

**THE CONCEPT OF RIGHT TO EDUCATION IN INDIA:
CHALLENGES AND ACCESSIBILITY**

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Abstract

Education is a fundamental human right that is crucial for the holistic development of individuals and societies. It is an innate right for every individual, regardless of their background, to access quality education. The Indian Constitution, through the 86th Amendment Act of 2002, made education a fundamental right for children aged 6-14, emphasizing the government's responsibility to provide free and compulsory education, ensuring no child is deprived of learning due to financial or social barriers. The RTE Act has played a pivotal role in advancing inclusive education, reducing dropout rates, and improving the overall quality of education in India. This right not only empowers individuals but also catalyses societal advancement and progress and making education a cornerstone of progress in any society. The RTE Act has significantly enhanced India's education system, promoting inclusive learning and reducing dropout rates, but still faces challenges in universal access to education in remote and marginalized areas. The government, non-governmental organizations NGOs, and civil society organizations are working together guarantee to every Indian child's right to education. This study aims to identify the right to education under The Article 21 and analyse and promote the various aspects of this fundamental human right. This paper also help to identify the groups that

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are marginalized and left behind, such as girls, children with disabilities and those from disadvantaged backgrounds. This paper evaluate the effectiveness of educational policies implemented by different governments and organizations in order to promote the right to education.

Keywords: Education; Rights; Constitution; Government

Introduction:

The Right to Education is the right of every person to receive an education that is free, compulsory and of good quality. It encompasses the right to access schools or educational institutions, to receive equitable and inclusive education and to develop one's full potential. In order to guarantee quality education for all children in this age group, the Right to Education (RTE) Act, which was passed in On 4 August 2009, stipulates specific norms and standards for educators, schools and infrastructure. It came into force on April 1, 2010. The 86th amendment in 2002 made education a fundamental right to ensuring free and compulsory education for children aged 6-14 in order to prepare children for adulthood and their achievement on the social, professional and personal fronts. Education is a fundamental human right that promotes human dignity, social progress in society and personal development.

India is among the 135 countries that have made education a fundamental right for every child. It is recognized as a powerful catalyst for both individual and societal development, and everyone should have equal access to quality education which is free from discrimination, regardless of background, gender, or socioeconomic status. Education fosters

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- Barman, P., & Mandal, S, (2015). *Right to Education Act (2009) and Its Practical Implementation in School Education: An Attitudinal Study*, ResearchGate, https://www.researchgate.net/publication/327678656_Right_to_Education_Act_2009_and_Its_Practical_Implementation_in_School_Education_An_Attitudinal_Study_at_Teachers_Level. Accessed on 29 October 2023.

critical thinking, creativity, and innovation in along with imparting knowledge and skills. It gives people the knowledge and skills they need to understand the world and meaningfully engage with their communities. It fosters intellectual curiosity, laying the foundation for a more informed society. The chain of poverty and discrimination is broken by the right to education, which fosters social equality and inclusivity. The right to education has evolved over time, reflecting global consensus on its importance in social and economic development, peace, stability, and reducing inequalities.

The United Nations, through the Universal Declaration of Human Rights and treaties like the International Covenant on Economic, Social, and Cultural Rights has emphasized the right to education as a crucial human rights component. The United Nations' Sustainable Development Goals (SDGs) emphasize the importance of education in achieving sustainable development. SDG 4 emphasizes inclusive, equitable quality education and lifelong learning opportunities for all. It emphasizes the need for access to education, quality, and lifelong learning to meet the demands of an evolving global economy.

Historical Background of the RTE Act (2009):

During the ancient India, training centres were based on 'Gurukuls'. The ancient education system focused on character formation, culture preservation, social and religious duties.

Indian education focuses on culture and traditions since the Early Vedic period aiming to provide a comprehensive and holistic education.

During the British period, the British education reformation eliminated gender and caste bias. The British rulers took a historic step in 1813 when they passed the Charter Act 1813, which promoted sciences in British territories and gave financial support to native Indian intellectuals, despite methodological challenges. Massive Progresses in education during the

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- <https://dse.education.gov.in/rte> . Accessed on 29 October 2023.

British period in India under Lord Macaulay (Minutes of 1835), the Wood's despatch 1854, Indian Education Commission 1882, The Shimla Conference 1901, The Government Resolution on Education Policy 1913, The Calcutta University Commission 1917-1919 and Montague-Chelmsford Reforms 1919.

During the Indian independence movement, leaders like Mahatma Gandhi and Jawaharlal Nehru recognized the significance of education in nation-building. Their vision laid the groundwork for the inclusion of the right to education as a fundamental right in the Constitution. Mahatma Gandhi's principle of free and compulsory primary education for all is reflected in the 1948 Universal Declaration of Human Rights.

The Constitution Assembly decided to adopt the Directive Principles of State Policy after debating on the issue of free and compulsory education for up to 14 years. The National Policy on Education 1968 was the first documents to address elementary education. In 1992, the Supreme Court of India rule that the right to education is a fundamental right under Part III of the constitution, and every citizen has a right to education. In 1992, the Supreme Court of India rule that the right to education is a fundamental right under Part III of the constitution and every citizen has a right to education in the case of Mohini Jain Vs State of Karnataka, the right to education is implicit in the right to life guaranteed under Article 21 and must be included in the light of the Directive Principles of the constitution.

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- Assisi Almeida, F, (2023), *Right to Education in India - a Dream or a Reality?* *International Journal of Law and Social Sciences*, 1–15, <https://doi.org/10.60143/ijls.v5.i1.2019.29>, Accessed on 29 October 2023.
 - *Annual Status of Education Report 2022*, <https://asercentre.org/about-aser-2023/#:~:text=In%202023%2C%20ASER%20will%20once,and%20skills%20in%20rural%20India>. Accessed on 28 October 2023.
 - *What is Right to Education Act (RTE Act)? (2021)*, *Times of India Blog*, <https://timesofindia.indiatimes.com/readersblog/igoravsharma/what-is-right-to-education-act-rte-act-32034/>. Accessed on 29 October 2023.

Implementing the Right to Education in India has been a critical step towards ensuring every child's fundamental right to education. This essay aims to discuss the significance of this right and the efforts made by the Indian government to ensure its effective implementation.

The Right to Education (RTE) Act, 2009, signifies a landmark in the Indian education system, aiming to provide free and compulsory education for all children between the ages of 6 and 14. This act has not only enabled the enrolment of millions of children in schools but has also addressed issues related to access, equity, and quality in the education sector.

Objective of the Study:

The followings are the objectives of this paper:

1. To explain the RTE Act.
2. To study the effectiveness of education policies and governance structures in the implementation of the right to education.
3. To find practical usage of right to education under Article 21.
4. To explore the role of education in socio-economic progress.
5. To identify the barriers that hinder the education of specific groups.

Methodology:

To conduct this study historical approach is used. The research design is descriptive. The present study is based on the data collected from primary and secondary sources. Primary

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- Malik, Sarik.,Serohi, Seema and Tayal, Ajay, (2013), *Awareness of Right to Education Act among Prospective Teachers*, *Research journali's Journal of Education*. Vol. 1, No. 2, 1-6.
 - Aggarwal,JC, 2005, *Recent Developments and Trends in Education*, Shipra Publications, Delhi

data is collected from the authentic reports the Annual Status of Education Report (ASER), Ministry of Education report. The main literature that were used as mainly secondary sources such as books, articles, journals, unpublished dissertations, newspapers, and internet to objectively gather data and arrive of conclusions

Discussion:

India is well known for its art, architecture and culture but it also has the world's longest written constitution. It describes directive principles of state policy in Part IV from Article 36-51, fundamental duties in Part IV-51A and fundamental rights from Article 12-35 in Part III, including equality, freedom, exploitation, religion freedom, cultural and educational Rights and constitutional remedies. All citizens and aliens are guaranteed the right to life and personal liberty by Article 21. Implied rights protected by the constitution includes rights like livelihood, human dignity, Shelter, a clean environment, privacy and protection against handcuffing and food starvation. RTE Act has significantly contributed to increasing the enrolment of children in schools and improving the overall quality of education in India. This study aims to identify the right to education under The Article 21.

CONSTITUTIONAL PROVISIONS ON EDUCATION:

The Indian Constitution's founders believed that education was a fundamental right, although it was not included in the section on fundamental rights. Rather, it was included into Article 45, which requires all children to obtain free compulsory education until the age of 14. Though Article 29 guarantees that no citizen is denied from educational institutions on the grounds of race, religion, caste, or language, it did not include education in the list of fundamental rights. The 86th amendment in 2002 made education a fundamental right to ensuring free and compulsory education for children aged 6-14. The RTE Act binds the Central and State Governments to make sure that all children aged 6 to 14 are admitted, attend, and complete their elementary education. It came into force on April 1, 2010. The title

of the RTE Act incorporates the words ‘free and compulsory’. In India, free education guarantees that no child is liable to any fees or charges that may prevent their pursuit of elementary education.

<p><u>Article 21A</u> <u>Introduced by the Act of 2002, the 86th Amendment</u></p>	<p><u>Article 45</u> <u>Modifications by the 86th Amendment Act of 2002</u></p>	<p><u>Article 51k</u> <u>Inserted by 86th amendment</u></p>
<p>21A. 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."</p>	<p>Provision for early childhood care and education to children below the age of six years." "45. The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."</p>	<p>Amendment of article 51A In article 51A of the Constitution, after clause (J), the following clause shall be added, namely:- "(k) 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."</p>

Key Aspects of the Right to Education:

The Right to Education Act in India mandates the state and central governments to uphold the fundamental rights of children, as per Article 21 A of the Constitution. The Right of Children to Free and Compulsory Education (RTE) Act, 2009 is a crucial Indian legislation that mandates free and compulsory education for children aged 6-14, aiming to ensure every child has the opportunity to receive quality education as a fundamental right.

- ❖ It is included in the fundamental rights of Indian constitution in Article 21A inserted by the 86th Amendment in December, 2002. The provisions of the Act came into force from 1st April, 2010.
- ❖ The Indian government is mandated to provide free elementary education to every child in a neighbourhood school within 1 km, up to class 8 with no fees or other charges. This includes textbooks, uniforms, stationery and special educational materials for disabled children.
- ❖ The Right to Education Act sets norms for elementary schools in India, including Pupil-Teacher-Ratios, classrooms, toilets, drinking water facilities, school-working days, and teacher working hours, to maintain minimum standards.
- ❖ According to the Right to Education Act, children who are not enrolled in school must be admitted to an age-appropriate classrooms and given special training to reach their learning level.
- ❖ The Right to Education Act ensures a balanced Pupil-Teacher-Ratio and appointing appropriately trained teachers.
- ❖ Minimum numbers of working days/instructional hours in an academic year shall be: 200 working days for Class I to V or 800 instructional hours and 200 working days or 1000 instructional hours for Class VI to VIII.
- ❖ Minimum number of working hours per week for the teachers shall be 45 (forty five) including preparation hours.
- ❖ Private schools are required to reserve 25% of seats for children from disadvantaged communities.
- ❖ It mandates that no child shall be held back, expelled, or required to pass a board examination until the completion of elementary education.

- ❖ It requires that the government and local authorities provide facilities such as a school within a one-kilometre radius, separate toilets for girls, and safe drinking water.
- ❖ Compulsory and rigorous monitoring of child's learning levels and teaching quality.
- ❖ Provisions for infrastructure development in schools, including drinking water, toilets, and playgrounds.
- ❖ Special provisions for children with disabilities to ensure their proper education.
- ❖ The Right to Education Act 2009 protects children from discrimination like physical punishment and mental harassment, discrimination based on gender, caste, class and religion and prohibits the Screening procedures for admission of children capitation fee, private tuition centres, and functioning of unrecognised schools.
- ❖ The Act promotes a child-centric curriculum and continuous and comprehensive evaluation to assess the all a rounder development of children.
- ❖ School management committees: The Act mandates the formation of School Management Committees (SMCs) to ensure the participation of parents and the local community in the management of schools.
- ❖ The responsibility of the appropriate government to provide funds for the successful implementation of the Act.

The RTE Act is a landmark part of legislation designed to guarantee all children have fair access to education and encourage the universalization of basic education in India.

Importance:

In India, education is a fundamental right that guarantees all children, irrespective of their social, economic, or cultural background, equal access to quality education. This right opens the door to a better future, making it an effective weapon for social change, personal growth, and national advancement. RTE Act is justiciable. Individuals can take action against non-compliance with the Right to Education Act 2009, which is supported by a Grievance

Redressal mechanism and justiciable. In 2011, Oxfam India and JOSH filed a complaint at the Central Information Commission (CIC) to enforce Section 4 of the Right to Information Act (RTI Act) 2005, which mandates public authorities to share information about their functioning. Schools, as public authorities, were required to comply with this mandate. Here are some key reasons highlighting the importance of the right to education in India:

- ❖ RTE Act empowers individuals by providing knowledge, skills, and critical thinking, enabling informed decision-making, active participation, and socio-economic improvement, ensuring every child has the right to education.
- ❖ RTE Act provides access to better job opportunities and higher incomes to reduce poverty by providing equal access to education for all and the Right to Education Act helps break the cycle of poverty.
- ❖ India's education right promotes social inclusion by ensuring equal access to education for children from marginalized communities, reducing social inequalities and fostering a more equitable society.
- ❖ RTE Act promotes gender equality by increasing girls' enrolment, reducing literacy disparities, and empowering women.
- ❖ RTE Act is linked to improved health and nutrition, often accompanied by programs like the Mid-Day Meal Program, which enhances school attendance and tackles malnutrition among students.

Challenges and Obstacles in Achieving the Right to Education:

Despite of these achievements in the promotion of accessibility in education, problems still exist as a result of poor infrastructure, a lack of teachers, and limited resources. High dropout rates highlight the need for comprehensive policies to guarantee that all children are enrolled in the educational system, particularly for girls and underprivileged youth. There have been

various challenges and issues related with its implementation. Some of these problems include:

- The act should also focus on parallel structures like the SCERT, SIEMAT, DIET, as it would highly professionalize teaching.
- The Act aims to decrease dropout rates, but many children continue to drop out due to factors like child labour, early marriage, and economic necessity.
- Ensuring equal education for all children is made more difficult in remote and marginalized communities due to issues including poor connectivity, lack of accessibility, and limited school availability.
- Budgetary constraints often hinder the availability of resources needed for the successful implementation of the RTE Act, affecting education quality and school functioning.
- Despite compulsory education provisions, children are often absent due to socio-economic factors and lack of awareness.
- The implementation of the Act may be hindered by the lack of awareness among parents and communities regarding their rights and provisions.
- Private schools must reserve seats for economically disadvantaged students.

Solutions:

Despite these challenges, India is enhancing its education system through initiatives like the Sarva Shiksha Abhiyan and the Mid-Day Meal Scheme, aiming to improve school enrolment, enhance the quality of education and address nutritional needs. India's National Youth Policy 2021 aims to unlock the potential of the country's largest group of youngsters by promoting social justice, entrepreneurship, education, employment, and youth leadership in along with mental and physical wellness for a brighter tomorrow. The integration of technology in education could bridge the gap between rural and urban areas and offering a wider range of

learning resources and opportunities. Governments, policymakers, and stakeholders can consider the following solutions to effectively implement the right to education:

- ✓ The quality of Mid-Day Meal should be constantly scrutinized.
- ✓ By Adopting laws that guarantee equal access to education, removing obstacles based on a person's gender, race, financial situation, or disability, and promoting equal opportunities for vulnerable and marginalized populations.
- ✓ Promote public awareness about the value of education and the right to an education.
- ✓ Utilize technology to enhance educational opportunities, particularly for those in remote or underserved areas.
- ✓ Education should be accessible and affordable for low-income households through financial assistance, scholarships, and incentives.
- ✓ In order to ensure that no children is denied their right to an education, laws that guarantee free and compulsory education for all children must be established and enforced.
- ✓ Local communities and parents' involvement in education initiatives ensures program success, sustainability, and fosters responsibility for children's attendance and benefit.

Conclusion:

The right to education in India is crucial for building an educated and empowered society. Despite challenges, sustained government and stakeholder efforts can create a robust, inclusive education system that equips every child with knowledge and skills for personal and professional growth. Prioritizing education as a fundamental right can lead to a brighter future for all citizens. It contributes to a more equitable society and is an investment in the future of the country and its people, fostering a more enlightened society.

