



## RIGHT TO EDUCATION: CHILD SHOULD BE AT SCHOOL AND NOT AT WORK

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*“Children are the world’s most valuable resource and its best hope for the future”.*  
- John F. Kennedy<sup>1</sup>

*Any nation on the earth not being stronger only because of the natural resources and economical condition of it but it depends upon how much it have qualitative and healthy generation in form of children and youth. It is they who will creators and shapers of nations. The children of today will be adult of tomorrow. It is therefore, become mandatory for every nation and every society to nurture a strong, healthy and intellectual youth. If a society is careless and carefree about its youth and fails to educate them in a productive manner, then the society is in danger of facing a destructive and violent youth.*

**Key words:** Children, Education, Right, Future.

*"There is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they can grow up in peace."*  
- Kofi Annan<sup>2</sup>

### INTRODUCTION

The children are the nation’s power-house. They have boundless store of energy. This infinite store-house of energy has to be probably moulded and needs to be given appropriate direction. Without harnessing this vast store of energy, a nation and a society cannot think of developing economically, politically, socially and intellectually. The best way to engage the child in to playing such a constructive role is to educate them with a proper training in the desired direction. For this, society should provide its children with the right kind of education. The education provided should be progressive, in keeping with the needs of the society and should not only to create great professionals excelling in their fields but also good human beings. Proper facilities and conducive environment should be taken care along with the adequate and enhancement of creativity.

Moreover, poverty, illiteracy and belief in superstitions hinders the spread of education that creates some social evils like - child labour, drug addiction, child marriage, beggary, child abuse etc. hampers the proper development of children and it results in to

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unemployment and ultimately increases crime rate which is alarming situation for any society.

India is home to more than 12.6 million children who are forced to work in order to survive. These children are working as domestic help, on streets, in factories and farmlands silently suffering abuse. According to the Census 2001 figures there are 1.26 crore working children in the age group of 5-14 as compared to the total child population of 25.2 crore. There are approximately 12 lakhs children working in the hazardous occupations/processes which are covered under the Child Labour (Prohibition & Regulation) Act i.e. 18 occupations and 65 processes. As per survey conducted by National Sample Survey Organisation (NSSO) in 2004-05, the number of working children is estimated at 90.75 lakh. As per Census 2011, the number of working children in the age group of 5-14 years has further reduced to 43.53 lakh. It shows that the efforts of the Government have borne the desired fruits. The government is doing a lot to help build its children in to anchors of tomorrow. It provides many facilities regarding education, healthcare, sports, creative areas etc. but the ever-increasing population nullifies the efforts of the government. The milestone in this regard is

The Right to Education Act.

The Right to Education legislation has a long and chequered history, having been subjected to numerous rounds of heated debate and philosophical and semantic alterations. It was tailored into existence in the period following the passage of the 86th Constitutional amendment in 2002, which declared Education a fundamental right of all children in the age-group of 6-14. A participatory process of inviting comments from members of the public yielded several different drafts of the bill in the subsequent years until finally, in 2008, the Union Cabinet stamped its seal of approval on it and it was placed before the Rajya Sabha which passed it in July 2009. The bill then proceeded to the Lok Sabha, where it was passed in August 2009. The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) has a long and chequered history. The right to education was discussed extensively during the drafting of the Constitution. The Constituent Sub-Committee on Fundamental Rights included the right to primary education as a fundamental right. However the Advisory Committee of the Constituent Assembly rejected this proposal and placed it in the category of non-justifiable fundamental rights (later known as Directive Principles of State Policy). The first official recommendation for the inclusion of a fundamental right to education was made in 1990 by the Acharya Ramamurti Committee. Thereafter, several political as well as policy level changes influenced the course of free and compulsory education. The country witnessed an increased international focus on its initiatives regarding free and compulsory education after its participation in the World Conference on Education for All in 1990. India also ratified the United Nations Convention on Rights of the Child in 1992.

**The Supreme Court first recognised the right to education as a fundamental right in Mohini Jain case. It was observed in this judgment that:**

'Right to life' is the compendious expression for all those rights which the courts must enforce because they are basic to the dignified enjoyment of life. It extends to the full range



of conduct which the individual is free to pursue. The right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education. The State Government is under an obligation to make endeavor to provide educational facility at all levels to its citizens.

**The Supreme Court narrowed the ambit of the fundamental right to education as propounded in the J P Unnikrishnan case. The Court observed that:**

The right to education which is implicit in the right to life and personal liberty guaranteed by Article 21 must be construed in the light of the directive principles in Part IV of the Constitution. So far as the right to education is concerned, there are several articles in Part IV which expressly speak of it. Article 41 says 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 in other cases of undeserved want". Article 45 says that "the State shall endeavor 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". Article 46 commands 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 three Articles 45, 46 and 41 are designed to achieve the said goal among others. It is in the light of these Articles that the content and parameters of the right to education have to be determined. Right to education, understood in the context of Articles 45 and 41, meant: (a) every child/citizen of this country has a right to free education until he completes the age of fourteen years and (b) after a child/citizen completes 14 years, his right to education is circumscribed by the limits of the economic capacity of the state and its development. We may deal with both these limbs separately.

In 2002, the 86th amendment to the Constitution introduced Article 21-A making the right to education a fundamental right. For the first time in independent India's history a fundamental right had been added to the Constitution. Unlike other fundamental rights the right to education required an enabling legislation to become effective. The Right to Education Act is this enabling legislation. The RTE Act came into force on April 1, 2010.

## HISTORY

Present Act has its history in the drafting of the Indian constitution at the time of Independence but is more specifically to the Constitutional Amendment of 2002 that included the Article 21A in the Indian constitution making Education a fundamental Right. This amendment, however, specified the need for a legislation to describe the mode of implementation of the same which necessitated the drafting of a separate Education Bill. A rough draft of the bill was composed in year 2005. It received much opposition due to its mandatory provision to provide 25% reservation for disadvantaged children in private schools. The sub-committee of the Central Advisory Board of Education which prepared the draft Bill held this provision as a significant prerequisite for creating a democratic and



egalitarian society. Indian Law commission had initially proposed 50% reservation for disadvantaged students in private schools. On 7 May 2014, The Supreme Court of India ruled that Right to Education Act is not applicable to Minority institutions.

## HIGHLIGHTS

The Act makes education a fundamental right of every child between the ages of 6 and 14 and specifies minimum norms in elementary schools. It requires all private schools to reserve 25% of seats to children (to be reimbursed by the state as part of the public-private partnership plan). It also prohibits all unrecognised schools from practice, and makes provisions for no donation or capitation fees and no interview of the child or parent for admission.

The Act also provides that no child shall be held back, expelled, or required to pass a board examination until the completion of elementary education. There is also a provision for special training of school drop-outs to bring them up to par with students of the same age.

The World Bank education specialist for India, Sam Carlson, has observed: The RTE Act is the first legislation in the world that puts the responsibility of ensuring enrolment, attendance and completion on the Government. It is the parents' responsibility to send the children to schools in the US and other countries.

The Right to Education of persons with disabilities until 18 years of age is laid down under a separate legislation- the Persons with Disabilities Act. A number of other provisions regarding improvement of school infrastructure, teacher-student ratio and faculty are made in the Act.

## IMPLEMENTATION AND FUNDING

The Act lays down specific responsibilities for the centre, state and local bodies for its implementation. The states have been clamoring that they lack financial capacity to deliver education of appropriate standard in all the schools needed for universal education. Thus, it was clear that, the central government (which collects most of the revenue) will be required to subsidize the states.

### Status of Implementation

A report on the status of implementation of the Act was released by the Ministry of Human Resource Development on the one year anniversary of the Act. The report admits that 8.1 million children in the age group six-14 remain out of school and there's a shortage of 508,000 teachers country-wide. A shadow report by the RTE Forum representing the leading education networks in the country, however, challenging the findings pointing out that several key legal commitments are falling behind the schedule. The Supreme Court of India has also intervened to demand implementation of the Act in the Northeast. It has also provided the legal basis for ensuring pay parity between teachers in government and government aided schools.



## Precedents

It has been pointed out that the RTE act is not new. Universal adult franchise in the act was opposed since most of the population was illiterate. Article 45 in the Constitution of India was set up as an act: The State shall endeavor 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. As that deadline was about to be passed many decades ago, The education minister at the time, M C Chagla, memorably said: Our Constitution fathers did not intend that we just set up hovels, put students there, give untrained teachers, give them bad textbooks, no playgrounds, and say, we have complied with Article 45 and primary education is expanding... They meant that real education should be given to our children between the ages of 6 and 14.

In the 1990s, the World Bank funded a number of measures to set up schools within easy reach of rural communities. This effort was consolidated in the Sarva Shiksha Abhiyan model in the 1990s. RTE takes the process further, and makes the enrolment of children in schools a state prerogative.

## CONCLUSION

National Commission for Protection of Child Rights (NCPCR) has been mandated to monitor the implementation of this historic Right and invites all civil society groups, teachers, students, administrators, artists, writers, government personals, legislators, members of judiciary and all other stakeholders to join hands and work together to build a movement to that every child of this country is in school and enable to get at least 8 years of quality education.

Therefore, the rampant evils like- child labour, drug addiction, child marriage, beggary, child abuse etc. should be removed from society. The government should take strict measures and society too co operate to ensure that every children are enrolled in primary and secondary schools and should try to reduce the drop-out percentage. Child Labour too should be strictly prohibited. These rampant evils if remain unchecked will jeopardize and endanger the future of the country.

Right to Education has been part of the Directive Principles of the State Policy under Article 45 of the Constitution which is part of Chapter 4 of the Constitution and hence not enforceable mandatory. But for the first time in the history of India we have made this right enforceable by putting it in Chapter 3 of the Constitution as Article 21-A. this entitles children to have the right to education enforced as a fundamental right. So, every child of nation deserves to enjoy this fundamental right, to build up their better career and for the bright future of the country.

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