



RIGHT TO EDUCATION ACT, 2010: IS THIS ACT MAKING “SCHOOLING” NECESSARY INSTEAD OF “EDUCATION”?

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**“What is really needed to make democracy function is not knowledge of facts, but right education”
-Mahatma Gandhi**

Abstract

India is one of the fastest developing nations of the world. There is a rapid increase in almost all the sectors from infrastructure to automobile, from industries to agriculture. But behind these entire development one sector which is struggling with its pace is that of education. The need for education in India was felt quite early and it is still showing continuous growth. One such factor which can be easily said behind this continuous growth is the Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE), an Indian legislation enacted by the Parliament on 4 August 2009. From the time this act has come into effect, the first change which strikes most is that of enrollment. The enrollment percentage in rural area has increased to 96%.

RTE is considered to be one of the major successes toward education in India and these enrollment numbers are speaking about the truth. But one question which is brutally ignored behind this success. Is

enrollment enough? What about the quality? Is it going parallel with quantity? And finally, is policies are regulated and mastered properly?

Introduction

Education is a human right with immense power to transform. Education opens up a vast world of opportunities and ideas to the educated person. It is also of great instrumental value in the process of economic growth and development.¹ Education plays a critical role in the process of lowering the fertility and mortality rates.

Primary schooling is associated with better health outcomes. There is a strong correlation between literacy and life expectancy. The returns of education are large, as education empowers and empowerment affects larger social process.² In spite of this millions of young people around the world are denied their Right to Education. The State of the World's Children, 199, pointed out that 130 million children in the developing countries are denied educational rights and almost two thirds of them are girls. Denying girl their rights to equality of education is denial of all other human rights which minimizes the chances of successive generations (particularly of their daughters) to develop their fullest potential.

The framers of the Indian Constitution were aware of the importance of education, so they imposed a duty on the State under Article 45 as one of the Directive Principle

¹ The State of World Children 1999, UNICEF

² M. Swaminathan and V. Rawal, Primary Education for All, Development Report, 200 at p. 68



of the State Policy to provide Free and Compulsory Education to all children until they attain the age of fourteen years, within ten years from the commencement of the Constitution. The object of the Article was to abolish the illiteracy from the country.

It was expected that the elected Government of the country would implement this directive. But unfortunately even after lapse of sixty years from the commencement of the Constitution, no effective step has been taken and 40% of the population of the country is still illiterate.

At the time of making of the Constitution the framers were apprehensive that view of financial condition of the State it is not feasible to make education a fundamental right under Part III of the Constitution and kept it as one of the directive principles in Part IV of the Constitution.

The Hon'ble Supreme Court in its historic Unnikrishnan's³ judgment in 1993 directed the Government that all children up to fourteen years of age have fundamental right to education. The Court in this case, came to the conclusion that fundamental right to life under article 21 of the Constitution should be read in harmonious construction with the directive principles of state policy under Article 45 to provide free and compulsory education to all children up to fourteen years of age including those below six years of age.

In the wake of this decision a demand was being raised from all corners to make education fundamental right. Consequently,

the Government enacted the Constitutional 86th Amendment Act, 2002 making education a fundamental right under Article 21A of the Constitution.⁴

Though this Amendment has been passed, but the enforcement of this fundamental right is a challenging task, as the population of the children (between the ages six to fourteen) in this country is in corers. Making education compulsory as fundamental right will not serve the purpose unless there are sufficient schools and infrastructure.

The Government des not have money at present to run its own schools, so the education is on the verge of privatization. Majority of higher secondary schools are run by private bodies making education costly and far from the reach of the poor. Once education is a fundamental right the government s obliged to impart it, otherwise citizens will go to the courts for the enforcement of their rights.

The crucial role of universal elementary education for strengthening the social fabric of democracy through the provision of equal opportunities to all has been accepted since the inception of our Republic. Over the years there have been significant, spatial and numerical expansion of elementary schools in the country, yet the goal of universal elementary education continue to elude us. The number of children, particularly children from disadvantaged groups and weaker sections, who drop out of the school before completing elementary education, remains very large.

³ Unni Krishnnan, J.P. v. State of Andhra Pradesh, (1993) 1 SCC 645

⁴ Added by the 86th Constitutional Amendment Act, 2002



Moreover the quality of learning achievement is not always entirely satisfactory even in the case of children who complete elementary education.

While the constitutional provisions contain a broadly idealistic expression of concession for the children, the legislative provisions are expected to take it the legislation relating to children is useful so as to ascertain how and whether these legislations complement constitutional provisions are expected to take it further towards machinery for its application in practice. Therefore, a review of the legislation relating to children is useful so as to ascertain how and whether these legislations complement constitutional provisions for safe guarding the interest of children.

Article 21-A⁵ of the Constitution provides for free and compulsory education to all the children in the age group of six to fourteen years as Fundamental Right in such manner as the state may, by law, determine. Consequently, *the Right of Children to Free and Compulsory Education Bill, 2008* was purposed to be enacted which seeks to provide:

- A. That every children has a Right to be provided full time elementary education of satisfactory equitable equality in a formal school which satisfies certain essential norms and standards.
- B. *Compulsory Education* cast an obligation on the appropriate Government to provide and ensure admission, attendance and completion of elementary education.
- C. *Free Education*, which means that no child

(other than a child who has been admitted by his or her parents to a school which is not supported by the government), shall be liable to pay any kind of fees, charges or expenses which may prevent him or her from pursuing and completing elementary education.

- D. The duties and responsibilities of the Government, local authorities, parents, school and teachers in providing free and compulsory education.
- E. A system for protection of the Rights of children and decentralized grievance redressal mechanism.

This Legislation is anchored in a belief that the values of equality, social justice, democracy and the creation of a *just* and *humane* society can be achieved only through the provisions of inclusive elementary education to all. To provide free and compulsory education is not merely the responsibility of school run or supported by the appropriate governments but also of school which are not dependent on government funds. To achieve these objectives the *Right of Children to Free and Compulsory Education Act* has been passed in the year 2009⁶ and has been implemented since 1st April, 2010.

What happens when a country of the size of India has over 3 million populations living on the streets? Or one out of every six girl child does not live to see her 15th birthday? What happens when despite having a national policy for compulsory primary education, only 50% of children have access to education? Then, the statement “children are the future of the nation” stops making

⁵ Added by the 86th Constitutional Amendment Act, 2002.

⁶ Act no. 35 of 2009.



sense. It sounds like an ominous prophecy. For how can we explain that even after 60 years of independence half of India's children are illiterate, despite identifying primary education as a key thrust area and possessing one of the world's largest network of schools.

In order to curb the above mentioned problems and in answer to the questions above Government of India came up with Right of Children to Free and Compulsory Education (RTE) Act, 2009 and the same was inserted in Article 21-A of the Constitution of India by the Eighty Sixth Amendment Act.

After the enforcement of the Act the figures for enrollment into schools touched a whopping 96% but the question lies that whether the quality of education is going hand in hand with the astonishing figure of the enrollments? Apart from the above issue, this paper attempts to analyze certain core issues such as was the whole act is interpreted and implemented wrongly, whether the act is implemented in an irresponsible manner?

Predecessor to Right to Education Act: A Historical Narrative

Mid-Day Meals

The program of providing mid-day meal to primary school children in India (National Programme of Nutritional Support to Primary Education) was launched on the 15th of August 1995. Under this program cooked mid-day meals were to be provided in all government and government-aided schools within two years.

The aim of the program was to improve

enrolment and attendance and to take care of nutritional needs of children in grades 1-5.⁷ The state governments in the interim were allowed to distribute non-cooked grains instead of cooked meals. Until 2001, however, only the states of Kerala, Gujarat, Tamil Nadu, Madhya Pradesh, Chattisgarh, Orissa, Karnataka and Delhi were providing cooked meals under the scheme, while the remaining states and Union Territories continued to provide food grains (wheat or rice).

In 2001, the Supreme Court of India converted the mid-day meal scheme into a legal entitlement where in the state governments were liable to provide nutritious cooked meals for all children in government and government-aided schools. There are differences across states in the budgetary allocations to mid-day meals schemes and the infrastructure that is set-up in schools for its provision. This is reflected in the quality of mid-day meals provided (Dreze and Goyal, 2003).

However, most observers are in agreement that the mid-day meal scheme is an important step forward in improving both the education and health outcomes of children in India and greater effort and funds should be channeled in improving its quality and implementation.

⁷ According to the Global Feeding Report of the United Nations World Food Programme, "School feeding programmes often double enrollments within a year and can produce a 40 percent improvement in academic performance in just two years. Children who take part in such programmes stay in school longer and the expense is minimal."



Right To Education Act: A Brief Overview

The Right of Children to Free and Compulsory Education (RTE) Act, 2009 provides 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 title of the RTE Act incorporates the words 'free and compulsory'. 'Free education' means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.

'Compulsory education' casts an obligation on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age groups. With this, India has moved forward to a rights based framework that casts a legal obligation on the Central and State Governments to implement this fundamental child right as enshrined in the Article 21A of the Constitution, in accordance with the provisions of the RTE Act.

There are 5 main components that the Act puts forth:

- In India, every child is entitled to free and compulsory full-time elementary education (first to eighth grade) as facilitated by the Right of Children to Free and Compulsory Education Act. This means elementary education of satisfactory and equitable quality in a formal school run with certain essential standards
- Parents of children covered under RTE are not liable to pay for school fees, uniforms, textbooks, mid-day meals, transportation, etc. until the elementary education is complete
- If a child has not managed to secure admission in a school according to age, it will be the Government's responsibility to get the child admitted in an age-appropriate class. Schools will have to organize training sessions to allow such a child to catch up with others.
- No child shall be held back (failed) or expelled until the completion of elementary education.
- Not following the RTE rules can invite a penalty of Rs 25000.

While the RTE is a ground breaking piece of legislation, the first in the world that puts the responsibility of ensuring student enrollment, attendance and completion of elementary education on the Government., recent surveys by the State Commission for Protection of Child Rights and UNICEF show that the state of education has not improved much since 2009, when the act was first proposed.

The RTE Act was amended in 2012 wherein the following sub sections 4 and 5 were inserted to Section 1 of the Act. These sub



sections are:

“(4) Subject to the provisions of articles 29 and 30 of the Constitution, the provisions of this Act shall apply to conferment of right on children to free and compulsory education.

(5) Nothing contained in this Act shall apply to Madrasas, Vedic Pathshalas and educational institutions primarily imparting religious instruction.”

Section 2 of the Act was also amended and clause (ee) was added to it which says:

(ee) "child with disability" includes –

(A) a child with "disability" as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

(B) a child, being a person with disability as defined in clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;

(C) a child with "severe disability" as defined in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

Section 22 was also amended by the 2012 Amendment Act which says:

Section 22: School Development Plan: (1) Every School Management Committee, except the School Management Committee in respect of a school established and administered by minority, whether based on religion or language and an aided school as defined in sub-clause (ii) of clause (n) of section 2, constituted under sub-section (1) of section 21, shall prepare a School Development Plan, in such manner as may

be prescribed.

The School Development Plan so prepared under sub-section (1) shall be the basis for the plans and grants to be made by the appropriate Government or local authority, as the case may be.

Section 25 was also amended which seeks to provide for maintenance of pupil teacher ratio, by the appropriate government and local authority. An apparent contradiction between this provision, which requires that the pupil teacher ratio shall be maintained within a period of six months, vis-à-vis the provision under section 19 mandating that the norms and standards prescribed in the Schedule should be met within three years, is propelled to be corrected through the Amendment Bill introduced in the Parliament.

Section 17 prohibits any child being subjected to physical punishment or mental harassment.

Article 39 (f) of the Constitution of India states: Art 39 (f): ‘The state shall ensure that children are given opportunities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment’. There is explicit use of the word ‘dignity’ in Article 39(f). It is not conceivable for dignity and punishment to co-exist.

Further, the National Policy on Education⁸ also prohibits corporal punishment. It states:

⁸ (NPE) 1986/1992 available at http://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/RTE_Section_wise_rationale_rev_0.pdf (last visited on 16/05/2018 at 3:28 pm)



Corporal punishment will be firmly excluded from the education system.

India is a signatory to the United Nations Convention on Child Rights (UNCRC). Article 19 of the UNCRC states: State parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, legal guardians or any other person who has the care of the child.

Thus, the provisions in the RTE Act banning corporal punishment and mental harassment are in consonance with the spirit of Article 39 ((f) of the Constitution, the National Policy on Education, and the UNCRC.

As per section 31 of the Act the National Commission for Protection of Child Rights and State Commission for Protection of Child Rights are supposed to:

- (i) Examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;
- (ii) Inquire into complaints relating to child's right to free and compulsory education;
- (iii) Take necessary steps as provided under section 15 and 24 of the Commissions for Protection of Child Rights Act. Under section 32 (3) and (4) of the RTE Act, the State Commission for Protection of Child Rights are the appellate authority to receive appeals from the aggrieved persons who would prefer such appeals when their grievances relating to children's right to

education are not redressed by the designated local authorities under section 32 (2).

Children are subject to corporal punishment in schools; institutions meant for care and protection of children such as hostels, orphanages, ashram shalas and juvenile homes; and even in the family setting. A study 'Child Abuse in India- 2007', by the Ministry of Women and Child Development, Government of India, found that 69% of children reported having been physically abused. Of these 54.68% were boys.

Incident of having been abused in their family environment have been reported by 52.91% of boys and 47.09% of girls. Of the children who were abused in family situations, 88.6% were abused by their parents. Every two out of three school children reported facing corporal punishment. In juvenile justice system, 70.21% of children in conflict with the law and 52.86% of children in need of care and protection reported having been physically abused.

India after Right to Education Act: Changes, Achievements and Issues

This Act is an essential step towards improving each child's accessibility to secondary and higher education. The Act also 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 any such factor.

With the implementation of this Act, it is



also expected that issues of school dropout, out-of-school children, and quality of education and availability of trained teachers would be addressed in the short to medium term plans. The enforcement of the Right to Education Act brings the country closer to achieving the objectives and mission of the Millennium Development Goals (MDGs) and Education for All (EFA) and hence is a historic step taken by the Government of India.

Well on the achievement side, it can be said that this act has really grown both length and breadth and children from underprivileged/weaker section of society are getting access to school. Parents and guardians are slowly and steadily getting aware about the importance of education and showing a good response toward this act.

After the implementation of this act enrollment in rural areas has reached to 96% and this act has been contributing in national literacy rate of India as well. On the other side it is opening various opportunities for these students and developing them both intellectually and personally.

But as it is the case with all the other acts, this act also comes with some issues, issues which need serious answer. Some of the major issues are:

Age Group in RTE: RTE talks about the age group which starts from the age 6. However, in India the elementary education starts with the age of 2 and half years of age. The schools take the kids in pre-nursery if they are three years of age. A child who has an early schooling since the age of 3 will be far ahead from the child who enters the

school at the age of 6.

Therefore, the act does not take care of the age below six. The age taken cannot be justified and right. The act should be reviewed again and the age should be revised in this regard.

Challenge of Hiring Qualified Teachers: Good and qualified teachers for considered being the backbone of education, in their absence the act cannot achieve the goals. It is a fact government schools are going to be one of the hardest tasks to be achieved in implementing the act. The teachers are that, about one fourth of the teachers of government school remains on leave in India at any given point of time and most of them are not able to do full justice to their professions due to numerous reasons.

The Act makes it evident that school drop outs and others kids who are unable to get education, would be brought back into the education stream again, it demands hiring almost double the number of teachers. The teachers of primary schools agreed that there are hundreds of students in one class and there is a huge gap between the training imparted to teachers and what they practice on ground.

Enforcement of 25% Quota for Weaker Sections: The act gives a clause of reservation of 25% of seats for weaker sections by private unaided schools turns out to be a boon or a bane. By this clause the government itself accepts that the government schools are not capable of giving good quality education. Meanwhile, confront is to define weaker sections. The malpractices can creep in through this mechanism.



A well monitored mechanism needs to be set up to ensure its fair implementation of the clause. Also, it is tough task to bring together children from varying economic and social backgrounds on the same platform. It would indeed be challenging for the teachers to maintain equilibrium and create an environment for them to blend together.

Challenge to Bring Child Laborers to Schools: RTE has become a fundamental right of each and every child, therefore, the children who are out of schools and are child laborers should be brought back to schools. There are more than 12 million children in India who are engaged in child labor according to official figures.

The Act brings India in the same league as USA and 130 nations which have the concern for right to education. Therefore to be up to mark with this nations India has to work hard for this child labor issue and providing education.

The Regional Balance in Opening New Schools should be maintained: The government schools should be opened where they are needed very much. An imbalance can be seen in the rural and urban sector of the school. The government primary schools in some areas are in very pitiable conditions. The government can take care of this regional imbalance while opening or giving recognition to these schools.

The government can instruct private sector to come forward to open the schools in the remote rural areas where the schools are far. It will solve the purpose of imparting quality

education in the far furlong areas as well. The schools should be only there where they are needed i.e. remote rural areas to vanish the regional imbalance in imparting the education.

ANNUAL STATUS OF EDUCATION REPORT (ASER):A MAJOR CONCERN

Facilitated by Pratham, ASER is the largest household survey undertaken in India by people outside the government. It annually measures the enrollment as well as the reading and arithmetic levels of children in the age group of 6-14 years.

ASER has become an important input in the educational policies of both the Central and State governments. The findings of the survey have been referred to in the approach paper to the 11th Planning Commission and several state governments use the findings to define their educational programs each year. Since the last 4 years the report has been released by the Deputy Chairman of the Planning Commission, Shri Montek Singh Ahluwalia.

According to the Annual Status of Education Report (ASER), the RTE has improved the facilities; brought more kids to the school and increased number of toilets but has failed to provide them with right or quality education. This year's report has exposed the dismal status of schooling and basic learning in rural India. While school enrolment numbers have gone up (96.5% of all children in the 6-14 age group go to school) and school infrastructure has improved, attendance (in government schools) and the overall ability of children to read and do simple mathematical exercises



have dipped in India's rural classrooms. The survey also revealed that most children in primary schools today are at least three grades behind from where they should have been now and the situation appears worsening. For example, while half of the Class 5 children in government schools were able to read Class 2 texts in 2010, the number has gone down to 41.7% in 2012.

Similarly, in 2012, around 50% of the Class-5 students were able to do a two digit subtraction as against 71% in 2010. In fact, barring Andhra Pradesh, Karnataka and Kerala, every state registered a drop in arithmetic learning levels. Only 30 per cent of class 3 students could read a class 1 text book in 2012, down from 50 per cent in 2008.

The number of children in government schools who can correctly recognize numbers up to 100 has dropped to 50 per cent from 70 per cent over the last four years, with the real downward turn distinctly visible after 2010, the year RTE came into force.

Generally poor training and status of the primary school teachers, decline in classroom teaching and scrapping of exams and assessments are major factors for the decline in the quality of education. In the absence of the traditional annual examination (students cannot be detained in the same class up to class VIII) the student's poor learning cannot be detected until class IX.

The ASER report also claims that primary school outcomes have deteriorated since the RTE Act came into force in 2010. It is also

found that children in private schools seem to be doing better academically than their counterparts in government schools. The study also showed that students from government schools across states tend to go for private tuition classes more than their counterparts in private schools, underlining again the absence of quality education in government schools.

Although some of the infrastructural parameters under the RTE Act have improved, it's far from where it should be. For instance, 27% of all schools visited had no drinking water facility in 2012, proportion of schools with useable toilets is only 56% and mid-day-meal was served in 87% of the schools. The desired student-teacher ratio is missing in nearly 60% of the schools across India.

On the healthy side, quality has been found to improve whenever the community as a whole has been involved and village representatives have a say in teacher recruitment, monitoring and accountability. Hence, involvement is the key to the issue of quality.

Poor quality of government run schools is encouraging migration to private schools where enrollment has risen from 18.7% in 2006 to 28.3% in 2012. If the trend continues, then by 2018, India may have 50% children in private schools.

It means they have to pay for their own education even in primary level. In fact, more than 40 percent of the children in Jammu and Kashmir, Punjab, Haryana, Rajasthan, Uttar Pradesh, Goa and Meghalaya were already enrolled in private



schools. In Kerala and Manipur, the figure was even more than 60 percent.

The irony is that most of the government schools not only have better infrastructure but better paid teachers compared to the many small private schools. Private schools have proved to be better than government schools because of higher level of commitment of teachers, though government school teachers are more competent generally but indifferent to teaching.

About a quarter of elementary school children in rural areas take private tuitions. The report also said that tuition-going students were much clearer with their arithmetic concepts. Whether enrolled in government school or private school, children receiving this addition support have better learning outcomes than those who do not. It also said that in 2012, of all the children enrolled in standard I to VIII, close to 45 per cent were going to private schools or taking to private tuitions.

For overall improvement in the quality of education, the qualities of teacher training, infrastructure, teaching resources and community involvement in ensuring teacher and school accountability must go hand in hand.

In Chhattisgarh and Madhya Pradesh, adivasi children need special attention: both their enrollment and dropout rates are rather high. Naxal violence is another factor that causes internal migration and lower school enrollments. In Rajasthan, dropout rate of girls in the age group 11-14 years is a cause for concern.

Two Major Trends

The ASER report reveals two major findings which are not very flattering for the right to education movement in India.

A. *Poor quality of education*

In 2008, only about 50 percent of Standard 3 students could read a Standard 1 text, but by 2012, it declined to 30 percent – a fall of 16 percent. About 50 percent of the Std 3 kids cannot even correctly recognize digits up to 100, where as they are supposed to learn two digit subtraction. In 2008, about 70 percent of the kids could do this.

Not only that the country is unable to improve the learning skills of half its primary school children in the last four years, it has fallen to alarming lows. Similar deterioration in standards of education was also noted among Std 5 students.

The report further notes that the decline is cumulative, which means that the “learning decline” gets accumulated because of neglect over the years. The poor quality of education from Std 1 pulls down their rate of learning progressively so that by the time they are in Std 5, their level of learning is not even comparable to that of Std 2. The private schools are “relatively unaffected” but their low standards remain low. They have also shown a “downturn” in maths beyond number recognition.

The poor quality of education and rate of decline are however not uniform across India. Some states are low in quality, but are staying where they are (Karnataka, Tamil Nadu and Andhra Pradesh) while some have higher levels of education, which are neither improving nor deteriorating (Himachal Pradesh, Kerala and Punjab). The decline is



more noticeable since 2010, when the RTE came into effect, indicating targets of blanket coverage compromising quality and standards.

B. Privatization

The report notes that the private sector is making huge inroads into education in rural India. Before 2020, private schools will be the majority service provider. Private schools have problem admitting children from poor parents, but not when somehow parents can arrange for fees.

Quoting DISE (District Information System of Education) data, the report says that Kerala, Tamil Nadu, Puducherry and Goa have more than 60% of private enrollment in primary schools. Andhra, Maharashtra and Karnataka are at 40 percent, while UP is at 50%. Ironically, the highest private sector enrollment is in Kerala, where successive governments claim commitment to welfare policies, particularly on education and health. Besides private schools, parents also spend considerable amount of money on private tuitions, making quality education more inaccessible to people without money.

STATISTICS IN INDIA (compilation of other Reports published in and outside India)

Public Expenditure on Education

In 2001-2002, India spent about 4% of its GDP on education (all levels). This is lower than the targeted percentage of 6% of GDP, though historically public expenditure on education as a percentage of GDP has been rising. The following table shows government expenditure on education (all levels) as a ratio of expenditure on all

sectors as well as percentage of GDP.

Table 1: Public Expenditure on Education in India (Base Year: 1993-1994)⁹

Year	Government Expenditure on education (in million rupees)	Expenditure on Education as % (of all government expenditure)	Expenditure on education as % of GDP	Expenditure on elementary education as % of expenditure on education
1951-52	6.46	7.92	0.64	-
1961-62	21030	11.70	1.52	-
1971-72	110.107	9.53	2.33	-
1981-82	443.529	13.17	2.92	-
1991-92	2239.369	13.14	3.8	46.3
2000-01	-	-	-	48.9
2001-02	8417.946	13.17	4.02	-

⁹ Source: Department of Education, GOI; * Budget expenditure of the Department of Education only; Source: Tilak (2004). See Nirupam Bajpai and Sangeeta Goyal, *Primary Education in India: Quality and Coverage Issues*, CGSD Working Paper No. 11 February 2004, The Earth Institute at Columbia University at p. 12



In 1990-1991, expenditure on elementary education as a percentage of GDP was only 1.78% reflecting the greater emphasis given to secondary and tertiary education. In 1994-1995, this percentage actually declined to 1.65% and then increased to 2.02% in 2001-2002 (Ministry of Education, GOI).

As a proportion of government expenditure on all levels of education, elementary education accounts for around 50%, up from 46.3% in 1990-91. Elementary education is financed almost completely by the government – central, state and local and government funds account for 99% of all recurring expenditure in elementary education.

Net Enrolment Ratio Trend

As per Section 8(a) (i & ii) of the Act, it is the duty of the State Government to provide free elementary education; and ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years. The Net Enrolment Ratio (NER) for the country is tabulated below.

Year	Net Enrolment Ratio		
	Primary (Class I – V)	Upper Primary (Class VI & VII)	Secondary (Class VIII – X)
2012-13	96.09	73.78	47.92
2013-14	90.41	72.54	46.86
2014-15	87.41	72.48	48.46
2015-16	87.30	74.74	51.26

Above table indicates that NER for primary classes was in the decreasing trend during 2012-13 to 2015-16.

Attendance in classes

However, school attendance has been rising for both girls and boys at the elementary school level in both rural and urban areas. Fewer girls attend school in rural areas compared to their urban counterparts, and also compared to boys in rural areas. The proportion of girls attending schools, however, has increased from 59% to 70% between the years under comparison.

Table 2: Net Enrolment Ratio during 2012-16 (figures in per cent)¹⁰

Table 3: School Attendance, age 6-14 years during 2012-16 (figures in per cent)¹¹

¹⁰UDISE Data available at https://www.cag.gov.in/sites/default/files/audit_report_files/Chapter_3_-_Compliance_of_RTE_Act%2C_2009_of_Report_No.23_of_2017_%E2%80%933_Compliance_audit_Union_Government_Implementation_of_Right_of_Children_to_Free_and_Compulsory_Education_Act%2C_2009.pdf (last visited on 15/05/2018 at 2:41pm)

¹¹ ibid



(figures in per cent)¹²

	2012-13		2015-16	
	Female	Male	Female	Male
Rural	52	72	70	81
Urban	79	85	86	89
Total	59	75.5	74	83

Year	Primary		Upper Primary	
	Government	Private & Others	Government	Private & Others
2012-13	9.39	NA	11.81	NA
2013-14	4.86	4.39	19.60	5.45
2014-15	7.82	4.72	13.66	NA
2015-16	5.10	2.60	11.73	NA

While participation of girls in education has seen an increase over time at all levels of education, it continues to lag behind that of boys. The percentage of girls' enrolment to total enrolment at the primary school level between 1950-51 and 2000-2001 is provided. Even in 2001-2002, girls' enrolment remains below 50% of total enrolment at the primary school level. This is true of girls' enrolment at all levels of education, though they have been increasing at levels beyond the primary as well.

The above table indicates that the retention rate at Government management schools was poor in comparison to that in all management schools.

Dropouts

Analysis of UDISE data of dropout pertaining to a period of four years (2012-13 to 2015-16) is tabulated below:

Table 5: Dropout Rate during 2012-16 (figures in per cent)¹³

Poor retention rate in Government Management schools

As per Section 8(f) and 9(e) of the Act, the Appropriate Government/Local Authority shall ensure and monitor admission, attendance and completion of elementary education by every child. The retention rates at All Management.

Schools and Government Management Schools for the years 2014-15 and 2015-16 is given below:

Year	Government Retention Rate		Management Retention Rate	
	Primary	Upper Primary	Primary	Upper Primary
2015-16	84.21	70.70	77.59	52.00
2014-15	83.74	67.38	73.75	48.46

Table 4: Retention Ratio during 2014-16

¹² ibid

¹³ Id note 1



U-DISE data further revealed highest dropout rate for the year 2015-16 in respect of Government Management schools in the primary segment was in Assam where the dropout rate was 18.52 per cent and in upper primary segment in Maharashtra where the dropout rate was 35.34 per cent.

Pupil Teacher Ratio

Section 25 of Act states that within three years from the date of commencement of this Act, the appropriate government and the local authority shall ensure that the Pupil Teacher Ratio (PTR) as specified in the Schedule is maintained in each school.

As per Schedule (u/s 19 & 25/ Part-II) of Act, norms for pupil teacher ratio in primary as well as in upper primary schools was as follows:

Table 6: Norms for teachers under RTE

Class	No. of students	No. of teachers required
Primary (I to V)	Up to 60 student	Two teachers
	61-90 student	Three teachers
	91-120 student	Four teachers
	121- 200 student	Five teachers+ one Head teacher
	Above 200 student	Per 40 student one teacher plus Head teacher
Upper Primary (VI to VIII)	Per student	35 One teacher
		One full time Head teacher
		One teacher each for Science & Mathematics, Social Studies, and Language
		Part time instructor for Art Education, Health & Physical Education and Work Education

Reverse trend in teacher classroomratio

In terms of Section 19 and Schedule to the Act, in a school, there should be at least one classroom for every teacher and an office-cum-store-cum Head teacher’s room. Data under ‘School Report Card’ during the last four years revealed that number of schools having teachers in excess of classrooms has increased from 8,94,329 in 2012-13 to 9,58,820 in 2015-16 as depicted in the table below:

Table 7: Teacher Classroom Ratio

From the table, it is seen that 62.47 per cent

Year	Total number of Primary/ Upper Primary schools	No. of schools of having teachers in excess of classrooms in a school	Percentage (%)
2012-13	14,31,703	8,94,329	62.47
2013-14	14,48,712	10,17,496	70.23
2014-15	14,45,807	9,83,359	68.01
2015-16	14,49,078	9,58,820	66.17

schools in 2012-13 had to accommodate more than one teacher in a class and this increased to 66.17 per cent schools in 2015-16 which warranted addition of classrooms in existing schools to comply to the norms prescribed under the Act.

Schools having Electricity



Provisions under Section 8 and 9 of the Act stipulate that school buildings should be electrified. Analysis of ‘School Report Card’ data for the four years period is tabulated below:¹⁴

Table 8: Schools having Electricity

Sl. No.	Year	Total no. of Government Management Schools	No of schools having Electricity	Per cent of Govt. Management Schools having Electricity
1.	2012-13	10,62,147	5,36,431	50.50
2.	2013-14	10,89,892	5,35,910	49.17
3.	2014-15	10,78,021	5,87,653	54.51
4.	2015-16	10,75,036	6,23,152	57.97

Though the status of electrification has marginally improved, only 57.97 per cent of the Government Management Schools were electrified.

Quantity-wise there has been a large increase in the spread of education in India, especially at the primary school level. There is close to universal access to a primary school within one kilometer of the place of residence for most children. In terms of quality of education provided, the system

underperforms critically. In terms of learning outcomes, even the graduates of the primary school system lack basic functional literacy and numeracy skills. Weak teacher motivations, their apathy towards teaching and high teacher truancy plague the educational system.

Conclusion

Article 21A inserted through the 86th Constitutional Amendment Act 2002, has limited the fundamental right to education for children between six to fourteen years only. It has not recognized the importance of the Jomtien Conference 1990¹⁵ which acknowledges the expansion of early childhood care and development activities as an integral part of the objective of Education for All.¹⁶

Globally recognition exists that the early years are the most critical years for lifelong development. This recognition comes from various quarters including evidence from brain research that neurological and biological pathway that affects health, learning, and behavior throughout life are set in the early years.

Dreze and Sen (2002) note that there may have actually been an increase in educational inequality in recent years, especially if we take the quality of education

¹⁴ Id note 1

¹⁵ The Conference was held in Jomtien, Thailand, 5-9 March, 1990. Delegates from 155 countries, as well as representatives from some 150 organizations agreed at the World Conference on Education for All, to universalize primary education and massively reduce illiteracy before the end of the decade.

¹⁶ Reenu Singh: The Wrongs in the Right to Education Bill, The Times of India, 6th July, 2009



into account, due to expansion of private schools which is accessible only to children from privileged backgrounds and decline in the quality of schooling provided by the public school system.

Various researches have revealed that neglect during the early years can often result in irreversible reduction in the full development of the brains potential. In short research all over the world have recognized early childhood care and development programming especially in the context of deprivation leading to improvement in child health, cognitive ability and performance at school.

The Right to Education Act commits this major error of depriving its young sixteen core population, the right to nutrition, health and early childhood education. The Child Right Convention 1989 to which India is a signatory, will be violated by not including the children between the ages of three to six years in the Act. The Act is also fuhering gender discrimination, since it is always the girl who is left to take care of the younger siblings, thus it is she who is deprived of right to education.

The provision of the Act which provides that the children with severe or profound disability, who can't be provided elementary education in a neighborhood school, shall have the right to education in an appropriate alternative environment as may be prescribed, is also against the principles of inclusion and does not put the onus on the education system to meet individual need of children.

The Act is also silent on the need to enable

children with disability to attend school. In the Act, disability has the same meaning as assigned by the Person With Disability Act, 1996, which does not include such other disabilities, as defined by National Trust Act, 1999 such as autism and cerebral palsy. Though the provisions of the Act prohibit any person from preventing a child from participating in elementary education, but it does not take into consideration the issue of child labour. The Act refers to Child Labor (Prohibition and Regulation) Act, 1986 and emphasizes that no person shall employ or otherwise engage a child in a manner that render her a working child. The Act also ignores that a large number of children are employed in agriculture and domestic work and look after siblings.

The other shortcomings of the Right to Education Act includes that the Act does not promote a common school system and legitimizes inequality through multi layered system. In Chapter II Section 6 reads as, it will be the responsibility of the State to provide free and compulsory education in a neighborhood school within a period of three years from the commencement of the Act.

The Act also continues to propagate discrimination against Government school children as their teachers are deployed for census, elections and disaster relief duties.¹⁷ This is a complete abrogation of children particularly in times of disaster, when they are in urgent need of normalization. Moreover, the shutting down of schools during emergencies and disaster is a strong co relate to trafficking and missing children.

¹⁷ Section 24 (f) of the Right to Education Act, 2012



The standard of primary education has a direct relationship with the development of a nation and the quality of life of its citizens. The Annual Status of Education Report (ASER) has shown that though schooling is available for each and every child of this nation, but education or quality education is still a dream for many. There have been various changes but still quality aspect of education is still in a pathetic situation. Thus from the above facts and data, it is quite clear that this act, which has the potential to bring a revolutionary change in the field of education, is not implemented in a proper manner. It is only enrollment number which is showing growth but quality of education is still on the down side.

Therefore, in the concluding remarks it is wished to state that passing an act is not sufficient. The need of hour is to implement and monitor the act properly. The consistent monitoring and intention of the political will is a must to make it successful. According to the UNESCO's Education for All Global Monitoring Report 2010, about 135 countries has constitutional provisions for free and non-discriminatory education for all. The much awaited Right to Education (RTE) Act which has been passed by the parliament of India should play an important role in achieving universal elementary education in India. The success and failure of RTE would largely depend on consistent political attention. Budgetary allocation of funds should be sufficient in this respect. The youth and civil society in India should come forward and spread the usefulness of education to illiterate parents who are unable to appreciate the relevance of education in curbing the social evils. Social inequalities and monopolization by any group should not

be permitted at any cost. Education which is free of cost up to a certain age must be accessible to all. The right to education is a fundamental right and UNESCO aims at education for all by 2015. India along with other countries of the world should also put sincere efforts to make this goal a real success.

The quantity and quality of education provided should be such that all children of school going age must be in school, remain in school till they complete the school cycle and when they leave school have mastered the three R's firmly. While the quantity of education has increased substantially in India, the state of the quality of education provided and hence the quality of literacy in the 'literate' population is worrisomely low. India cannot allow itself complacency in the field of education due to better numbers alone. Average statistics hide the unevenness of achievements; moreover higher achievements quantitatively by no means imply adequacy of quality. In fact, quality of education in India is the most problematic aspect of its education system today.
