

IMPACT OF RIGHT TO EDUCATION ACT, 2009 IN TELANGANA - A STUDY OF HYDERABAD

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Abstract

This article argues that even an allocation of 6% of the gross domestic product to the education budget would not be sufficient to fund universal school education until the very distant future if the government school system is used as the only instrument. The only way to meet the Right to Education obligation is to rely on low-cost private schools as a significant instrument of the government education policy. On the contrary, the proposed rte bill introduces provisions that would oppose low-cost private schools. Therefore, the legislation for rte needs to be modified and framed with specific provisions for private-public partnerships section 12(1)(c) of the Right of Children to Free and Compulsory Education Act, 2009 (henceforth RTE Act) provides for inclusion of children from disadvantaged and weaker sections in private unaided schools by requiring them to reserve 25% of their seats for such children at Grade 1 or pre-primary level. Children admitted under the RTE Act in such schools are entitled to receive free education, with the government offering to reimburse schools an amount equivalent to the government's own annual per-child expenditure. The manner in which such admissions should occur and the nature of such inclusion has been determined by the rules framed by state governments.

Keywords: Constitution, the RTE Act, Directive Principles, Children with disabilities etc.

Introduction

Human beings are specific among all species for its cultures and traditions which has been transmitted from generations to generations.

This unique possession has been successfully defaced in every society through many institutions. Education is one of the important social institutions which trained new born human beings to adapt and adjust in the society. Questions concerning education were the most serious questions of the era. All those who worked in this sphere knew that in solving those problems, they faced with innumerable difficulties arising from the moral, social and economic disorder of the world today. It would be dangerous to take account only of material conditions in solving them. The right of all to education was indisputable. The right to share in the heritage of mankind formed the basis of our civilization, and could not be denied to anyone. Without education, the individual could not develop his personality, which remain an inalienable aim of human life and the most basic foundation of society. Education was the first prerequisite for progress. This means that education is regarded as something that is necessary for all human beings at all times in all societies and that the society is responsible for fulfilling or making it possible to fulfill this right for everyone.

The Directive Principles of Indian Constitution obligates the Indian government to ensure universal school education. The Constitutional 86th Amendment Act, 2002, made three specific provisions in the Constitution to facilitate the realization of free and compulsory education to children between the age of six and 14 years as a fundamental right. These were (i) adding Article 21A in Part III (fundamental rights), (ii) modifying Article 45, and (iii) adding a new clause (k) under Article 51A 11 (fundamental duties), making the parent or guardian responsible for providing opportunities for education to their children between six and 14 years. After much dithering for almost seven years subsequent to the 86th Amendment to the Constitution, the RTE Act, 2009 received Presidential assent on 26 August 2009, taking forward the agenda of free and universal elementary education. On the basis of this Act, the centre has framed a subordinate legislation, the Model Rules, which are guidelines to states for implementing the Act. The states are now required to frame their own rules, for which only a few have started consultations. In addition to the declaration and amendment declaring the right to education as a fundamental right, several States in India have passed legislation making primary education compulsory. These Acts, however, remain unenforced due to various socio-economic and cultural factors as well as administrative and financial constraints. With the Supreme Court declarations, it is to be seen whether the State machinery is put into work to enforce the right, and also to implement the State-level legislations, which seek to provide free and compulsory primary education. Therefore, the issue would be of enforceability and not one of justifiability.

Objectives of the study:

To find out the status of implementation of various provisions of RTE Act 2009 in Telangana state; steps taken for age appropriate admission of out of school disadvantaged children; preparation of teaching learning material for them; assess the awareness level of stakeholders in the Telangana state to implement RTE Act 2009; concerns and challenges of the Telangana state for effective implementation of RTE Act 2009 for disadvantaged children; strategic plans of action prepared by Telangana state for providing free and compulsory Elementary Education to implement RTE to children of SCS/STS/Weaker sections, and children with various disabilities; specific steps taken by Hyderabad to inspire parents and community to admit these children into schools; and arrangements being made for providing free Preschools Education to these children below 6 year of age.

Joti Rao Phule's Revolutionary Proposals

Mahatma Joti Rao Phule was a man way ahead of his time. His proposals on compulsory primary education submitted to the First Indian Commission (Hunter Commission) are as relevant to-day as they were in 1882. He pleaded for (1) Spread of female education on a large scale, (2) Spread of education among Mahars, Mangs and other lower classes, that is, scheduled castes and backward castes, (3) Spread of education among minorities like Muslims and (4) Spread of education in rural areas. He criticised the greater emphasis given by the British on higher education at the cost of basic education and argued that 50% of the budget should be

earmarked for primary education. He wanted that education should be reoriented to emphasise training of manual skills along with training of cognitive skills. He pleaded for instruction on technical education, morality, sanitation, agriculture and some useful arts. All the deficiencies pointed out and the programmes advocated by him are as relevant to-day as they were 115 years ago when he made the submission to the Hunter Commission. Dadabhai Naoroji, the grand old man of India pleaded forcefully before the same Commission for the introduction of mass education.

Compulsory Education in Princely States

The credit for being the pioneer in introducing Compulsory Primary Education in India goes to the Princely State of Baroda which implemented the programme in 1905. Following Baroda, the enlightened rulers of the State of Mysore introduced Compulsory Primary Education on selective basis in the year 1913. Visveswaraya took keen interest in its implementation during his Dewanship. It was however, discontinued in the year 1920, on ground of financial stringency and on the ground that it reduced the funding available for expansion of primary education in the rural areas since compulsory primary education was confined to cities and towns. Thereafter also some halting efforts to introduce compulsion were made and given up.

Background In our analysis

The demands on the use of education budget have been pegged at a level that has been endorsed by the Tapas Majumdar Committee (1999), which corresponds to typical worldwide practices where the universal school education goal has been realised. The norm of the education budget of 6% of the gross domestic product (GDP) has been taken which has been articulated by various committees as the ideal norm in due course of time. Currently, we do not spend even 4% of GDP on education when we consider combined budgets of the centre and the states. Many countries like China and Singapore have provided for universal government-funded schooling even after spending less than 4% of the GDP on their education budget. However, no major country in the world (except Cuba) has allocated more than 6% of its GDP to education on a sustained basis even while ensuring government-funded universal school education and substantial funding of higher education for all.

In India, the Kothari Commission (1966), National Policy on Education (1986), Saikia Committee (1996), and Tapas Majumdar Committee (1999) have assessed the requirements of public provision of universal school education under different assumptions affecting the cost of such a provision. However, none has implied or even indicated that exclusive reliance on the government school system with permanent regular schoolteachers could make an education budget of 6% of GDP inadequate and insufficient to ensure universal school education in the country in the short or medium term. We examine this aspect thoroughly in this paper because it has implications on the content and instrumentality of implementation of the RTE legislation. In Section 2, we present the estimation framework and crucial assumptions about the parameter



values in future years. The third section then presents our estimates and discusses implications under alternative scenarios.

The fourth and final section discusses policy implications and possible solutions for the implementation of the RTE Act in India.

Proper implementation of Right to Education Act

Education has an immense impact on the human society. One can safely assume that a person is not in the proper sense till he is educated. It trains the human mind to think and take the right decision. In other words, man becomes a rational animal when he is educated. Through education that knowledge and information is received and spread throughout the world. An uneducated person cannot read and write and hence he is closed to all the knowledge and wisdom he can gain through books and other mediums. In other words, he is shut off from the outside world. In contrast, an educated man lives in a room with all its windows open towards outside world.

Without education, a man is so circumstanced he know not how to make best of himself. Therefore, for him the purpose of society is ab- initio frustrated.

Education is powerful because without it, early civilizations would have struggled to survive and thrive as a culture. It is important that adults trained the young of their society in the knowledge and skills they would need to master and eventually pass on. It is universally accepted that education empowers the people for the full development of human personality, strengthens the respect for human rights, and helps to overcome exploitations and traditional inequalities of caste, class and gender. Without knowledge you can't be informed nor can you truly understand the meaning of many topics. It is important to have knowledge, so you can pass your knowledge to the next generation. Education is important because it equips us with all that is needed to make our dreams come true. Education opens doors of brilliant career opportunities. It fetches better prospects in career and growth. It is a preparation for living in a better way in future with an ability to participate successfully in the modern economy and society. Education is empowerment for socio-economic mobility, an instrument for reducing socio-economic inequalities, and equipment to trigger growth and development.

It is through education that knowledge and information is received and spread throughout the world. There has been a paradigm shift in this sphere: from education as a transcendental and value to education to cost recovery system. The feature such as commoditization of education, private sector's dominance in higher education, and market- driven education flowing from world trade law stand juxtaposed to the fact that largest pool of illiterates is in India and high dropouts of students even at primary level here is owing to economic reasons. The linkage of right to education to right to dignified life, equality, freedom and cultural and minority right has made it highly intricate and the extent of regulations relating to it from different

perspectives, quite complex. The right to education originates from the apparent motion that it obligatory for the state to provide education to its citizens.

The core of the right to education relates to its substance, which differs from education itself. Effective and transformative education should be the result of the exercise of the right to education, which is a universal human right. The right is about the entitlement to claim the substance of it; it relates to the possibility of demanding the right to education and making it justifiable. The substance of the right to education is given in broad terms by international legislation but real meaning is given to it as national legislators incorporate it. The process of incorporation is more important than the process of adhering to an international treaty because it is this incorporation that entitles people to demand for their right to education. While studying cases in the High Courts and the Supreme Court from 2010 to 2015 which directly affected rights of a child under the RTE Act by a research centre, it was observed that some provisions of the Act are more litigated than the others.

Less litigated issues

1. The provisions which are relatively less litigated are facilities for disabled students prescribed under the Act. They account merely 5% of the total litigation.
2. The provisions mandating basic facilities and adequate infrastructure in schools constitute 11% of the total disputes settled under the RTE Act.
3. It has been observed that fewer litigants seem to have approached courts for relief over infrastructural norms and availability of qualified teachers as required under the RTE Act. However it does not mean that these norms are better implemented than more litigated ones.
4. These provisions impose positive obligations on States for implementing the RTE Act and, therefore, must be progressively realised as it may not be high priority for litigants who are generally individual parents.
5. The provisions on banning corporal punishment and prescription of pupil-teacher ratio in classrooms have not been contested at all, even though circumstantial evidence and news reports suggest clear violations of these.

Limitations of judiciary

- a. From the above types and frequency of litigations, it appears that the RTE Act remains under-enforced.
- b. The courts are usually demand-driven and give priority to issues that are brought forward by litigants. Hence, they still don't have the opportunity to go beyond injunctions and focus on long-term reliefs involving systemic reform.
- c. In very few cases, the courts have formulated monitoring mechanisms to ensure timely implementation of their orders.
- d. However in some cases the court's interventions were instrumental in the implementation of the Act. For instance, courts directed the Gujarat and Telangana governments to implement key provisions of the Act, including section 12(1)(c). This happened as late as in 2015.

Proposed reforms

- The judiciary is expected to play a significant role in enforcing the RTE Act.
- Courts have been acting and have to continue to act as first port of call in the absence of proper statutory bodies and grievance redressal mechanisms.
- However, it is imperative that judicial efforts be supplemented by building awareness and strengthening grievance redressal mechanisms under the RTE Act.
- This will lead to saving of litigation costs as well as remove the barriers to secure rights for parents and their children.
- Side by side, strategic litigation across High Courts should also be explored, for pushing implementation of the RTE Act by state governments.
- In a PIL filed in 2014 by National Coalition for Education in SC, it pointed out that at least 3.77 crore children between the age of 6 to 14 years were not in schools.
- It also highlighted sluggish implementation of the RTE Act, leading the Apex Court to direct all states and union territories to respond to these issues.
- Thus, more such efforts by civil society organisations will be useful in getting targeted judicial orders for the effective implementation of the Act.
- RTE is here to stay as its focus on educating all children is core objective of a developing India. Now the executive has to strengthen education delivery mechanisms and necessary political will to implement Act. Simultaneously, judiciary will continue hold government accountable and ensure the Act's enforcement. Thus, it shows that bureaucratic apathy and weak institutional mechanisms are some factors that have

contributed to poor and less significant implementation of the Act. However, there is relatively unexamined indicator of how the law has worked is its contestation in courts.

Empowering the Right to Education

In 2009 India enacted a landmark legislation promising universal inclusion in primary education, paving the way for more learning opportunities at secondary and higher levels. This legislation, the Right of Children to Free and Compulsory Education (RTE) Act, effectively made education a fundamental right of every child in the age group of 6 to 14. Yet six years on from its entry into force, there is still significant debate about the parameters through which that promise is supposed to be realised. A massive investment push into education infrastructure has seen about 3.5 lakh new schools opened in the past decade under the Sarva Siksha Abhiyan so that 99 per cent of India's rural population has a primary school within a one kilometre radius. An already high enrolment level, about 95 per cent since 2009, has been supplemented by a 55 per cent decline in dropout rate reported between 2005 and 2014 in the age group 6-14. Despite significant gains in increasing access to schooling, there are still major glitches in the implementation of the Act. Earlier this year,

According to a 2015 Brookings Institute report on primary education in India, 29 per cent of children drop out before completing five years of primary school, and 43 per cent before finishing upper primary school. High school completion, according to the report, is only 42 per cent. India's dropout trends also raise troubling questions about equity: there is a huge difference between urban and rural education, and the education received by the rich and the poor. Of the 6.064 million out of school children, an incredible 4.6 million, or 76 per cent, belonged to the Scheduled Castes, the Scheduled Tribes and the religious minorities. The RTE promises education of equitable quality in schools meeting certain essential standards but in that crucial parameter of inclusion lies its biggest failing.

Much of the narrative around the RTE and its implementation tended to focus on the 25 per cent reservation of seats for children from disadvantaged backgrounds in private schools. Latterly, it has also focused on the large number of low cost or budget schools that have faced closure for failing to meet infrastructure norms envisioned under the Act. It is important to recognize however, that about 70 per cent of India's students study in government school and fixing this system - in term of improving infrastructure, teacher quality and targeted learning for children from disadvantaged groups should be the first step in building a more equitable system.

Improvement facilities in the schools across Hyderabad

The Telangana government has taken up mapping of infrastructure availability in government-run schools, junior colleges, polytechnics and degree colleges across the state with a view to revamp the functioning of these educational institutions by the required institutions by

providing infrastructure. At the initiative of deputy chief minister (education) Kadiyam Srihari, an action plan is being prepared to take up infrastructure works on a war-footing in the state capital-Hyderabad.

Hyderabad district boasts of 688 government schools, including 500 primary schools, 7 upper primary schools and 181 high schools. These schools account for total enrolment of 1,23,475 students, including 74,691 at primary level, 1,430 at upper primary and 47,354 at high school level. The number of Urdu medium schools is 220, including 184 primary, 3 upper primary and 33 high schools. The total enrolment of Urdu medium schools in Hyderabad comes to 32,108 with 25,515 students at primary, 663 at upper primary and 5,930 at high school -level.

These 688 government schools are spread across 15 assembly constituencies of Hyderabad district, including Secunderabad cantonment. The infrastructure mapping exercise covers 14 parameters. The initiative aims at providing infrastructure such as new school buildings, toilets, running water facility, drinking water through RO (reverse osmosis) plants, compound wall, electricity, science lab, computer lab and library facility, dual desks, biometric system and CC (closed circuit) cameras at the government schools, including Urdu medium schools. Statistics on availability of different types of infrastructure in the government schools show the sorry state of affairs in these schools. There is a huge gap between the requirement and availability of these facilities. As many as 159 government schools do not have their own buildings.

Also, 167 schools do not have toilet facility, 135 lack running water facility, 154 do not have drinking water, 89 have no electricity and 132 schools have no compound walls. Not a single school has biometric system of attendance, or CC cameras or an RO plant. Most schools do not even have adequate number of dual desks. Worse still, out of the 181 high schools, 145 don't have science labs, 161 lack computer labs and 17 do not have library facility.

Worse still, the assembly-wise data shows big variations in the availability of various types of infrastructure in the government schools. In fact, the gap between the requirement and availability of infrastructure is more pronounced in the government schools in the southern and western parts of Hyderabad, which have sizeable minority and Urdu-speaking population, compared to other areas. The 7 assembly segments-Bahadurpura, Chandrayangutta, Karwan, Malakpet, Nampally, Charminar and Yakutpura-have 388 government schools with 69,643 students. They need a massive outlay of Rs 109.14 crore for provision of the required infrastructure. On the other hand, the 300 schools in the remaining 8 assembly constituencies, with 53,832 students, require funds amounting to Rs 47.44 crore. Overall, the required outlay for all the 688 schools comes to Rs. 156.58 crore. The Urdu medium schools in all the 15 assembly segments are in bad shape. These 220 schools need Rs 69.06 crore for filling up infrastructural gaps. As many as 117 Urdu medium schools are functioning in rented or dilapidated buildings. They have shortage of 179 classrooms. 39 schools have no toilets and 32 have no running water, 53 lack drinking water and 30 do not have electricity. Again, 66 of these schools have no compound walls. Only 3 out of 33 Urdu medium high schools have integrated science lab. None of these high schools have computer labs. Six do not have libraries.

As against requirement of 12,395 double desks for school children, these schools have only 4,958 leaving a gap of 7,437 double desks. Bio-metric system, CC cameras and RO plants are non-existent in these schools.

Conclusion

To conclude, taking these measures would not only help the unrecognized schools to attain a better standard in terms of infrastructure, teacher quality and student learning, it would also make them a part of mainstream education system. At the same time, it would eliminate those schools that cannot fulfill even the basic criteria.

The following paper does not argue that only private schools are the way forward, but that they should be encouraged to work alongside government to attain the goal of Universal Elementary Education which has become even more important with the inception of the RTE.

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