

An Investigation of 10 years of the Right to Education Act: A Critical Analysis

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ABSTRACT

After much dithering for almost seven years subsequent to the 86th amendment to the constitution, the Right of Children to Free and Compulsory Education Act 2009 received presidential assent on August 26, 2009 and came into force from April 01, 2010, taking forward the agenda of free and universal elementary education. The Act is detailed and comprehensive piece of legislation which includes provisions related to schools, teachers, curriculum, evaluation, access and specific division of duties and responsibilities of different stakeholders. The objective of the study is to find out the dismal condition of the elementary education even after passing of ten years of the enactment of the Act. This study is done through doctrinal method of research. This would include journals, articles, reports and resources available in the library.

Key Words: RTE Act, dismal condition, doctrinal method.

INTRODUCTION

The Right to Education Act, 2009 ensures free and compulsory elementary education for 06-14 age group children. This is a detailed and comprehensive piece of legislation which includes provisions related to schools, curriculum, evaluation, access and specific provisions of duties and responsibilities of different stakeholders. It provisions that children have a right to free and compulsory education till the completion of elementary education in a neighbourhood school. It makes it clear that compulsory education means obligation of the appropriate government to provide free elementary education and ensure compulsory education, attendance and completion of elementary education to every child in the six to fourteen age group. It has a provision for a non-admitted child to be admitted to an age appropriate class. It says that no admitted child shall be held back, expelled or required to pass a board examination until completion of elementary education. It prohibits physical punishment and mental harassment of the children. In accordance with the provisions of the RTE Act, 2009, there will be no physical punishment and mental harassment, screening procedures for admission, capitation fees, private tuition by teachers and running of schools without recognition.

The RTE Act, 2009 specifies the duties and responsibilities of appropriate governments, local authority and parents in providing free and compulsory education and sharing of financial and other responsibilities between the central and state governments. It lays down the norms and standards relating to infrastructure, teaching standards, student-teacher ratio and formation of school management committee among others. It focuses on quality aspects of education and school curriculums to focus on the all round development of the child; building up a child's knowledge, ability and talent; learning through activities, discovery and exploration in a child friendly and child-centred manner. It provides for monitoring the rights of the children under the act by the National Commission for protection of Child Rights or the concerned state Commission.

The clauses of the Act have far reaching implications on the way the schools are being established for elementary education. Though the provisions of the Act seem to be altruistic in their aim in creating an inclusive elementary education system, its implementation in the last more than ten years shows its implementing ability at the ground level very much doubtful.

The present scenario of elementary education says that not much has been changed even after passing of the RTE Act for more than ten years.

Objective of the Study: The objective of this study is to find out the reasons behind the poor implementation of the RTE Act even after ten years of its enforcement and to find out the ways for its implementation.

METHODOLOGY

Doctrinal method of research has been adopted. This method includes books, journals, articles, newspaper reports, electronic resources available in the libraries.

Discussion and findings:

Successive governments in India have recognized education as a top priority for development. However, the pattern of allocation of resources to education in general and elementary education, in particular, is far from satisfactory. Even after ten years of the enactment of the Right of Children to free and Compulsory Education Act (RTE), the government has failed to fulfill the RTE mandated physical, financial and human resources requirements which in turn have adversely impacted the overall learning outcomes of the children.

If we look at the proposed and allocated budget expenditure for 2018-19 on key schemes of school education, allocation of budget was obviously less than proposed one. It has been obviously shown in Table-1:

Table-1: 2018-19(INR Crores)

Scheme	Proposed	Allocation	Shortage	% shortage
Sarva Shiksha Abhiyan	37048	26128.81	10919.19	29.5%
Mid-day Meals	12147	10500	1647	13.6%
Rashtriya Madhyamik Shiksha Abhiyan	4213	4213	0	0.0%
Strengthening of Teacher Education Institutions	685.14	550	135.14	19.7%
School Assessment Programme	5	0.7	4.3	86.0%
National Means-cum-Merit Scholarship Scheme	331	299.7	31.3	9.5%
National Scheme for Incentive to Girl Child for Secondary Education	510.9	255.9	255	49.9

Source: 305th Report, Department Related Parliamentary Standing committee on Ministry of Human Resource Development.

The centrally sponsored scheme of SSA is the designated vehicle for implementation of the RTE Act, 2009 states that both the centre and state shall have concurrent responsibility for providing funds for carrying out the provisions of the Act. The estimates of expenditure of states and union territories concerning section(7) of the RTE Act are made through the Annual Work plan and Budget prepared by the Project Approval Board(PAB) as per the programmatic and financial norms of the scheme, which includes the share of both the centre and state. Section 7(3) of the RTE Act states that the central government shall provide to the state government, as grants-in-aid of revenues, such percentage of expenditure as it may determine, while section 7(5) states that the state government shall, taking into consideration the sums provided by the central government to a state government, be responsible for providing funds for the implementation of the provisions of the Act.

In Table 1, the break-up of the proposed and allocated budget expenditure for 2018-19 clearly shows the shortage of budgetary allocations scheme-wise which are detrimental to the fulfillment of the RTE indicators.

Similarly, the release made by the government of India for SSA against the approved centre share by PAB of SSA shows a worrying trend also. There is a significant mismatch between funds requested by the PAB of SSA for implementation of SSA and funds allocated to MHRD for SSA. In the financial year 2016-17, PAB of SSA estimated a resource requirement of INR 46702 crore for SSA. However, it received only INR 21657 crore, equivalent to 46.4 per cent of its demand. Similarly, in FY 2017-18 the funds requested by PAB of SSA was at INR 55000 crore, the government of India SSA budget for the year was INR 23500 crore. The analysis of the funds

released by the union government in the last some years shows that the total financial outlay demanded by PAB of SSA has never been met in any year so far.

The mandated share to be released by the central government has not been fulfilled by the government of India and the release made by the central government as the percentage of the PAB approval central share has been reduced from 79.7 per cent in 2013-14 to just 42.7 per cent in 2017-18.

The RTE mandates the state governments to maintain an optimum infrastructure and human resource requirements for SSA as SSA is the primary vehicle for implementing the RTE Act. To ensure quality education maintaining specified Pupil-Teacher Ratio (PTR) is required. The RTE 2009 in its schedule lays down PTR for the primary level at 30:1 and for the upper primary level at 35:1. According to the DISE Report on Elementary Education published recently, only 26.3% of government schools have PTR more than 30 at primary level and around 14% of the schools have PTR more than 35 at upper primary level. There is a shortage of more than nine lakh teachers in India at the elementary level, out of which around 46.3 per cent (417057) are vacant under the mandate of SSA. At state level 30.2% teachers' position in Bihar and 44.5 per cent in Jharkhand respectively are vacant.

Here is a statement which shows details of state/UT-wise percentage of all elementary schools/sections RTE compliant in terms of meeting the infrastructural norms:

Table-2:

Sl. No.	State/UT	Percentage of all elementary schools/sections RTE compliant in terms of meeting the infrastructural norms(norms included additional classrooms, boys toilets, girls toilets, drinking water, ramp, playground and boundary wall) (In %)
1	Andaman and Nicobar Islands	25.9
2	Andhra Pradesh	10.7
3	Arunachal Pradesh	5.7
4	Assam	11.5
5	Bihar	11.1
6	Chandigarh	41.8
7	Chhattisgarh	25.2
8	Dadar and Nagar Haveli	25.3
9	Daman and Diu	28.8
10	Delhi	57.7
11	Goa	17.4
12	Gujarat	47.5
13	Haryana	43.1
14	Himachal Pradesh	30.9
15	Jammu and Kashmir	9.1
16	Jharkhand	10.5
17	Karnataka	23.6
18	Kerala	40.9
19	Ladakh	10.9
20	Lakshadweep	12.2
21	Madhya Pradesh	21.7
22	Maharashtra	43.3
23	Manipur	5.5
24	Meghalaya	1.3
25	Mizoram	20.1
26	Nagaland	5.8
27	Odisha	19.2
28	Pondicherry	36.1
29	Punjab	63.6
30	Rajasthan	24.8
31	Sikkim	3.7
32	Tamil Nadu	49.1
33	Telangana	32.0
34	Tripura	3.7

35	Uttar Pradesh	27.7
36	Uttarakhand	24.9
37	West Bengal	11.1
	INDIA	25.5

Source: UDISE 2019-20(Referred to in reply to part (a) of Lok Sabha unstarred question No. 2186 for reply on 02/08/2021 regarding compliance of RTE guidelines asked by the hon'ble MP Dr Mohammad Javed).

If we look at the infrastructure compliance under RTE, it is mandated that at least one classroom for every teacher and an office-cum-store-cum-head teacher's room, safe and adequate drinking water facility to all children, separate toilets for boys and girls and arrangements for securing the school building by boundary wall and fencing. The RTE mandated the infrastructure requirements are resource intensive and government schools failed to meet these requirements even after 10 years of implementation of the Act.

It is the responsibility of both the centre and the states that they should expedite the process of recruitment for vacant teachers' positions, creation of infrastructural facilities like classrooms, boundary walls, Kitchen Shed, electricity facility, etc so as to meet the RTE compliance under SSA. If RTE compliance is to be ensured, then union and state governments should come into an agreement to channelize financial resources to meet the financial resources demanded by the PAB of SSA.

All sorts of investigations presented here reveal that education including elementary education is hugely under financed in India. Even though the constitution of India through the introduction of RTE has made it mandatory for the government to provide free elementary education, the various governments have failed to channelize necessary physical and financial resources required for the effective implementation of RTE. India is undergoing a historic demographic transition where the majority of the population is below the age of 35-40. It is interestingly being recognized that education will play a major role in the country for reaping the extended 'demographic dividend' over the next decades. The low expenditure on education and consequently low levels of literacy and learning outcomes would be the biggest hurdle in realizing India's demographic dividend.

CONCLUSION

It is obvious that ten years of the implementation of the RTE Act has not covered much ground. There is a lot of spade work to be done, in terms of creating frameworks, action plans as well as creating the structures and enabling environment at the centre and the states.

Although the RTE Act puts the applicable age-group at 6-14, it has been left to the states to decide if they want to widen this age-group, like 0-18 as Kerala has done. States are at liberty to think about including more children under the Act's ambit.

School management committees are to be empowered in terms of necessary financial and other support by the state to go about their duties.

A conflict between the child labour law and the RTE Act must be sorted out. It is important to bring them in step in order to avoid confusion.

Taking state's responsibilities and obligations into consideration, the Public Private Partnership (PPP) in elementary school must be avoided at all cost so that there may not be any sort of commercialization of education. For effective implementation of the RTE Act, the Human Resource Development Ministry, Labour Ministry, Women and Child Development Ministry, Panchayati Raj Ministry and Rural Development Ministry have to work together.

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