

Right to Education: A fundamental Rift in the Act

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Abstract

The study aimed to explore the constitutional patterns under article 21 (A). The Indian parliament projected the “right to education act” for the children to access compulsory free education which came into effect in 2009. The study also focuses on researching that till what extent the act has been successful in the nationwide spectre, and also at the role of the centre and state government in implication of this act at its best and to verify whether it has been working properly or not. This study is very substantial as it delivers a perception into the status of enactment of RTE in different states, including the both developed state and under developed state and within it city and village, responsiveness and comprehension of the requirements of RTE between the teachers and the guardian of the students pursuing their studies on different schools in and around the study area. The study was carried out in the light of objectives like to understand the comprehensiveness of RTE act with regard to its smooth implementation, to explore the enactment of right to education act in various states in India, comparison and contrast in the implementation of RTE in different regions in the country, to assess whether inclusiveness is (not) achieved through the RTE act and to have a comparative analysis of the impact of RTE act in rural and urban areas. Conclusion of the study highlights that inclusiveness of RTE is yet to be achieved even though the act had been almost working at appropriate way in maximum of the place in the nations, but still there are significant number of villages and places where no proper school exists. Variation could be seen at all the places, some states are performing well alongside the enactment of this act, where some states lag behind, numerous reasons are there e.g. poverty, lack of awareness etc. Urban areas are well equipped with this act, and follow all the rules in almost every state meanwhile the condition in rural areas was poor at beginning but with the passing years, there has been a major development of schools and better health facilities for the children residing in rural areas.

Key Words: *Right to Education*

Introduction

After the independence of India in 1947, the struggle for development was craving widely, problems like poverty, food shortage, illiteracy was at the highest level. According to the Indian constitution 1950, within the policy of the state, it described that all state should endeavour to give free education to the children till the attainment of age fourteen. During this period of stage the literacy percentage in India was only 16 %. The primary responsibility of the government was to improve literacy rate and elementary education. With the coming following years, it was apparent that because of the extreme diversified social and economic environments and restraint capitals, educating the citizens of the nation became difficult. By the year 1976 education agenda was a joint responsibility of both centre and state i.e. a concurrent subject i.e. besides economic and political deprivations the nation was facing number of social problems. Inequalities were prevailing and the weak sections of the society such as women, Dalit's; children were deprived of basic means of living. The framers of constitution were much aware of this problem, that's why they decided that India would be a welfare state. India adopted the policy of sovereign, socialist, secular, democratic and republic, where in constitution the provision was made to ensure economic welfare as well as social and political harmony in India. The journey of implementing the RTE Act in India was raised early on during the freedom struggle. The Eighty Sixth Amendment Act was successfully passed and Article 21A which guided state to achieve full education to every child belonging to the age of six to fourteen. It was enshrined under the Fundamental Rights. Finally, the Right of education act 2009 for children specially belonging to deprived section was introduced. On 1st of April, 2010, this act finally came into effect.

What is right to education act? it is a parliamentary law enacted on 4th august 2009, under which children between the age of six to fourteen are provided education with free of cost, where the expenditure is all done by the government which includes tuition fee, uniform fee, midday meal etc. There is provision that no child will be failed till the completion of elementary education. A peculiar question arises that why it was adopted? The RTE act was mainly adopted to upgrade the educational level of children who belong to backward class, and the children who do not have the basic facilities like shelter, food etc. This act was imposed both on public and private schools so that there exists no discrimination. Its history goes on like, this act majorly came in to effect after the 2002 constitutional amendment which proposed the education as basic fundamental rights for the children under the article 21A. A rough draft for this act was composed on the 2005, but it was opposed as there was 25 % of seat reservation for the deprived children in private

schools but finally the bill was accepted and the presidential assent was done and it was converted into a law on 29 August 2009.

Education results in empowerment and individual freedom, which makes an individual self-reliable and gives boost to the societal development. A well-civilised society is built on these foundations, enhancing economic condition, social wealth all over and a stable political nation. The importance of education, is hence been viewed as a fundamental right for all the children till they get higher degree in their particular discipline, across the globe. Therefore, all individuals are entitled to get educated especially the quality based education.

Challenges Faced in Right to Education Act

According to the 2001 literacy census, roughly 35% of the uneducated population in the world is in India and it has been assumed that our nation may attain as most uneducated nation in the world till 2027. Even after all the efforts done by the government of India to preserve this act, still numerous challenges in attaining the ultimate universalization of good primary education in the nation.

RTE Act and Finance

The major challenges towards the full achievement is to form of new schools and elevation of school infrastructure which would require substantial spending, in a given time period on the foundation of the instructed time lines. In terms of decreasing expenditure, the estimated expenditure for the enactment of RTE act consists of these elements:-

1. Delay in getting funds from GOI.
2. Children's entitlements – when the students perform meritorious in the examinations there is always many opportunities to uplift the status of students through various scholarships and awards which can only be done through massive finance expenditure for all the states, by both the central and the state government.
3. School facilities – It is one of the most eminent components to fill the gap between the RTE act and the children, without the existence of good infrastructure facilities students would be deprived and demoralised because a quality education can only be given if there is good facilities in school examples like proper sanitation, drinking, good campus etc.
4. Special education for disabled children – The budget for the education should be sufficient enough to provide all the good qualities an institution, which includes education for the disabled people who could not exactly do the education pattern of

nation, and hence a special focus is done to disabled people through various governmental programs.

5. Management costs and development of teachers - Institution does not run through simply few teachers, it requires faculties, the workers in campus the administrators etc., this could be smoothly done only if there is a good amount of expenditure on the management of the institutions.

Lack of Infrastructure

Even though significantly, there has been development in infrastructure in a decent improving way over the years, still there exists substantial hole that requires to be executed as per the rules of the act. The structures of schools must be comprised of (a) every classroom should have one teacher with one head assistant teacher (b) toilet for both boys and girls separately (c) safe drinking water facilities (d) a proper kitchen for everyday meal for students (e) well maintained school ground for the children (f) a proper arrangements of boundary walls to avoid unnecessary trespassing.

Lack of Trained Teachers

The RTE act assigns a huge significance to the teachers role, which helps in refining basic education by making professionally well qualified teachers for the school. There is a lack of quality teachers in primary school, who lack the essential amount of ability for the teaching job.

Teacher Absenteeism

According to UNESCO the number of average teacher absents worldwide is about twenty per cent, India has managed to be accounted as the highest teacher absenteeism in the world at twenty five per cent. The rural areas are the most problem faced with the absenteeism. This process regarding teachers non-attending the class impacts badly the whole value of education and obligation of funds, as some teachers don't bother to come regular and makes no good relation with the students.

Gender disparity

From the very long time it has been seen that female students always have a difficulty in enrolment for elementary education because the girls have always been considered as the domestic workers by the male dominated society particularly in the village areas, this is resulting in the cause of less enrolment's and high dropouts in the case of girls. Even after all these disparities the condition of the girl child has developed significantly over the coming years, but still there are some sections of the male dominated society where

people are not giving importance to the girl child's education and still the worst problem prevails.

Discrimination and Disparity Based on Caste and Class

In maximum part of India specially the north Indian states, the caste and class prevails in enormous amount and under which the people belonging to SC/ST tribes have been traditionally deprived in all sphere of society i.e. economically, socially and educationally, which has caused the less enrolment of the SC/ST tribe people in the schools and other societal works.

Rural-Urban Disparity

Difference between the literacy rate of rural and urban areas in the nation in relations to approachability with obtainability of primary learning still exists.

Rationale and Scope of the Study

The study aimed to explore the constitutional patterns under article 21 (A). The Indian parliament projected the "right to education act" for the children to access compulsory free education which came into effect in 2009, with doctrine over regulation and even restriction for running of schools. Under the afore-mentioned act, as illustrated in article 21(A), the government schools to give education for free and also compulsory and even compels privatised schools to do the same in respect for the children who belong to the underprivileged class. The study also focuses on researching that till what extent the act has been successful in the nationwide spectre, and also at the role of the centre and state government in implication of this act at its best and to verify whether it has been working properly or not. This study is very substantial as it delivers a perception into the status of enactment of RTE in different states, including the both developed state and under developed state and within it city and village, responsiveness and comprehension of the requirements of RTE between the teachers and the guardian of the students pursuing their studies on different schools in and around the study area. Experiences elevated at the study would help all the participants to get aware of their rights, to play an active role in the enactment of this right and establish this act more excellently also productively to attain healthier version of learning for the students, specially the poor people who would get a chance to achieve their goals, the higher aims of the research is to make people aware of their rights and to understand that RTE Act is influential and it has not become corrupted where the norms have to be little reformed every once in a while in accordance with the comfort zone of the people who belong to poor class and possibly could not afford the basic amenities of life.

Objectives of the Study

1. To understand the comprehensiveness of RTE act with regard to its smooth implementation.
2. To explore the enactment of right to education act in various states in India.
3. To compare and contrast the implementation of RTE in different regions in the country.
4. To study how inclusiveness is (not) achieved through the RTE act.
5. To have a comparative analysis of the impact of RTE act in rural and urban areas.

Research Questions

1. Is the RTE act truly inclusive and comprehensive?
2. Are there any marked differences in the implementation of RTE act across the states in India?
3. Can some regions in India learn important lessons from the other regions crucial insides on the establishment of RTE act?
4. Does RTE act actually help to enhance inclusion, especially of children from poor and marginalised backgrounds?
5. Are there any marked differences in the enactment of RTE act in rural and urban areas?

Research Outline

On the journey of this research study, the researcher came across findings based on her research methodology to which it gave a proper channel and ways to a focal point to discover and find out the area of the study regarding the RTE act, the primary source and which the researcher felt appropriate was based on *Secondary data Collection*. It is based on quantitative methodology where the researcher's sources are derived based on different literatures and articles from the internet and books as well as publications and some of which are based on primary source which he has gathered during the time-frame of his study. The information which was found on the basis of the variables is used as the basic information for the empirical part

Results and Discussion

1. Is the RTE act truly inclusive and comprehensive?

After a rigorous work the main outcome of the research is that the rte act is deliberately being disrupted at a very central level. The main plan of the act was to deliver necessary education to the children, in the nation with no judgment whatsoever. But still, the parents are spending 300 rupees every month over every child to stand their children's basic

necessities in school. This is mainly towards the expense like purchasing stationery items, uniform, school shoes, socks etc. The story of the uniform could be elaborated as to see on the expenditure. The Children are given a piece of cloth set for the uniform, the tailoring cost of which has to be bear by the parents. Plus the Parents have indicated this piece of cloth set to be of very poor quality, where it can be seen as only single piece of cloth won't be enough for the children hence, they end up buying more sets of uniform along with shoes, socks and a belt.

This impact or the result certainly challenges the concept of the education which is termed to be “free”, and moreover it puts a question on the idea of “no discrimination”. This circumstances and prevailing situation largely affects the people who belong to poor class who are considered under SC/ST or other backward classes because they are genuinely unable to provide these rapid needs to their kids because the poor family does not have a good source of income. Section 3 of the Right to education act, mentions that no child should be responsible for any type of fee charges which could stop them from following and finishing the primary education.

It is unfortunate but regrettably, the problems related to the agenda of free education don't end here some problems regarding the functioning of the act are mentioned below-

- (1) Even though there is a grant for the development of the infrastructure in the school according to the act but still school lacks the basic furniture such as desks and benches. Thus the result is that the poor parents had to buy these needs through indirect process such as paying fees and other miscellaneous expenditure
- (2) One of the big major issues that impact the condition of good education in the schools is extreme lack training facilities for the teachers. The law says that, “central government should develop and enforce standards by providing trained facilities for teachers so that the good quality of education is ensured prescribed under section 29 of the rte act”. But in reality, these rules are not being followed in a full extent, with the result like the feedbacks from the parents who complain about the teachers lacking expertise and also seriousness about the work.
- (3) Teachers are showing a very weak response in work including the absenteeism, and are in no mood to work professionally by building a good relation with students by different ways of creativity, innovation, problem solving and critical thinking. Apart from being irregular they take the classes very casually like attending and making a phone call during the class which is not good for the students.

- (4) The exact way of proper learning atmosphere is been missing in many of the schools all around the nation, when the constitution talks about the education it is not only the learning of bookish knowledge inside the classroom.
- (5) Another big problem facing by the schools are the lack of good sanitation. There is lack of drinking water facility, as there is no filtration from the bore wells, in contrast to the requirement of the proper sanitation. Due to this problem the mid-day meal which is prepared by using this unfiltered water makes the students nauseas and has been prove in many places about food poisoning. Children even tells that the water contains worms, this brings the questions about the safety of the children health, the toilets are unusable due non-availability of water, broken taps or lack of door in the cubicle.
- (6) Maximum number of schools is facing the poor infrastructure situation, the buildings which have seepages, broken walls, damaged roofs, majority of schools lack a boundary wall and a playground.

2. Are there any marked differences in the enactment of RTE act across the states in India?

The enactment of rte act, throughout the nation made it obligatory in significant development of various states literacy rate and the poor states also started making substantial up growth in education attainment. In this study researcher would like to focus on the substantial growth of the states before the implementation of the RTE Act, and post results. The following given table below shows that which state has generated maximum profit of RTE, and which state has lagging behind, the states which performed well in the census and the others who have still a long way to improvise.

Table 1.1 Position of states and union territories by literacy rate: 2001 and 2011

State/ UT code	India/state/UT	Literacy Rate		positions		Difference in Literacy
		2001	2011	2001	2011	
1	2	3	4	5	6	7
	INDIA	64.83	74.04	-	-	9.21
01	Jammu and Kashmir	55.52	68.74	32	30	13.22
02	Himachal Pradesh	76.48	83.78	11	11	7.30
03	Punjab	69.65	76.68	15	21	7.03
04	Chandigarh (UT)	81.94	86.43	5	8	4.49

05	Uttarakhand	71.62	79.63	14	17	8.01
06	Haryana	97.91	76.64	19	22	8.73
07	NCT of Delhi (UT)	81.67	86.34	6	9	4.67
08	Rajasthan	60.41	67.06	29	33	6.65
09	Uttar Pradesh	56.27	69.72	31	29	13.45
10	Bihar	47.00	62.82	35	35	16.82
11	Sikkim	68.81	82.20	17	13	13.39
12	Arunachal Pradesh	54.34	66.95	33	34	12.61
13	Nagaland	66.59	80.11	20	15	13.52
14	Manipur	69.93	79.85	22	16	9.92
15	Mizoram	88.80	91.58	2	3	2.78
16	Tripura	73.19	87.75	13	4	14.56
17	Meghalaya	62.56	75.48	27	24	12.92
18	Assam	63.25	73.18	25	26	9.93
19	West Bengal	68.64	77.08	18	20	8.44
20	Jharkhand	53.56	67.63	34	32	14.07
21	Orissa	63.08	73.45	26	25	10.37
22	Chattisgarh	64.66	71.04	23	27	6.38
23	Madhya Pradesh	63.74	70.63	24	28	6.89
24	Gujarat	69.14	79.31	16	18	10.17
25	Daman and Diu (UT)	78.18	87.07	9	6	8.89
26	Dadra and Nagar Haveli (UT)	57.63	77.65	30	19	20.02
27	Maharashtra	76.88	82.91	10	12	6.03
28	Andhra Pradesh	66.64	75.60	21	23	8.96
29	Karnataka	60.47	67.66	28	31	7.19
30	Goa	82.01	87.40	4	5	5.39
31	Lakhshadweep(UT)	86.66	92.28	3	2	5.62
32	Kerala	90.86	93.91	1	1	3.05
33	Tamil Nadu	73.45	80.33	12	14	6.88
34	Pondicherry (UT)	81.24	86.55	8	7	5.31
35	Andaman and Nicobar Island's	81.30	86.27	7	10	4.97

(Sources "state of literacy" provisional population totals- India, 2011)

From the above given table the effective literacy rate can be observed along with variation decade wise. *Tripura, Lakshadweep, Kerala, and Mizoram* are the unfailing states for both census 2001 and 2011. *Dadra and Nagar Haveli, Nagaland, Tripura, Manipur* have shown constant development in position by more than 5 points in the year 2011. From the union territories the *Dadra and Nagar Haveli* has shown most significant development from rank 30 to 19 rank by 11 points. Out of all these states, *Punjab* degraded the most from 15th to 21st rank, decreased by 6 points. Out of all the states *Punjab, Rajasthan, Chattisgarh, Madhya Pradesh and Sikkim* has shown decreased in the literacy rate. Hence, before the enactment of the RTE act, the overall education scenario of the nation was not at the level of good rather it was on the edge of average category. After the implementation of the act, undoubtedly there has been a major difference, but as India is a diverse land with more than enough culture and people with different ethnicity, the development in education varies in different states. Each and every state has implemented the RTE Act, but some states like *Kerala, Mizoram* has shown a good report of substantial growth, which leads to the question as to “why these states are performing better than the rest of the states?”. There might be several reasons to it but some of the main reasons could be seen as in the case of Kerala, in the year 2006–2007, it topped the education development index (EDI) out of different big states in India.

3. Can some regions in India learn important lessons from the other regions crucial insides on the establishment of RTE act?

Out of all four regions i.e. East, West, North and South, the researcher decided to take south and north east region as an example to show the eminence in the implementation of RTE Act, and how much it has been successful. *The Indian Express Kerala*, states, that right after the enactment of the act, the government passed a resolution for weaker section of society to reserve 25 % seats and also for disable students. The government has produced 5,300 seats for the poor children, it stared back from the towns and cities and now finally it has reached to the rural areas of Kerala, this has helped the disadvantaged children in a big picture. The researcher has taken first example from south region i.e the state Kerala as it has the highest literacy rate in all over India, the deep rooted reasons behind the successful achievement of literacy rate so high in Kerala is because of some of the main points. From the early period like any other state in India, Kerala was also facing the socio-economic segregation during the 19th century. The temples were available only to the upper castes. The Dalit's were seen as unworthy of learning and was a dominant strategy of the upper-castes to establish superiority over them. The transformation in the education scenario

came about as a part of a social revolution, which moved towards equal treatment of the lower castes. This social reform movement was a result of the actions of thinkers like *SreeNarayana Guru*, *ChattambiSwamikal*. They comprehended that quality education in its true sense can only be achieved if education was made exposed to all. This resulted in the formation of NSS (Nair Service Society) Schools and *SreeNarayana* schools which are still playing strong existence in the current education scenario of Kerala. Where the educations for children are free and special care is being taken.

The introduction of Christian missionaries in the dawn of the 20th century is another big reason that influenced the education sector in Kerala. The coming of Christian missionaries made the possibility for the people of Kerala to learn western education, mainly English which played a big role as the concepts like 'equality' was focussed courteously. Another big factor which played a great influenced in Kerala was the status of woman in the region during the pre-colonial time. Contrary to other areas of the country which faced a patriarchal society, education was made available to women also. In short, the reason for the high literacy rate in Kerala is an outcome of the continuous struggles taken by pioneers, social reformers, kings, rulers, elected governments working in the direction of educational revolution.

While taking the example of north east part of India, *Mizoram* has been very successful in attaining the highest literacy rate in North east, and hence been successful in improvising the RTE act, with literacy rate of 91.58 % the state. The main reasons of successful attainment of RTE Act in *Mizoram* can be seen in a lucid way. As language used in *Mizoram* is 100 % English and other than that they have their own dialect, of which there is no existence of any written script so the whole population speaks English language frequent times. Other factor is the religion where 100 % of the people are Christians which tells the influence of western education side. The arrival of Christian missionaries in early times has helped them upgrading their society in a western and developed way. Third factor includes the population factor, which also influences the literacy rate of the state. Comparing to other northern states *Mizoram* has less population and where there is less population there is better chance of development as the people and also children are learning more while having a good space society.

4. Does RTE act actually help to enhance inclusion, especially of children from poor and marginalised backgrounds?

19 % of the children population of the world resides under our nation India, which tells that largest number of youngsters in world is living in India, which is actually

supportive, as compared to country like China where the number of ageing population is more. The bad news is that one-third uneducated population of the world also comes under India. Even though the literacy level has increased in all these following years but the rate of increasing of literacy level has been slowing down rapidly. To handle this problem, the right to education act was planned by the government of India, by which learning was made a central right for every child belonging to the age of six to fourteen.

The following table shown below is the total number of schools and higher institution exists according to the department of education India (2014).

Table 1.2 Number of Institutions Established Till 2014

School Education		Higher Education	
Type	Number	Type	Number
Primary	790640	Total colleges	36671
Upper primary	401079	Total universities	712
Secondary	131287	Total stand Alone institution	11445
Senior secondary	102558		
Total	1425564		

(sources: for higher education: AISHE portal (www.aishe.gov.in))

Above mentioned table tells the exact figure of the institutions exist in India, under the colleges there exists all government and private colleges which are UGC granted. Under the university figure there exists of numerous universities like central university(42), state public university(310), deemed university(127), state private university(143), central open university(1), state open university(13), institutions of national importance(68), institutions under state legislature act(5) and left others(3) And under the stand alone institutions there exist institutions like diploma level technical(3541), PGDM(392), diploma level nursing(2674), diploma level teacher training(4706) and institutions under ministries- (132). The following table in below shows us the data of total enrolment of students in year between 2009 and 2013.

The development in all educational spheres is being done including the main part which are, establishing the number of schools in the rural area, providing a good infrastructure facility, safe environment, active participation of the local authorities, enrolment of student as per the norms etc. these development source tells us that RTE Act has been successful in up lifting the poor and marginalised background people. As this is a golden opportunity for all people mainly the poor ones who are craving for a good education

but they are unable to fulfil their dreams because of financial crisis. Hence, RTE Act has given a platform for the poor and marginalised people to overcome their difficulties through education, but still, even though success has been there, still the implementation has not been totally functioning from under the roots in some rural areas, which has been a major challenge for the RTE Act to tackle.

5. Are there any marked differences in the implementation of RTE act in rural and urban areas?

The given table below shows the data of rural and urban literacy rate.

Table 1.3: Change in rural-urban literacy rate before and after the RTE Act

Year	Rural			Urban			Combined		
	Female	Male	Total	Female	Male	Total	Female	Male	Total
1951	4.87	19.02	12.1	22.33	45.6	34.59	8.86	27.15	18.32
1961	10.1	34.3	22.5	40.5	66	54.4	15.35	40.4	28.31
1971	15.5	48.6	27.9	48.8	69.8	60.2	21.97	45.96	34.45
1981	21.7	49.6	36	56.3	76.7	67.2	29.76	56.38	43.57
1991	30.17	56.96	36	64.05	81.09	67.2	39.29	64.13	52.21
2001	46.7	71.4	59.4	73.2	86.7	80.3	53.67	75.26	64.83
2011	58.75	78.57	67.8	79.92	89.67	84.1	65.46	82.14	74.04
% Increase in 2011 over 2001	26 %	10 %	14 %	9 %	3 %	5 %	22 %	9 %	14 %

(sources : census of India, office at registrar general, India, 2011)

From above table the major positive differences can be seen, before the enactment of the RTE act, the performance of female in the education scenario was so poor in rural areas comparing to urban and in both rural and urban area there is a less percentage of female students comparing to the male students, after the enactment of the rte act the rise in the number of female students have become better with the total of female students as 22 % and while taking the whole population as 14 %. The above differences came into being because of different important government schemes like National Literacy Mission (NLM), Sarva ShikshaAbhiyaan launched in the year 2001 to safeguard that by the time period of 2010 every child between the age of six to fourteen, should attend school and finish the eight years of schooling.

Conclusions

- Inclusiveness of RTE is yet to be achieved even though the act had been almost working at appropriate way in maximum of the place in the nations, but still there are significant number of villages and places where no proper school exists.
- Variation could be seen at all the places, some states are performing well alongside the enactment of this act, where some states lag behind, numerous reasons are there e.g. poverty, lack of awareness etc.
- There could be a significant improvement if the poor states and local areas start applying the proper method to keep in touch with the educational knowledge and aware themselves about the RTE act, as it is very influential for every citizen of the nation.
- Urban areas are well equipped with this act, and follow all the rules in almost every state meanwhile the condition in rural areas was poor at beginning but with the passing years, there has been a major development of schools and better health facilities for the children residing in rural areas.

The whole thesis could be summarised as the RTE act 2009 has been implemented in the nation which focuses on the development of the education of the children and also helping the families to ease the burden of expenditures for the children till the completion of elementary education.

It has brought changes in the education system of nation, and also helped reviving conditions of the poor who cannot afford the basic amenities in society. However, the policy has not been working in full discipline way and there are still places where the education is not free and people tend to take money from the parents for the education of the children studying in elementary classes, people in the Indian society have made so much hope, that one day their dream of getting quality education, irrespective of their class, colour etc. will come true.

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