BLOGS

Right to Education Act 2009

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Introduction

The Constitution (Eighty-sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine.

The Right to Education (RTE) Act, also known as the Right of Children to Free and Compulsory Education Act, is a consequential legislation envisaged under Article 21-A. Enacted on August 4, 2009, it aims to provide free and compulsory education to all children between the ages of 6 and 14, thereby ensuring their fundamental right to education. This act plays a crucial role in promoting inclusive education across the country.

Legal basis for the enactment of the RTE Act

The Right to Education (RTE) Act is **a result of the 86th Constitutional Amendment (2002), which added Article 21A to the Indian Constitution**. The legislation mandates that the state offer education to children between the ages of six and fourteen, which is both mandatory and provided at no cost. The purpose of the Act is to establish the required legal structure for executing the constitutional amendment.

The RTE Act has been instrumental in significantly increasing enrollment rates, especially among marginalized and underprivileged communities. By reserving seats for economically weaker sections, the act promotes social inclusion and bridges the education gap between different sections of society.



Objective of Right to Education Act in India

1. The Act highlights the requirement of a rights-based framework for education, which necessitates the state and central governments to ensure the protection of a child's fundamental rights through legal means.
2. The Act suggests establishing guidelines for student-teacher ratios, classroom conditions, sanitation facilities, and other related factors is a measure taken to improve the quality of education. The objective of this initiative is to address the imbalance in teacher placements between urban and rural areas.
3. The legislation also aims to prevent any form of harassment and discrimination against children, with the goal of promoting equal opportunities for every child.
4. Through the introduction of the Continuous Comprehensive Evaluation (CCE) system the legislation aims to evaluate the learning outcomes of students.
5. The School Management Committees (SMCs) are implemented with the objective of promoting participatory democracy and governance in primary educational institutions. The mechanism provides a solution for dealing with situations where the regulations outlined in the Act are not being followed.
6. The mandate requires private educational institutions to reserve 25% of their seats for individuals from economically disadvantaged backgrounds and marginalised communities. This is aimed at promoting social inclusivity and equality. Private schools receive compensation for the financial impact of the reservation policy.

Interpretation of the word "free" and "compulsory" under the Act

The RTE Act mandates that every child between the ages of 6 and 14 has the right to free and compulsory education in a school. The Act's title uses the word "free" to signify that primary education for children should not be hindered by any fees or costs, except for those attending non-government-supported schools. The Act places a responsibility on the government to guarantee that all children between the ages of six and fourteen receive elementary education by mandating their admission, attendance, and completion.

Landmark judgements related to Right to Education

Mohini Jain vs. State of Karnataka

Mohini Jain, a meritorious student, sought admission to a medical college in Karnataka but was unable to afford the exorbitant fees. She argued that the high fees violated her fundamental rights, particularly Article 14 (right to equality) and Article 21 (right to life and personal liberty) of the Constitution. The State of Karnataka defended its policy by stating that the fees were necessary for maintaining educational standards.

The Supreme Court has recognized that the right to education is a fundamental entitlement that can be inferred from the right to life and personal liberty, as safeguarded by Article 21 of the Constitution. The statement highlights the importance of education in promoting the holistic development of an individual's character and empowering them to live a life with dignity. The case in question did not address the inclusion of the right to education as a fundamental right under Article 21-A in a direct manner, which is worth noting.

Unnikrishnan JP vs. the State of Andhra Pradesh

The case challenged the constitutional validity of certain provisions in the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983, which allowed private educational institutions to charge exorbitant fees and accept capitation fees for admissions.

Unnikrishnan JP, a concerned parent, filed a petition arguing that the provisions of the Act violated the fundamental rights guaranteed under the Indian Constitution. He contended that education was a fundamental right and that the state's failure to provide affordable education in government institutions compelled parents to seek admission in private institutions, subjecting

them to exploitative practices.

The Unnikrishnan JP case set a significant precedent in affirming the fundamental right to education and established that the state has a duty to provide affordable and accessible education to all citizens. It curbed the practice of capitation fees and emphasized the importance of merit-based admissions in educational institutions.

Provisions of Right to Education Act

1. The provision of tuition-free and compulsory education up to the primary level, which is guaranteed to individuals living in close proximity to their educational institution.
2. The Act suggests that the Government has a responsibility to ensure that primary education is accessible, that students attend regularly, and that they successfully complete their education. This refers to the process of registering children who are not currently enrolled in any educational institution into a class that is suitable for their age.
3. The Act also focuses on the responsibilities and duties of government entities, community leaders, and parents in ensuring that children have access to education. The issue at hand pertains to the fair allocation of financial obligations between the central and state governments.
4. The establishment of standards and norms for various factors, including pupil-teacher ratios, infrastructure, school days, and teacher qualifications, plays a critical role in ensuring the provision of quality education as per the act.
5. The Act recognises that the implementation of certain measures is crucial in the academic sphere, such as the prevention of mental harassment and physical punishment, the use of fair screening procedures for admission, the elimination of capitation fees, the prohibition of teachers providing private tuition, and the discontinuation of running unrecognized schools.

Criticisms of The Right to Education Act

1. The quality of education provided is not receiving adequate attention.
2. The Act fails to include children under the age of six years
3. The presence of corruption allegations and the implementation of schemes pose notable obstacles.

4. The possibility of orphans being excluded from admission due to document requirements
5. The implementation of the 25% reservation of seats for economically weaker sections in private schools has been challenging due to various factors such as discriminatory behaviour and cultural adjustment issues.
6. The Act has been amended to include regular exams and the option of student detention, which goes against the original policy of not detaining students.
7. The challenges encountered during the transition to the CCE system are attributed to insufficient teacher training.
8. Critics have argued that the Act fails to improve the quality of public education and instead shifts the responsibility of education to private institutions.

Suggestions for Reforms

Based on the gaps identified above, it is evident that the education system requires significant reforms.

1. These reforms should aim to address the issues highlighted such as inadequate funding, outdated curricula, and insufficient teacher training.

2. Additionally, it is recommended that the education system be restructured to prioritize student-centred learning, which would involve a shift away from traditional teaching methods towards more interactive and engaging approaches.

3. Furthermore, there is a need to incorporate technology into the education system to enhance learning outcomes and prepare students for the demands of the modern workforce.

4. To combat apathy towards public education, it is recommended to promote a favourable perception and appreciation of the public education system by highlighting its significance as a communal asset.

5. One proposed solution is to establish a common school system by **implementing the Kothari Commission report's recommendation of adopting neighbourhood schools**. It is recommended to establish publicly funded educational institutions in all areas to ensure universal access to education for children, irrespective of their social, economic, or caste background.

6. It is recommended that the Right to Education (RTE) Act be amended to encompass the age cohorts of 3-6 and 14–18 years, in conjunction with the existing coverage of 6–14 years. Ensure the alignment of age cohorts with the guidelines stipulated in the National Education Policy (NEP) 2020, thereby establishing a comprehensive and all-encompassing educational framework that caters to the needs of individuals from early childhood to adolescence.

Conclusion

The RTE Act was a significant achievement for India's education system. However, there is a need to prioritise enhancing the quality of education and creating a unified educational platform that fosters equality, inclusion, and unity throughout the nation.