneously suggests that private, unrecognized schools offer a lesser quality of education than that offered by recognized schools. The banishment of private, unrecognized schools further aggravates the problem of scarcity of formal education institutions.

Under Section 17(1) of the Act¹⁸, the Act prohibits physical and mental harassment of the students; while the provision regarding physical punishment is commendable, the mental harassment on the other hand has been vague and insufficient. The meaning of mental harassment for everyone is different and unique. It could be the slightest admonition for not completing the homework to vile abuses meant for stripping the self-respect of the student.

Under Section 28¹⁹, the Act instructs that no teacher shall engage his or her students in private tuitions. While the Act prohibited personal tuitions to avoid the underperforming of the teachers in the classroom, banning private tuitions doesn't necessarily eliminate the prevalence of teacher's underperformance and absenteeism.

Section 24²⁰ provides corrective measures to be undertaken during absenteeism and underperformance. While the Act ensures the minimum performance of the teachers, it fails to approach the quality education for the students, by not providing any specifications of high performances.

¹⁸ The Right of Children to free and compulsory Education Act, 2009, § 17(1), No. 35, Parliament of India, 2005 (India).

¹⁹ The Right of Children to free and compulsory Education Act, 2009, § 28, No. 35, Parliament of India, 2005 (India).

²⁰ The Right of Children to free and compulsory Education Act, 2009, § 24, No. 35, Parliament of India, 2005 (India).

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Economically Weaker Sections

Section 2, Clauses (d) and (e) of the RTE Act²¹ - The ground truths are unique, and different states follow their boundaries while choosing the EWS status. Madhya Pradesh and Rajasthan have comparative rules. Then again, Andhra Pradesh has an alternate, very much characterized qualification model for EWS. Further, there is likewise a need to keep up the records of children by the neighbourhood authority, or through a family study. Different state rules don't indicate which organization or authority would keep up these records. In Madhya Pradesh, for instance, the obligation is vested in the possession of Jan Shikshak or Cluster Resource Centre Coordinator (CRCC), while in Rajasthan this is being taken into consideration by the Block Rudimentary Education Officer (BEEO). In Himachal Pradesh, the School Management Committee (SMC) is needed to send these records to the neighbourhood authority. Some state rules don't even determine the name of the administration official who is to monitor such records. This raises extraordinary concern, as these records would shape the premise of the confirmation of youngsters under the EWS class.

Remedial Counterparts

There has been deterioration in the quality of education in government schools. India's public education system has been in the doldrums for many years now. While their private counterparts have not fared much better, the eroding faith in public schools is a matter of concern. The quota systems in non-public schools can't be a panacea for the ills that plague India's education system.

The focal point of the RTE Act should subsequently move from enrolment to participation. This will have an immediate bearing on the degree of consistency of the students. The Unified

²¹ The Right of Children to free and compulsory Education Act, 2009, § 2(d) and 2(e), No. 35, Parliament of India, 2005 (India).

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District Information System for Education (U-DISE) proposes that the administration oversaw schools that have helpless standards for retention rates compared to other managements.

Conclusion

It took India 62 years after independence to ensure school instruction as a principal appropriate for its younger population. The RTE Act should now focus on improving the nature of education. It should also be guaranteed that any further alterations to the Act are all around considered to dodge complexities in usage. The vast majority of difficulties confronting the Act can be overwhelmed by its next decadal commemoration. Its current lacunae regardless, the RTE Act stays one of the most significant changes in India's school education, and its future may yet decide how India beats its most major issues of poverty and exclusion.