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# Right to Education Act, Effect of Globalization: Challenges and Perspectives

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MS. ASHA MEENA <sup>1</sup>

## ABSTRACT

*The word education originates from a Latin word educare which means “to bring up”. The dictionary meaning of education is any process or act of imparting knowledge, skill and judgment. Education is possibly the most essential function of the State and local governments. It is the very foundation of good citizenship. It is extremely unlikely that any child may succeed in life without the opportunity of education. Education is the basis for growth, development and empowerment for every nation. Education has become a necessity as it builds one’s character and skills which are essential for earning a livelihood. The growing needs of a nation are catered by education as the development of a nation is measured by such human resources. Education helps in inculcating scientific temper, independence of mind and spirit among the citizens. The whole country dwells on the pillar of education. An old Sanskrit adage expresses that education brings freedom i.e. freedom from obliviousness which covers the brain; freedom from superstition which dazzle the vision of truth.*

**Keywords:** Education, Welfare, Policy, Livelihood, Independence etc.

**“Education is the most powerful weapon which you can use to change the world.”**

**-Nelson Mandela**

## I. INTRODUCTION

The education can be defined as “a process of development in which consists the passage of human being from infancy, to Maturity, the process by which he adopts himself gradually in various ways to his physical and spiritual environment.”

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible

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<sup>1</sup> Author is an Assistant Professor at Amity Law School, Amity University Haryana, India.

*to all on the basis of merit.”<sup>2</sup>*

## **II. HISTORY OF EDUCATION AND RTE ACT**

*The Indian education system dates back to 3<sup>rd</sup> century B.C. and is the oldest. In India ‘education’ has a number of synonyms. The most frequently used Indian word is ‘siksha’. Its Sanskrit verbal root is ‘shas’ meaning ‘to discipline’, ‘to control’, or ‘to teach’. Another synonym is ‘vidya’ whose verbal root is ‘vid’, meaning ‘to know’. Education is philosophically evolved, psychologically developed and socially developed. It is concerned with the growing man in an ever-growing.*

### **Pre-Independence**

With the dawn of the British Empire, the English education system was introduced to the Indian system by Thomas Babington Macaulay. This led to the deterioration of the traditional education system and to the Indian culture.<sup>3</sup>

The present Indian education system may find its origin in the Wood’s Dispatch of 1854. Prior to the British conquest the education system was more or less very private but this dispatch led to the government giving importance to education. Gradually, government aided schools came into being. The main recommendations were: setting up of a department of education in all the provinces, establishment of universities based on the London University model in Bombay, Calcutta and Madras, significant importance was given to the vernacular languages.

During this period three types of education came to be known. The first was where from the very beginning the medium of education was only English; prevalent in urban centers with elite population. The next was the one prevailing in the towns mostly where the primary education was in vernacular medium and the higher education was to be in English medium. The last was the one with vernacular medium for primary education dominant in the rural areas.

In 1906, the law on compulsory education was introduced in the State of Baroda for the first time. This provided for the compulsory education for boys and girls of 7-12 years and 7-10 years respectively. In 1908, Rabindranath Tagore’s letter to the International league for Rational Education of Children first acknowledged the word ‘right’ with respect to elementary education.

Later in 1911, a bill for compulsory education was unsuccessfully moved to Imperial Legislative Council by Gopal Krishna Gokhale. The law on compulsory education was first

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<sup>2</sup> Article 26 (1) of UDHR.

<sup>3</sup> Basu, Durgadas, “Introduction to the Constitution of India.”Pg 37( 2002 Edition)

adopted by the Legislative Council of Bombay. In spite of having the sovereignty over the enactment of laws, the process of universalisation of education was sluggish as the power over the resources was still not given to the Indians. Further, the All India National Conference on Education held in 1937 at Wardha gave the proposal of self-sufficient basic education by manual and vocational training for seven years. The important characteristics of the scheme were: imparting of education in mother tongue, the 'basic education course' was divided into 'primary' i.e. from class I to class V and the 'post primary' i.e. class VI-VII.

The next landmark achievement was the Sargent Scheme in 1944. It was a commission set up to see the post-war education and literacy development in India. The primary point of the plan was recreation of the Indian instruction framework. The suggestion for FCE for children between the ages of 6-11 years was proposed in this plan which was in light of bringing universal literacy in India in 40 years i.e. by 1984.<sup>4</sup> The average literacy rate was progressing at a really slow pace of 1.5% per year and even after 64 years of the scheme the literacy level in 2008 was 65%.<sup>5</sup>

*Even after constant demands, drafting committee of the constitution had ignored the idea of right to education forget considering it as a fundamental right.*

## **Post-independence**

### **1947-1991**

After independence the investment for education has been large and there has been an increase in number of students opting for higher education. The state of primary education had also improved a bit but not much. The education process in different societies is seriously manipulated by democratization of education, globalization and knowledge society. In 1951, the first census report showed that only 9% women and 27% men were literate by that time.<sup>6</sup> This forced the Indian Government to take initiative and by 1960 provide for free and compulsory education to all children up to the age fourteen by the year. The goal still remains unachieved.

**Five year plans:** The first five year plan started in 1951 focused mainly on agriculture and industrial development. There was no mention of primary education let alone right to education.

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<sup>4</sup> *India Talks - Amartya Sen, MediaWeb India, retrieved 2016-10-20*

<sup>5</sup> *"India's literacy rate increase sluggish", Indiainfo.com, 2008-02-01, retrieved 2016-10-20*

<sup>6</sup> Akriti Mishra "Understanding of Right to Education Act, 2009 with Specific Reference to Orissa: Problems and Challenges" *JSTOR*

Kothari commission (1964-66): this is also known as the Indian Education Commission 2. Major recommendations were changing the name of pre-primary education. Kindergarten, Montessori and pre-basic to be known as pre-primary education and the primary education to be known as lower primary which include the classes till fourth standard.<sup>7</sup>

The National Policy on education (1968): It was the most significant step in history of education as it focused on renewal of the Indian education system through quality improvement, science and technology were given more importance, imbibing moral values and building a relation between life of people and education. There has been a significant expansion at other levels; like an increase of 9% in rural areas where the schools are within one kilometer. The agreement on having one common educational structure in the country is the most prominent development. The slow implementation process led to the generation of new issues which could not be dealt without manpower. There was a need for a new education policy.

The Policy for Children, (1974): The policy was made in order to give equal opportunities to all children and to ensure their development by providing sufficient services to them before and after birth and through the growing years. It is important that the child has full physical, mental and social development by means of health & awareness programmes, nursing the mothers, nutrition education etc. This policy even gave guidelines to avoid child labor.

Swaran Singh Committee, (1976): education was inserted in the concurrent list as entry 25.

The national policy on education, (1986): The main objectives were value based education, greater access, relevance, equal access and quality and excellence. The review of this committee led to the reaffirmation to universalization of elementary education but the RTE was still not recognized.

Acharya ramamurti committee, (1990): This committee reviewed the NPE, 1986 which led to the NPE, 1992. The committee suggested that the right to education should be included in the part III of the Indian Constitution i.e. it should be made a fundamental right.<sup>8</sup>

### **1991-present**

Five year plans: The eighth (1992-97) and ninth (1997-2002) plan talked about the universalization of elementary education and universalization of primary education respectively. It was in the year 1992 when the Supreme Court held that the right to education is a part of the fundamental rights under the Indian Constitution. In 1994, District Primary

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<sup>7</sup> J C Aggarwal (2009). Landmarks "In The History Of Modern Indian Education," 6E. Vikas Publishing House. p. 626.

<sup>8</sup> <http://sol.du.ac.in/mod/book/view.php?id=1275> last seen on 20/10/2016

Education Programme (DPEP) was pioneered under the funding of IMF World Bank Structural Adjustment Programme and the World Bank. Under DPEP, instead of (FCE) up to 14 years, primary education for first five years was brought in. the twelfth five year plan talks about the empowerment through education.

In 1995, the introduction of the mid day meal scheme helped in increasing the number of enrolment in the primary schools.

165<sup>th</sup> Law Commission Report, 1998: The report was in favor of promoting FCE without waiting for any constitutional amendment. It advocated removal of tuition fee, provision of free text books, free lunch and other necessities. The report proposed the inclusion of private unaided institutions in FCE scheme.<sup>9</sup>

All the efforts were paid off in 2002 with the 86<sup>th</sup> amendment act of the constitution where a new clause was added to Article 21 i.e. Article 21-A which included the right to education as a fundamental right.

#### Sarva Shiksha Abhiyan (SSA)

SSA has been operational since 2000-01. It is a broad plan aiming for universalisation of elementary education, bridging gaps between male and female and any other such discriminations, improvement in the quality of education. It provides for good quality elementary education for all the children from 6-14 years of age. The main provisions of SSA were: all children in school, education guarantee center, alternate school or back-to-school camp by 2003, every child to complete five years of primary schooling by 2007, completion of elementary education by all children till 2010, bridging the gender gap by 2007 at primary level and by 2010 at elementary level and by 2010 universal retention. SSA is an important attempt of the Indian government for universalisation of elementary education.

Padhe Bharat Badhe Bharat is a countrywide sub-programme of SSA.<sup>10</sup> In this, children who are unable to succeed in reading at early stage tend to lag behind in the other subjects also are made part of the other programme for improving their reading and writing skills. Both SSA and Padhe Bharat Badhe Bharat follow the holistic view of education wherein revamping of the content and education process is done.

In 2005, the first rough draft of the RTE bill was prepared. The Central Advisory Board of Education justified the 25 percent reservation as necessary for underprivileged children in a democratic and egalitarian society. It received a lot of opposition due to this provision being

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<sup>9</sup> <http://www.legalindia.com/implementation-and-enforcement-of-right-to-education-in-india%E2%80%99/>

<sup>10</sup> "Padhe Bharat Badhe Bharat" (PDF). *ssa.nic.in*. last seen on December 2016.

mandatory. Initially there was said to be a 50 percent reservation.<sup>11</sup>

The cabinet in 2009 backed up the RTE bill and gave its approval. The bill received the President's consent and was to be known as The Children's Right to Free and Compulsory Education Act. On 1<sup>st</sup> April 2010 the Act came into force throughout the territory of India.

### III. CONSTITUTIONAL PROVISIONS

The Indian constitution now explicitly provides for the right to education under Article 21A. Article 21A states that, "*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.*" This article was added by the eighty-sixth amendment of Constitution and the right to education became a fundamental right. The right to education was incorporated in the Indian constitution as a Directive Principle of State Policy under Article 41, 45 and 46. Article 41 states that, "*the state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and other cases of undeserved want.*" With the help of this article the charging of unnecessary capitation fee can be prohibited. Further, Article 45 after the amendment now states that, "*the State shall endeavour to provide early childhood care and education for all the children until they complete the age of six years.*" The limitation of providing free and compulsory education for all children till they complete fourteen years within ten years from the commencement of the constitution was amended. Article 46 states that, "*The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.*" The article focuses on the removal of economic inequalities. The provision for FCE is also imbibed in the fundamental duties under Article 51A (k)<sup>12</sup> Education is also part of the Union List (Entry 64 and Entry 66) and the Concurrent List (entry 25) of the Indian Constitution.

### IV. JUDICIAL PRONOUNCEMENTS INITIATING RTE

#### Mohini Jain vs. State of Karnataka<sup>13</sup>

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<sup>11</sup> Seethalakshmi, S. (14 July 2006). "Centre buries Right to Education Bill – India – The Times of India". *The Times of India*. Retrieved 1 April 2010.

<sup>12</sup> Article 51 (k) of the Indian Constitution states that, "*it shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.*"

<sup>13</sup> 1992 AIR 1858

The main issues in the case were:

- Whether Indian Constitution guarantee 'right to education' to its citizens?
- Is application of capitation fee violative of the right to education guaranteed?
- Whether application of such capitation fee violates Article 14 of the Indian Constitution?

The Supreme Court held that right to education is included under Article 21 of the Indian Constitution i.e. it is a fundamental right and without it an individual cannot be said to be living a dignified life. Moreover, providing its citizens with educational facilities is the duty of the state government. Further, according to the court the charging of capitation fee is violative of Article 14, 21, 41, 45 and as a result is violative of right to education as Article 41 expressly recognizes it. The court held that though right to education is not expressly mentioned as a Fundamental Right; Articles 21, 38, 39(a), 39(f), 41 and 45 obligates the state to provide for education to its citizens.<sup>14</sup>

#### Unnikrishnan vs. State of Andhra Pradesh<sup>15</sup>

The issue here was whether charging of capitation fee by private medical or engineering educational institutions constitutionally valid or not?

The Court overruled the decision of *Mohini Jain Case* and held that charging of capitation fee was valid as private educational institutions cannot be treated as State agents nor are they supposed to be discharging the duties of the State. But that not give the private institutions to charge arbitrary capitation fee. The capitation fee in no case should exceed the ceiling limit. The court also held that the right to education though not mentioned as a Fundamental Right in part III was implicit in right to life under Article 21 of the Constitution of India.<sup>16</sup>

This judgment led to the Eighty-Sixth Constitutional Amendment Act, 2002 which introduced a new clause under Article 21 i.e. Article 21A which explicitly provided for Right to Education which was now a Fundamental Right. Article 21A states, "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."<sup>17</sup>

## **V. RIGHT TO EDUCATION ACT, 2009**

RTE has always been a part of Article 45 of the Indian Constitution but after the Act came into

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<sup>14</sup> <http://www.supremecourtindia.nic.in>

<sup>15</sup> A.I.R. 1993 SC 2178

<sup>16</sup> Dr Niranjanaradhya VP, "*Universalisation of School Education the road ahead*", chapter 3 pg 17 (1<sup>st</sup> edn, 2004)

<sup>17</sup> Article 21A, Constitution of India, 1950



effect on April 1, 2010 this right became a part of the fundamental rights. The Act encompasses 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 six to fourteen age groups.”*<sup>18</sup>

### **Salient features:**

The Act works on the 4A metric framework i.e. availability, accessibility, acceptability and adaptability.

- Right to free and compulsory education in a neighboring school till completion of elementary education.
- Denial of admission on the basis of lack of birth certificate is prohibited under the Act.
- Provisions are made for a child who has not been admitted in a school to be admitted in an age appropriate class through special training.
- Norms and standards relating to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teachers working hours.
- Prohibits physical punishment and mental harassment, screening procedure for admission of children, running of schools without recognition, capitation fee etc.
- 25% reservation for disadvantaged and economically weaker sections of the society at every stage in government unaided private schools also.
- No child shall be expelled or held back till the elementary education is completed.
- The children with disabilities are provided with 18years of free and compulsory education.
- There are provisions for the infrastructural developments are provided in the Act.
- Availability of schools in the proximity of the homes of the children.

To monitor the implementation of the Act the National Commission for Protection of Child Rights had been set up in 2007 alongside commissions formed by the States.

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<sup>18</sup> <http://mhrd.gov.in/rte> last seen on 25/10/2016

### **Barriers regarding implementation**

The barriers in implementing RTE Act are:

- One of the major hurdles in implementation of the Act is the population of the country and a significant part of the population is living below poverty line or in poverty.
- Establishing new schools or infrastructural up gradation in the existing schools in a short span of time requires a lot of financial expenditure.
- There is lack of basic infrastructural facilities in the schools like; lack of classrooms, lack of computer facilities, lack of sanitation, no separate toilets for girls and boys, lack of drinking water, no proper playground, lack of transportation, no safety and security for children specially for girls.
- There is a shortage of teachers in schools especially in rural areas which discourage students from attending schools.
- There is a dearth of schools in the neighboring areas which contradict the provision of having schools in 3km distance from the children's house. This also hinders the initiative of providing free and compulsory education to all.
- Traditional and social beliefs that education is not important and it is more practical to be economically sound has increased the gender gaps as girls are not allowed to study and in general has led to increase in child labor. There is basically lack of awareness.

## **VI. IMPACT OF GLOBALIZATION**

The Jomtien World Conference, 1990 gave a very powerful message that to meet the basic learning needs of every person irrespective of age shall be able to benefit from the educational opportunities designed for them i.e. education for all.<sup>19</sup> It is important to discuss the role of globalization on education and RTE. The right to education was declared as a fundamental human right by many conventions like the UDHR (1948), the UN Convention on the Right of the Child (1959) and the UN International Covenant on Economic, Social and Cultural Rights (1976). When we talk about education in a globalizing world it becomes difficult to answer questions such as who will provide education, how, what will the contents be and under what conditions.

Globalization has had a positive impact like increasing employment facility, to have newly equipped modern technologies, especially in telecommunication. India did not remain

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<sup>19</sup> Mysore District Human Development Report. (2008).

untouched from it. Dr Mithlesh Kumar Singh, Challenges of Globalisation on education: *“The thrust of Globalization is expected to push Higher Education to face far-reaching challenges.”* As of education, globalization has not affected the primary or elementary education as such. The power in this case is more or less with the national governments only. Globalization has affected the secondary and higher education as there are a lot of options or fields to choose a carrier from. New disciplines like media, mass communication, management, technology have become popular and have been welcomed widely by the private institutions in India.<sup>20</sup>

Due to globalization, India has adopted the grading system which was not prevalent before. The Indian education system till the higher secondary level is considered as one of the best. The removal of the board system at class X level, reducing the syllabus and decreasing the difficulty level is being taken as a drawback for the system. This has increased competition at alarming rates which has in turn increased unemployment and poverty. Higher education is more affected by globalization as it has increased the opportunities for the younger generation. Now there is migration from India to developed countries like the USA for higher studies, employment etc. this has led to brain drain from the country as the professionals started migrating. On a positive side, the migration results in exchange of cultures, mutual understanding and integration of educational systems. For an educational process it is important. Technological developments like internet have made the availability of resources from around the world possible. One can attend lectures in the other part of the world through video calling. The horizons have definitely expanded as now one can acquire knowledge by sitting home also. Globalization is criticized for the fact it has increased the gap between rich and poor as the poor do not have access to all the facilities like proper schools with labs, libraries, internet etc. This puts the economically weaker people on the back foot which hampers their development and the overall development of the country. Globalization can be treated as good or bad. It has both the advantages and disadvantages so it is at the discretion of the people to reduce the disadvantages and to maximize the benefits from it.

## VII. CONCLUSION

This paper talks about the evolution of education and the right to education before and after independence. The paper discusses the salient features of the RTE Act in brief and then does a detailed study of the implementation of the Act through the surveys and reports of different committees. Our nation is a developing nation and faces several issues from time to time. One such issue is that of education. Even after seven decades of independence there is still a huge

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<sup>20</sup> Jandhyala B. G. Tilak, *“Higher Education in India in search of equality, quality and quantity”* pg 409,(edn)

population who can't read or write. In such circumstances, they are unable to access data or information and take the benefit of it. In this way, Right to Education Act was instituted in the parliament for giving FCE to all youngsters between the ages of six to fourteen who are the future of the nation. Everyone in the nation ought to take this as a test and help the legislature in the effective execution of the Act the nation over. Each people group part ought to leave the shell and intentionally help in actualizing the Act specifically or by implication. The discoveries don't mirror the status of usage of Right to Education Act all through the condition of some States. In any case, the discoveries shed light on some critical issues identifying with the operational part of the Act. More importantly the rights of the children should be protected and there should be a proper implementation of such rights. Monitoring agencies should be formed to keep a check on the working of the Act and to see if any of the provisions are being violated. The quality of education should also be measured every now and then. There should be no discrimination on any ground in the schools which would encourage common schooling system. All forms of privatizing the education should be avoided not even in the form of Public Private Partnership if it leads to deterioration of quality of education in any form. The RTE Act is a landmark in the history of Indian Education system so; it's high time the government and the people take initiatives so as to ensure proper implementation of all the provisions of the Act throughout the territory of India.

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