

RIGHT TO EDUCATION ACT IN UTTAR PRADESH: GAPS AND CHALLENGES

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ABSTRACT

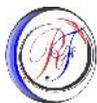
*The RTE Act deserves due recognition for articulating in unambiguous terms the State's commitment to education. However, it is also true that many gaps persist in the existing formulation of the Act – these include key areas not addressed by the legislation as well as policy and implementation level loopholes. This paper will attempt to explore key lacunae in the context of the RTE Act and suggest improvements to address them. We shall also discuss the supporting mechanisms, administrative imperatives and implementation challenges that need to be addressed if such policy improvements are to yield results on the ground. Achieving the goal of equitable, quality education for all requires progress along multiple dimensions – better policies, stronger political commitment, superior implementation, enhanced funding and higher community involvement among many others. **We recognize that there are many issues in education that are not related to the RTE Act or indeed to the realm of policy in general. However, this paper will restrict itself to the RTE Act and suggest implementation level improvements that could strengthen the Act and deliver the promise with which it was originally conceived.***

Key Words: Right, Education, Right to Education, Elementary, Marginalise, Equality etc

Brief Overview of the Education System in India

Under the Constitution of India, education is a concurrent subject, with a sharing of responsibilities (including legislation) between the Centre (Ministry of Human Resource Development) and States (Departments of Education). Management of schooling has been traditionally controlled by the mainstream state and district administrations. The last two decades have seen the emergence of a number of education-specific support institutions, such as the District Primary Education Programme (DPEP) and Sarva Shiksha Abhiyan (SSA) State Implementation Societies, State Councils of Educational Research and Training (SCERT), State Institutes of Educational Management and Training (SIEMAT), District Institutes of Education and Training (DIET), Block Resource Centres (BRC), Cluster Resource Centres (CRC), and, in rural areas, Village Education Committees (VEC), as well as an increased involvement of NGOs, that have acted as a counterweight to what is often an overly bureaucratic and hierarchical administration. The last decade or so has also seen the establishment of the *Panchayati Raj*, or village council, and this body is playing an increasingly important role in education in rural areas across the country.

There are broadly four stages of school education in India: namely, primary, upper primary, secondary education (SE), and higher secondary education (HSE). The combination of primary and upper primary schooling is termed elementary education. It is important to



note that there is also a programme of pre-school education (for three to six year olds), early childhood care and education (ECCE), mostly provided through the Department of Women and Child Development (DWCD), GOI through *Anganwadi* Centre infrastructure.

There are also a few other, government and private providers of pre-school and nursery education in rural areas. At the other end of the system, there is technical and vocational education as well as training and higher education involving universities and undergraduate and postgraduate institutions.

Within this structure there are four basic types of school:

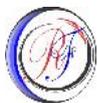
1. government schools, including those run by local bodies;
2. private schools, aided by the government;
3. private unaided schools; and
4. unrecognized private schools (the first three being recognized by the government).

Eighty-seven per cent of the schools in India are in the country's villages. Government statistics and independent surveys have revealed that over 90 per cent of the rural schools at elementary level are run by the government. Only in Uttar Pradesh and Tamil Nadu does that share drop to 73 and 74 per cent (Mehta, 2007). At the secondary and higher secondary levels we find that while the majority of students are in government schools (55 per cent), a large proportion are in private schools aided by the government (35 per cent) with un-aided private schools accounting for the remaining ten per cent of places. It is noticeable that in rural areas there has been an increase in enrolments in government SE and HSE schools in recent years with a corresponding decline in enrolments in the government aided schools.

Background of Right to Education

Over past few decades, perception or approach to education underwent change because of Universal Declaration of Human Rights. It proclaims 'Everyone has right to education', wherein elementary and fundamental education shall be 'free' and compulsory'. World Conference on Education for all adopted 'Every person – child, youth and adult – shall be able to benefit from educational opportunity designed to meet their basic learning needs'. Twin notion of 'elementary and fundamental education' are overtook by notion of 'basic education'. At the same time a shift in emphasis from 'education' to 'learning' exemplifies people vis-à-vis society demands education to be 'free' and 'compulsory' ('educational opportunity to meet basic learning needs of people').

At a popular discourse, learning begins at birth. Early childhood care and initial education is imparted through involvement of community, family or institutional programme. Beginning of basic education of children outside family usually starts with primary school. Therefore primary education must be universal and fundamental ensuring basic learning need of children and further taking into account socio-cultural specificity of community. Likewise supplementary alternative programme may help children, who have limited or no access to formal schooling to meet their basic learning need; provided they share similar learning process applied to school that is adequately supported.



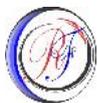
The recently legislated Right to Education (RTE) Act is a milestone in the journey towards achieving the goal of universal, equitable and quality education. The Act has travelled a long and arduous path to the point of legislative sanction and is the most substantive declaration of the government's responsibility towards education. Therefore it would be appropriate to examine the issues around educational policy in the overall framework already provided by the Right to Education (RTE) Act.

Brief Overview of the Right to Education Act in Uttar Pradesh

One of the dreams of the leaders and philosophers of India's freedom struggle was free and compulsory education to one and all. Right to education was included in the Indian Constitution under Article 45 of the Directive Principles of State Policy and prior to the Constitution (Eighty-sixth Amendment) Act, 2002 it read as “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”. However even after more than 6 decades the dream remains to be achieved. Later by 86th Amendment Act, 2002 (assented on 12-12-2002) right to education was inserted in Article 21A and was made a part of fundamental rights. The Article provides that the State shall provide free and compulsory education to all children between the ages of six to fourteen years in such manner as the State may by law determine. For the implementation of the above objective The Right of Children to Free and Compulsory Education Act, 2009 (or RTE) came into force in India with effect from 1st April, 2010. In exercise of the powers conferred by the RTE the Uttar Pradesh State Government made the Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011. The Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011 provides that in respect of children in classes I-V a school shall be established in habitation which has no school within a distance of 1 kilo meter and has population of at least 300. In respect of children in classes VI-VII a school shall be established in habitation which has no school within a distance of 3 km and has population of at least 800. However these rights continue to remain only on paper and no effort has been made to implement the same. Similarly the Act boasts of provisions for distribution of free textbooks to children in classes VI to VII but nothing has been done to implement it. Even though there has been an increase in the literacy rate in India during 2001-2011 it is no proof of quality education. According to a report there are still 28 lakhs children in Uttar Pradesh who have never been to school. Except for the provision of mid day meals which commenced on 1st September 2004 nothing substantial has been done as far as quality education is concerned. Also one of the major reasons for the failure of the Act is the involvement of teachers in non-educational work.

The RTE Act deserves due recognition for articulating in unambiguous terms the State's commitment to education. However, it is also true that many gaps persist in the existing formulation of the Act – these include key areas not addressed by the legislation as well as policy and implementation level loopholes.

This paper will attempt to explore key lacunae in the context of the RTE Act and suggest improvements to address them. We shall also discuss the supporting mechanisms,



administrative imperatives and implementation challenges that need to be addressed if such policy improvements are to yield results on the ground.

Achieving the goal of equitable, quality education for all requires progress along multiple dimensions – better policies, stronger political commitment, superior implementation, enhanced funding and higher community involvement among many others.

We recognize that there are many issues in education that are not related to the RTE Act or indeed to the realm of policy in general. However, this paper will restrict itself to the RTE Act and suggest policy and implementation level improvements that could strengthen the Act and deliver the promise with which it was originally conceived.

Some of the key strengths of the RTE are:

Assignment of State Responsibility:

The Act clearly makes the state responsible for ensuring that every child, in the age group of 6-14, receives schooling for eight years, instead of merely shifting the onus for this to the parents, a majority of who are illiterate and mired in poverty.

Specific Duties:

The Act reiterates the role of the state, along with private and aided schools, to satisfy certain basic norms in terms of infrastructure, learning facilities and the academic calendar. This is important since the quality of inputs has bearing on education outcomes.

Pupil Teacher Ratio:

The Act mandates a minimum Pupil-Teacher Ratio and explicitly requires the same to be maintained in each school, rather than as an average over a block or a district.

Teacher Qualifications:

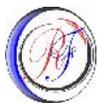
The Act prescribes the minimum qualifications of teachers and their academic responsibilities along with the minimum quality of the content and process. This can positively impact the actual quality of education provided within our schools.

However, the Act also has several shortcomings and there are some who will say that it is wholly inadequate. Like many other acts and laws, the intentions of the RTE Act are very noble but the key issues are around critical gaps in policy as well as implementation and enforcement issues.

Attention may be drawn to the following issues which may result in the RTE Act not delivering the promise of quality education for all.

1. Quality of Teachers and Teacher Education:

While the Act lays down minimum criteria for teacher qualifications, it may be hard to expect quality improvement unless the foundations/principles, content and methodologies of pre- and in-service training of teachers are relooked at and changed. In addition to this, there needs to be a tight mechanism to prevent mushrooming of innumerable sub-standard private teacher training colleges and institutes in the country.



2. Institutional Structures for Academic Support:

The Act draws no attention on the existing shortcomings of the institutional structures for teachers' training and innovation. There should be more clear and strict provisions for capacitating the educational support structures, like the SCERT, SIEMAT and DIET. Formation of a separate cadre of these organizations would greatly contribute towards professionalizing teaching. However, the RTE hardly talks of interventions required for the academic support structures themselves.

3. Ensuring Learning Outcomes and Competencies:

While ensuring that every child who traverses through the elementary education system acquires a certificate of completion, the Act fails to guarantee that a child has acquired competencies deriving from said education process – no standards are set for monitoring and measuring learning outcomes – a case of guaranteeing graduation but not education. The Act should also define a framework to measure the quality of education imparted.

4. Recognition Process for State Schools:

Unlike for private schools, the process of attaining recognition for state schools is not prescribed. The Act does not mention the course of action that State schools will have to face, in case of failure to adhere to minimum norms for quality mentioned in the schedule. There does not seem to be any penalty on the government specified for failing to meet its obligations.

5. Teacher Shortages and Financing:

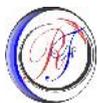
The financing of the RTE Act could prove to be a major obstacle in its effective implementation. After protracted negotiations between the Centre and the States, it was decided that the financial burden would be shared in a 65:35 ratio.

However, even one year after the Act came into force the government of UP (the most populous state) has stated it does not have funds to implement the Act. The budgetary allocation for Sarva Shiksha Abhiyan (the vehicle for implementation of the RTE Act) in the budget for 2011-12 is Rs 21,000 crores, a mere Rs. 2,000 crores increase from the previous financial year.

At present the shortage of teachers is one of the greatest obstacles facing the implementation of the RTE Act. According to the Ministry of HRD in order to meet the requirements of the RTE Act, 5.08 lakh additional teachers are required to be recruited. Given that hiring of new teachers and construction of new schools is mandated under the Act, it is yet to be seen if these can be accomplished with the given budgetary allocations.

6. Inadequate Grievance Redressal Mechanism:

In order to make the RTE Act effective it is necessary to establish the modalities through which rights under the RTE Act are protected and violations of the Act are to be dealt with i.e. a system of registering, investigating and responding within a well-appointed time frame.



Today more than a year after the RTE Act came into force this does not exist in most states. There is no designated authority for grievance redressal at the habitation level. Only eleven states have set up State Commissions for the Protection for the Child Rights and Right to Education Protection Authorities.\

7. Exclusion of Early Childhood Education (ECE):

Several studies on early childhood have shown that 3-6 yrs. is the time when children need to be exposed to literacy-rich environment to enhance their literacy growth, and children who experience schooling for the first time at the age of 6 yrs. are clearly at a disadvantage. In the face of such evidence, it is necessary that RTE is enhanced to include Pre- School Education and its convergence with mainstream education.

Some the issues indicated here are detailed in the subsequent sections.

Quality of Teachers and Teacher Education

In our experience there are about 5 –7 % of government schools that provide high quality education to students. These schools do so largely because of the pivotal leadership, motivation levels and competence of the teachers and head teachers involved.

School leadership is only second to teaching competency in its impact on student learning. In our nearly 1.3 Million schools especially the lower primary schools, there is currently no system that provides systematic Leadership Skills training to Head Teachers to equip them for the task of leading their school to quality performance.

a. Teacher Professional Development.

If the quality of teachers in all our schools needs to improve then there must be profound improvement in a range of related domains in Teacher Education and Professional Development and not just result in more “training programs”. The scope of the effort in this direction needs to be much wider and should include teacher selection, teacher preparation, continuous professional development, continuous academic support and teacher motivation.

b. Teacher Recruitment:

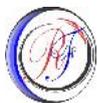
The State Education Departments and the MHRD should ensure that existing Teacher Eligibility Tests (TET) are based on teaching competencies and not on information recall. The Government needs to make required changes in TET in consultation with academic bodies like NCERT, NUEPA and other academic institutions.

c. Teacher Career Development:

The MHRD should establish policies and procedures for setting academic goals for teachers, providing formative feedback and summative performance appraisal. The State Education Departments should implement such policies while tailoring it to the local context.

d. Teacher Education and Support:

The MHRD and State Education Departments should grant higher levels of autonomy and ensure competence at all levels of teacher education – SCERT, DIETs, BRCs. CRCs. The State should ensure that of qualified and competent staff are assigned to



these posts and establish policies and procedures for setting goals and summative performance appraisal.

e. Education Leadership & Management:

The MHRD and State Education Departments should establish a system whereby ongoing management and leadership skills training are provided to School Head Teachers. Funds should be made available under the SSA for conducting such training programs.

Institutional Structures for Academic Support

The RTE Act draws no attention on the existing shortcomings of the institutional structures for teachers' training and innovation although it is not possible to improve teacher competence without providing high quality academic support to teachers on a continuous basis.

Capacitating educational support structures

There should be more clear and strict provisions for capacitating the educational support structures, like the SCERT, SIEMAT and DIET. For example, the 600 + District Institutes of Education and Training (DIETS) were established to provide academic support to teachers and act as the hub for academic leadership in the districts. They have however failed to live up to this role and are today in a state of decay.

A few facts regarding the DIETs may serve to illustrate this issue:

80% vacancy in faculty positions exists in some DIET s. **70%** have no librarian

43% have done no research in last 2 years

40% do not have their own hostel facility and **17%** do not have their own building

The policy steps that need to taken to rejuvenate DIETs (equally applicable to SCERT, SIEMAT etc) include:

a. Vacancies:

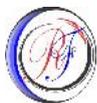
The State should ensure that all sanctioned posts are filled immediately especially academic positions. The State should sanction additional posts where required.

b. Infrastructure:

The State Government should ensure that all such institutions have the proper infrastructure according to norms specified by the MHRD. The State Government / MHRD should make available the funds required for this purpose.

c. Separate Academic Cadre:

The State Government should establish a separate cadre for education functionaries in DIETS and other academic institutions like SCERT, NCERT, BRC, CRC. The cadres should have a clear and attractive career path and professional development opportunities.

**d. District Level Academic Leadership:**

The State Government should constitute District Education Councils comprising of DIETS, SSA and Zilla Parishad heads. In these Councils the DIETS should assume a leadership role in the planning, execution and support of academic activities in the district.

e. On Going Quality Assessment:

The MHRD should create a framework of quality for DIETs (and other teacher education institutes - TEI) and encourage independent assessment of TEI's & DIETs against the framework. The MHRD should monitor quality of TEIs and DIETs on a regular basis.

Ensuring Learning Outcomes and Competencies

While ensuring that every child who traverses through the elementary education system acquires a certificate of completion, the Act fails to guarantee that a child has acquired competencies deriving from said education process – no standards are set for monitoring and measuring learning outcomes – a case of guaranteeing graduation but not education.

Learning Outcomes through Examination Reforms

The norms and standards specified in the Schedule to the Act are excessively input-focussed. This is a reflection of the larger policy environment where at every level of the education system elementary education is dominated by a concern with inputs (enrolments, infrastructure, availability of teachers, materials) and not with learning outcomes. For example, research in India and abroad (Eric Hanushek, ASER, Azim Premji Foundation) indicates that input-based schooling policies have not led to discernible improvements in student performance. Learning is not seem to be correlated with the infrastructure facilities of a school.

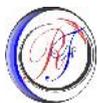
However, the examination system in India is a powerful driver that influences students, teachers, parents and the education system. It can encourage a learning outcome driven education system.

Unfortunately, most exams today largely testing rote learning and recall instead of conceptual understanding and application.

In order to ensure learning outcomes, meaningful examination reforms would include taking the following steps:

a. Competency Based Tests:

State Education Departments should introduce competency based tests from the lower classes which examine conceptual understanding and application rather than rote learning. The Education Departments should bring such change to secondary board exams after due preparation and in a phased manner.

**b. Teacher Development:**

The MHRD and State Education Departments should ensure pre-service and in-service teacher training that focus on understanding learning outcomes and competency-based assessments. This may be facilitated through the DIETS and other TTIs.

c. International Benchmarking:

The MHRD and State Education Departments should encourage schools to participate in international student assessment tests (such as Programme for International Student Assessment (PISA)). This will provide insights into learning outcomes of students vis a vis the world.

d. Provide Holistic Transition Support:

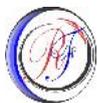
The MHRD and State Education Departments should establish mechanisms to analyze trends of student learning in their State/District and take systemic corrective and preventive actions in areas like availability of proper text books, work books, training, class room material, TLM, curriculum, etc.

CONCLUSION

With multiple draw backs it is clear achieving *Sarva Siksha* is an unfeasible task and it is an eye wash only. Hence there is an urgent need to strengthen delivery mechanism in area of school education especially at grass root level. Further, there is a need to create greater awareness at community level to implement various provisions of RTE Act. When community is fully aware of provision, they are able to claim what is due to them under this Act. This would help in effective implementation of this Act not only in letter but also in spirit. In principle, RTE Act 2009, with appropriate modification and financial provision, offers a great opportunity to correct anomaly of poor education outcome, and can deliver on long-standing commitment of providing basic and quality education to the marginalized community of country. Another aspect relating to quality education is nature of job condition for teacher. With a plethora of evidence it is found that differential remuneration to teacher affect their motivation. Further, while the RTE act suggests that no teacher be engaged in any non-educational task, it excludes their engagement in population census, duty pertaining to disaster relief and election at various levels; however some teachers complain that they are engaged in many such works which affect their contribution to teaching.

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