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RIGHT TO EDUCATION



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This article is written by Jahnvi, a fourth year B.A. LLB (Hons.) student from ICFAI Law School, Hyderabad during her internship at LeDroit India.

1. **Keywords:** human right; social inclusion; reducing poverty; economic development; democratic values.

2. **Abstract:**

The right to education is a fundamental human right recognized globally, enshrined in various international treaties, and constitutions of many nations. It guarantees every individual, irrespective of their background or status, the opportunity to access quality

education. The right to education encompasses not only primary and secondary education but also higher education and vocational training.

This right is essential in promoting social inclusion, reducing poverty, and fostering economic development. It empowers individuals to acquire knowledge, critical thinking skills, and competencies necessary for personal growth and advancement in society. Education equips individuals to become active participants in civic life, promoting democratic values and human rights.

Ensuring the right to education requires governments to adopt inclusive and equitable education policies, invest in educational infrastructure, and eliminate barriers to access. This includes addressing issues such as gender disparities, discrimination, and ensuring education is affordable and accessible to all, including marginalized groups.

While progress has been made in promoting the right to education globally, challenges persist, particularly in developing countries and regions affected by conflict. By prioritizing education and collaborating at all levels, societies can advance towards a more equitable and prosperous future, realizing the transformative potential of the right to education.

3. RIGHT TO EDUCATION IN INDIA:

The Right to Education (RTE) is a fundamental right enshrined in the Indian Constitution under Article 21A. It was added through the 86th Constitutional Amendment Act in 2002 and came into effect in 2010 as the Right of Children to Free and Compulsory Education (RTE) Act.

The Act contains several provisions aimed at promoting universal access to education and ensuring a quality learning environment. Some of the key provisions under the RTE Act are as follows:

Free and Compulsory Education: The RTE Act ensures that every child between 6 to 14 years of age has the right to free and compulsory education in a neighbourhood school.

Non-Discrimination: The Act prohibits discrimination against children on the basis of gender, caste, religion, ethnicity, or economic status in access to education.

No Capitation Fees and Screening: The Act prohibits schools from charging any capitation fees or conducting screening tests for admission.

Reservation of Seats in Private Schools: Private schools are required to reserve 25% of their seats for children from economically weaker sections and disadvantaged groups, providing them access to quality education.

Norms and Standards for Schools: The RTE Act prescribes norms and standards for pupil-teacher ratio, infrastructure, facilities, and teacher qualifications to ensure a conducive learning environment.

Teacher Qualifications: The Act mandates that all teachers should possess minimum qualifications as laid down by the National Council for Teacher Education (NCTE).

Continuous and Comprehensive Evaluation (CCE): The RTE Act promotes the use of CCE to assess and monitor students' learning progress regularly instead of relying solely on exams.

No Detention Policy: the Act do not follow any detention policy up to class VIII, meaning no child can be detained or held back in any class until the completion of elementary education.

Special Provisions for Children with Disabilities: The RTE Act provides special provisions for children with disabilities, including inclusive education and support services.

School Management Committees (SMCs): The Act establishes SMCs in all schools, comprising parents and local authorities, to ensure community participation in school management and monitoring.

Recognition and Financial Support to Schools: The RTE Act lays down the criteria for schools to obtain recognition from the government and provides financial assistance to ensure their proper functioning.

School Dropout Prevention: The Act emphasizes measures to prevent school dropouts and facilitate re-admission of out-of-school children.

Monitoring and Grievance Redressal: The Act establishes mechanisms for monitoring and oversight of the implementation of RTE provisions and provides for grievance redressal through local authorities.

The RTE Act in India aims to bridge educational gaps, promote social inclusion, and ensure that every child has an equal opportunity to receive a meaningful and relevant education. However, effective implementation and continuous efforts are necessary to address challenges and ensure the full realization of the right to education for all children.

4. ARTICLE 21-A AND RTE: (Relevant Case Laws)

The Right to Education is enshrined in Article 21-A of the Indian Constitution. This right was strengthened by the 86th Constitutional Amendment Act in 2002, effective from April 1, 2010.

Article 21-A is considered one of the most significant fundamental rights because education plays a vital role in empowering individuals to understand and enforce their other fundamental rights. This was highlighted in the [*Ashok Kumar Thakur v. Union of India \(2008 SC\)*](#) case.

Additionally, Article 21-A, in conjunction with Article 19(1)(a), ensures that every child has the right to receive education in the language of their choice. This right was upheld in the [*Karnataka vs. Associated Management of \(Government Recognised – Unaided – English Medium\) Primary & Secondary Schools & Ors \(2014\)*](#) case.

Furthermore, Article 21-A guarantees that every child has the fundamental right to receive education in a safe and secure environment. Children should be able to study in sound buildings with appropriate fire safety precautions in place, as emphasized in the [*Avinash Mehrotra v. Union of India & Ors. \(2009\)*](#) case.

5. RTE AND ARTICLE 21-A: Drawbacks and Recommendations

While the Right to Education (RTE) Act and Article 21A of the Indian Constitution have been instrumental in expanding access to education and promoting inclusivity, there are some challenges and drawbacks associated with their implementation. Some of these drawbacks include:

1. **Quality of Education:** One of the significant drawbacks of the RTE Act is the focus on access to education without adequate emphasis on improving the quality of education. Despite increased enrolment, the quality of education in many government schools remains a concern, leading to a lack of essential skills among students.
2. **Infrastructure and Resources:** Many government schools, especially in rural areas, suffer from a lack of adequate infrastructure, including classrooms, libraries, laboratories, and other essential facilities. Additionally, there may be a shortage of qualified teachers and teaching resources.
3. **Inadequate Funding:** The RTE Act mandates that the government allocate a specific percentage of its budget to education. However, budgetary constraints and improper allocation of funds have often resulted in inadequate resources for implementing the act effectively.

4. **Dropout Rates:** While the RTE Act emphasizes free and compulsory education, dropout rates remain high, especially in economically disadvantaged areas. Factors such as child labour, poverty, and social issues can contribute to students leaving school prematurely.
5. **Disparities in Implementation:** The implementation of the RTE Act varies across different states and regions, leading to disparities in the quality of education and access to educational resources.
6. **Lack of Awareness:** Many parents and guardians, especially in remote areas, are not fully aware of their children's right to education. This lack of awareness can hinder enrollment and effective implementation.
7. **Private School Regulation:** The RTE Act requires private schools to reserve a percentage of seats for children from economically weaker sections (EWS). However, some private schools have expressed concerns about the financial burden and lack of government reimbursement, leading to resistance and legal challenges.
8. **Inclusive Education Challenges:** While the act aims to promote inclusive education, there are challenges in providing appropriate support and facilities for children with disabilities and special needs in regular schools.
9. **Evaluation and Assessment:** The assessment and evaluation processes in government schools need improvement to ensure the effectiveness of the education provided and to identify areas that need more attention.
10. **Teacher Training and Accountability:** Continuous professional development and accountability of teachers are essential for improving the quality of education. However, there have been challenges in ensuring adequate training and monitoring mechanisms.

Addressing these drawbacks requires a comprehensive approach involving better resource allocation, infrastructure development, teacher training, community engagement, and regular evaluation and monitoring of the education system. It's essential to continuously assess and revise the policies to ensure that the Right to Education Act achieves its intended goals effectively.

6. CONCLUSION:

The Right to Education (RTE) Act in India is a landmark legislation that has significantly contributed to expanding access to education and promoting inclusivity in the country. Enacted in 2009, it aims to provide free and compulsory education to all children between the ages of 6 and 14 years. The act recognizes education as a fundamental right and sets the stage for the holistic development of children and the empowerment of future generations. Since its implementation, the RTE Act has led to a considerable increase in

enrolment rates in schools, especially among marginalized and economically disadvantaged communities. It has also facilitated the establishment of new schools and the improvement of educational infrastructure across various regions.

Furthermore, the RTE Act emphasizes the importance of inclusivity and equal opportunities for children with disabilities, aiming to integrate them into the mainstream education system. Various schemes and initiatives have been introduced to provide additional support and resources for children with special needs. Despite its significant achievements, the RTE Act faces some challenges and drawbacks that need to be addressed. These include concerns regarding the quality of education, inadequate funding, disparities in implementation, high dropout rates, and issues related to the regulation of private schools.

To ensure the successful implementation of the RTE Act, it is crucial for the government to focus on improving the quality of education, addressing infrastructure gaps, allocating sufficient funds, and enhancing teacher training and accountability. Efforts should also be made to create awareness about the right to education among parents and guardians to increase enrolment and reduce dropout rates.

In conclusion, the Right to Education Act in India represents a significant step towards creating a more equitable and inclusive educational landscape in the country. It serves as a foundation for building a well-educated and empowered society, fostering growth and development for the nation as a whole. However, continuous efforts and reforms are necessary to overcome the challenges and ensure that every child in India can exercise their right to education and achieve their full potential.