

Free Education: Worthy or Unworthy?

Ms Ambica Batas and Mr Meet Shah

The Faculty of Law, M.S.University of Baroda

Introduction

Till the nineteenth century, education in India was an exclusive right available only to a small section of society. With the passage of time, education became the most crucial investment for developing and economically prosperous society. Education is an instrument for ensuring social justice and equality. Aristotle rightly declaimed, “*Fate of empires depends upon the education of the youth*”.¹ Therefore, in the present age of globalization and technological developments, the paramount prerequisite for survival in the society is education.

In 1950, India made a Constitutional commitment to provide free and compulsory education to all children upto the age of 14 years by incorporating Art. 45 of the Directive Principles of State Policy. Sorrowfully but true, nothing substantial happened towards universalisation of elementary education. Art. 45 of the Directive Principles of State Policy read as under:

Art. 45. Provision for Free and Compulsory Education for Children: The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Subsequently, Art. 21A of the Constitution of India promising the fundamental Right to Education was introduced by the Constitution (Eighty-Sixth) Amendment Act, 2002. In the case of *Mohini Jain v. State of Karnataka*², the Hon’ble Supreme Court held that Right to Education is concomitant to fundamental rights enshrined under Part III of the Constitution of India. Art. 21A of the Constitution of India incorporates the following provision:

¹ Ojha Seema S. (2013). *Implementing Right to Education: Issues and Challenges*. Vol. 1(2)

² *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858

Art. 21A. *Right to Education: The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.*

Right to Education Bill, 2005, was introduced to give effect to the Constitution (Eighty-Sixth) Amendment Act, 2002. Right to Education Act (RTE) is an Act of the Parliament enacted on 4th August, 2009 and which came into force on 1st April, 2010. Therefore, the RTE Act, 2009 came into effect after 62 years of independence. With the RTE Act, 2009 coming into force, India joined the league of over 130 countries, which have legal guarantees to provide free and compulsory education to children.³ The Act of 2009 is expected to address the challenges of school dropouts, quality of education, availability of teachers etc.

Salient Features of the RTE Act, 2009

The RTE Act, 2009 is very comprehensive and touches upon almost every aspect of education. The broad features of the Act include the following:

- Every child between the ages of six to fourteen years shall have the right to free and compulsory education in a neighborhood school till the completion of elementary education.
- No child shall be liable to pay any kind of fee or charges or expenses which may prevent the child from pursuing and completing elementary education.
- The financial burden will be shared between the State and the Central Government.
- Provides for 25 % reservation for economically disadvantaged communities in admission to Class One in all private schools.
- Maintenance of teacher-student ratio as per prescribed norms, provision of necessary facilities in the schools, student friendly education, improvement in quality of education and many more.

Does RTE Act, 2009 Follow the UN's Convention on the Rights of the Child?

India is a signatory to the UN's Convention on the Rights of the Child, 1989. Therefore, India is bound to adopt the vision of the International Convention. Impliedly, India has

³ "India Joins the list of 135 nations in making education a right". The Hindu, April 2, 2010

accepted the international definition of the expression “*Child*” as incorporated under Art. 1 of Part I of the UN’s Convention. Art. 1 of Part I read as follow:

Art. 1: For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Therefore, Art. 1 of the Convention defines the word “*child*” as a human being upto the age of eighteen years. Surprisingly, the RTE Act, 2009 covers children from the age group of 6 to 14 years. The Act of 2009 clearly excludes and violates the rights of the children belonging to the age group of 0 to 6 and 14 to 18 years.

Leaving out early childhood care and education, and senior schooling gravely limits the Right to Education. It is rightly discovered that 0 to 6 years is considered to be the formative years in the child’s upbringing.⁴ One fails to understand the rationale behind excluding the primitive time of childhood. Statistically, the RTE Act, 2009, excludes 157 million children below six years of age and children between 15 to 18 years.⁵

This concern may be traced back to Art. 21A Constitution of India or the Constitution (Eighty-Sixth) Amendment Act, 2002, which defines the age of a child from 6 to 14. As the RTE Act, 2009 flowed out of the Amendment; it is crystal-clear that the Act cannot go beyond the scope of Art. 21A of the Constitution of India.

Therefore, the current situation makes it imperative that Art. 21A of the Constitution or the Constitution (Eighty-Sixth) Amendment Act, 2002, shall be re-amended to fix the analogy. And once that happens, the change needs to be reflected in the corresponding Act at that point of time.

What is the Meaning of “Elementary Education” vis-à-vis Sec. 2(f) & Sec. 11 of the RTE Act, 2009

The expression “*Elementary Education*” defined under Sec. 2(f) and Sec. 11 of the RTE Act, 2009, is contrary to each other. Sec. 2(f) and Sec. 11 incorporate the following words:

⁴ <https://socialissuesindia.wordpress.com/2010/07/15/rte-act-2009-anomalies-and-challenges/>

⁵ Sood, Monika. (2015). Inclusive Education and Right to education act-2009. Retrived from <http://www.indianjournals.com/ijor.aspx?target=ijor:xijmms&volume=4&issue=12&article=014>

Sec. 2(f): “*Elementary Education*” means the education from first class to eighth class

Sec. 11. *Appropriate Government to Provide for Pre-School Education: With the view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate government may make necessary arrangement for providing free pre-school education for such children.*

According to Sec. 2(f), elementary education commences from the first class. A child, in first class, is 6 years old except under special circumstances. Sec. 11 provides pre-school education or elementary education at the age of 3 years. The Appropriate Government has discretionary power under Sec. 11 to make necessary efforts for providing free pre-school education. Therefore, Sec. 2(f) read with Sec. 11 creates an ambiguity with reference to the definition of the expression “*Elementary Education*”. It is unclear that to which age group of children the Appropriate Government shall make necessary arrangement for free elementary education.

Reservation of 25% in Private Schools- Why?

Regarding equality, Dr. Ambedkar stated in the Constituent Assembly⁶ that “...We must begin by acknowledging the fact that there is complete absence of two things in Indian Society. One of these is equality. On the social plane, we have in India a society based on the principle of graded inequality, which means elevation for some and degradation for others. On the economic plane, we have a society in which there are some who have immense wealth as against many who live in abject poverty.”

The Act of 2009 incorporated the provision of 25% of Reservation in private schools for economically disadvantaged section of the society. The said provision, prima facie, seems to be in the interest of the society at large. However, a closer examination reveals a different story.

Firstly, the fees of the students covered under the 25% of reservation will be borne by the State Government. Everybody knows that apart from tuition fees, the private school child has to shell out money for a range of items throughout the academic year ranging from uniform to shoes to extra textbooks etc. The tuition fee is reimbursed at a fixed

⁶ XI Constituent Assembly Debates 979 (Friday, November 25, 1949)

government rate. Obviously, there is a gap between the cost of education per child and the reimbursement by the government.

Therefore, the big question is as to who will bear the deficit portion? The answer is that the rest 75% of the students will suffer this extra financial burden. The provision of 25% provides benefit to one at the cost of other.

Secondly as per the Seventh Educational Survey⁷, about four crore children out of nineteen crore in the 6-14 age group are currently studying in the private schools at the elementary stage. Assuming that these schools are providing quality education, the provision will help only a minority of under-privileged. Therefore, the Act's vision of quality education for the remaining 15 crore will remain discontented.

It would be better and justified to improve the standard and quality of government schools rather than financially pressurizing the 75% of the private school children not falling under the purview of the RTE Act, 2009, and it would also be advantageous for the rest of the minority apart from 25% in the private schools. Clearly, the Act lacks the vision of what constitutes quality in relation to India's needs.

Is There Sufficient Availability of Teachers?

The teachers are the kingpins of entire education system and it is this factor on which lies the onerous responsibility of ensuring the effective implementation of RTE Act.⁸ Teachers will be at the core of implementation of RTE that seeks to work towards a heterogeneous and democratic classroom where all children participate as equal partners.

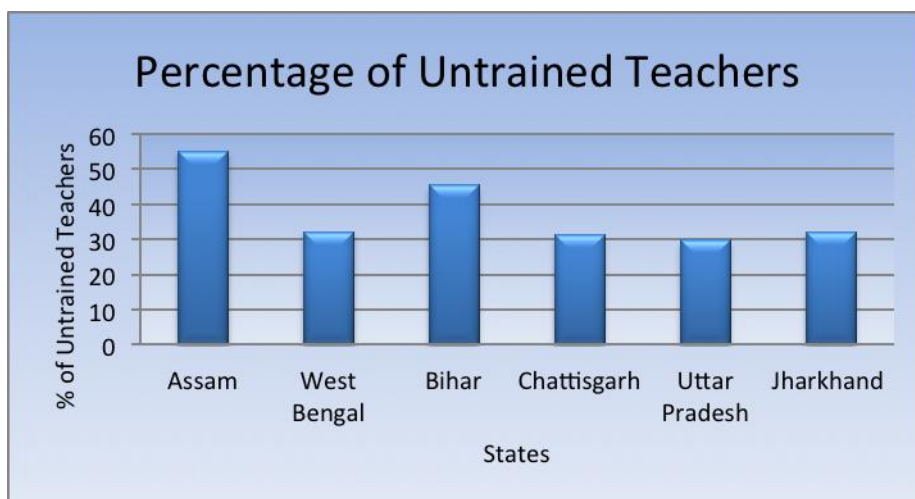
Five lacs new teachers are to be recruited and five lacs new classroom are to be constructed to meet the required 30:1 pupil teacher ratio. There are seven lacs teachers in the recognized 13 lacs primary schools. Out of these, three lacs teachers are either untrained or under-training. In many States large numbers of teachers are para-teachers. As per a recent report by NUEPA, Bihar tops amongst the States having a poor pupil-teacher ratio and Uttar Pradesh comes at the second place. In about 35% primary schools

⁷ Education Bill: dismantling rights. The Financial Express, 9 November, 2008

⁸ Padma Sarangapani, (2011), "Teachers First" The Frontline

in Uttar Pradesh, pupil teacher ration is 60:1. 51% primary schools in Uttar Pradesh are having three or less number of teachers. Out of these, 38% are para-teachers.⁹

The availability of teachers also depends on number of trained and adequate teacher education capacity. A war force of untrained/illiterate teachers can never be at par with a single trained teacher. The bar graph below depicts the awful situation of the number of untrained teachers in this country.



Graph 1: % of Untrained Teacher in different States

Assam tops the percentage of untrained teachers with 55.13% untrained teachers, followed by Bihar (45.5%), Chattisgarh (31.32%), Jharkhand (32.16%), Uttar Pradesh (25.87%) and West Bengal (32.15%). States like Andhra Pradesh, Delhi, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu and Uttarakhand have very low percentage of untrained teachers.¹⁰

The existing teacher's training and education programs are ill suited to meet the contemporary understanding of students' needs. It is ironical that there has been a continuous reluctance on the part of state to respond to this issue with the seriousness it deserves. In the preset circumstances, to maintain pupil-teacher ratio as per the Act, appears to be a distant dream.

Preventive Measures/Suggestions

⁹ Ghosh, Jayanta. (2013). Right to Education Act 2009: Issues and Challenges.

<http://dx.doi.org/10.2139/ssrn.2231197>

¹⁰ <https://socialissuesindia.wordpress.com/2010/07/15/rte-act-2009-anomalies-and-challenges/>

- The State Governments are required to show promptness for the implementations of the RTE Act, 2009.
- Primary schools with all minimum required infrastructure facilities should be established on priority basis. Also, the facilities in the existing government schools shall be expanded.
- To meet the increasing demand of qualified and trained full time teachers, the teachers in required number must be recruited at the earliest. Pupil-teacher ratio must be maintained as per requirement. As more children move into the primary school age group, it becomes needful to build extra schools and recruit additional teachers for sustained improvement in the quality of education.
- There is need to streamline educational administration. The pace of implementation of the Act can become faster if bottlenecks in administration are removed. Altogether, it is essential to adopt an integrated approach and establish linkages between education and other related areas such as childcare, nutrition, health etc. Each State should formulate a “State Programme of Action” and each district and school should formulate a “Programme of Action” of its own by taking into consideration the “State Programme of Action”
- Teachers’ performance is the most crucial input in the field of education. Well-qualified and highly motivated teachers are the key to effective implementation of the curriculum. They give impetus to the teaching-learning process. Top priority, therefore, should be fixed for the improvement in the quality and content of teacher education programme.
- While the Central and State Government have their full share of responsibilities, it is community participation and involvement of NGOs, which will make remarkable difference in meeting the challenge of implementing RTE Act, 2009.
- A justified way to improve the standard and quality of government schools rather than financially pressurizing the 75% of the private school children not falling under the purview of the RTE Act, 2009, and it would also be advantageous for the rest of the minority apart from 25% in the private schools.

“Education Is The Most Powerful Weapon Which Can Be Used To Change The World”

- Nelson Mandela, Former President of South Africa

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Authors:

Ambica R. Batas

Meet R. Shah

4th year

Faculty of Law,

The Maharaja Sayajirao University

Baroda

Email: ambicabatas@gmail.com

Contact No.: 09409280247, 09426863241