

Right to Education, 2009 as the Children Right: Assessment of Fulfillment

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ABSTRACT

The Right to Education, 2009 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 for children from poor families. The RTE Act is the first legislation in the world that puts the responsibility of ensuring enrollment, attendance and completion of elementary education on the Government. It is the parents' responsibility to send the children to schools in India, U.S. and other countries to educate them and protect the child's rights. The present paper is mainly focused on the Right to Education as the child's right. The researcher tries to discuss the main aspects of assessment of fulfillment of the Act. The International Covenant on Economic, Social and Cultural Rights opines that the right to education includes the right to free, compulsory primary education for all, an obligation to develop secondary education accessible to all in particular, by the progressive introduction of free secondary education, as well as an obligation to develop equitable access to higher education in particular by the progressive introduction of free higher education. The right to education also includes a responsibility to provide basic education for individuals who have not completed primary education. In addition to this access to education provisions, the right to also education encompasses the obligation to eliminate discrimination at all levels of the educational system, to set minimum standards and to improve quality.

Key words: Right to Education, Child, Free and Compulsory Education.

Introduction

Education in India falls under the control of both the Union Government and the states, with some responsibilities lying with the Union and the states having autonomy for others. The various Articles of the Indian Constitution provide for education as a fundamental right (Kumar, Sanjeev, 2012). The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE), which was passed by the Indian parliament on 04th August 2009, describes the modalities of the importance of free and compulsory education for children between 6 and 14 years old in

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India (Ministry of Law and Justice, 2010) under Article 21a of the Indian Constitution. India became one of 135 countries to make education a fundamental right of every child when the act came into force on 01st April, 2010 (Dhar, Arti, 2010). The right to education is a universal entitlement to education, a right that is recognized as a human right. According to the International Covenant on Economic, Social and Cultural Rights the right to education includes the right to free, compulsory primary education for all (UN General Assembly, Article 13.2-a), an obligation to develop secondary education accessible to all, in particular by the progressive introduction of free secondary education (UN General Assembly, Article 13.2-b), as well as an obligation to develop equitable access to higher education, ideally by the progressive introduction of free higher education (UN General Assembly, Article 13.2-c). The right to education also includes a responsibility to provide basic education for individuals who have not completed primary education. In addition to these access to education provisions, the right to education encompasses the obligation to rule out discrimination at all levels of the educational system, to set minimum standards and to improve quality of education (UNESCO, 2007). The right to education is law in Article 26 of the Universal Declaration of Human Rights and Articles 200 and 14 of the International Covenant on Economic, Social and Cultural Rights (UN General Assembly, Article 26, 13 and 14).

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 from poor families (to be reimbursed by the state as part of the public-private partnership plan, PPP). It also prohibits all unrecognized schools from practice, and makes provisions for no donation or capitation fees and no interview of the child or parent for admission (Sripati, V. and Thiruvengadam, A. K., 2004). 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 RTE act requires surveys that will monitor all neighbourhoods, identify children requiring education, and set up facilities for providing it. 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 enrollment, attendance and completion of the elementary education on the Government. It is the parents' responsibility to send the children to schools in India, U.S. and other countries (prayatna.typepad.com).

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 (PWD). A number of other provisions regarding improvement of school infrastructure, teacher-student ratio and faculty are made in the Act. The Act provides for a special organization, the National Commission for the Protection of Child Rights, an autonomous body set up in 2007, to monitor the implementation of the act (Satya, 2011), together with Commissions to be set up by the states. A committee set up to study the funds requirement and funding initially estimated that Rs 171,000 crores or 1.71 trillion (US\$ 38.2 billion) across five years was required to implement the Act, and in April 2010 the central government agreed to sharing the funding for implementing the law in the ratio of 65 to 35

between the centre and the states, and a ratio of 90 to 10 for the north-eastern states (PTI, 2010). However, in mid of the year 2010, this figure was upgraded to Rs. 231,000 crores, and the center agreed to raise its share to 68% (IST, ET Bureau, 2010). A critical development in 2011 has been the decision taken in principle to extend the right to education till Class X (age 16) (PIB, 2010) and into the pre-school age range (Economic Times, 2011). The Central Advisory Board of Education (CABE) committee is in the process of looking into the implications of making these changes.

The **Right to Education** is a universal entitlement to education, recognized in the International Covenant on Economic, Social and Cultural Rights as a human right that includes the right to free, compulsory primary education for all, an obligation to develop secondary education accessible to all, in particular by the progressive introduction of free secondary education, as well as an obligation to develop equitable access to higher education, ideally by the progressive introduction of free higher education (Kumar, Sanjeev, 2014).

The **Right to Education** also includes a responsibility to provide basic education for individuals who have not completed primary education. In addition to these access to education provisions, the right to education encompasses the obligation to rule out discrimination at all levels of the educational system, to set minimum standards and to improve quality of education.

Assessment of Fulfillment

The fulfillment of the right to education can be assessed using the 5 A's framework, which asserts that for education to be a meaningful right it must be available, accessible, acceptable, adaptable and accountable. The 4 A's framework (available, accessible, acceptable, adaptable) was developed by the former UN Special Reporter on the Right to Education, Katarina Tomasevski, but is not necessarily the standard used in every international human rights instrument and hence not a generic guide to how the right to education is treated under national law.

The 5 A's framework proposed by the investigator (shown in Fig. 1) and it proposes that governments, as the prime duty-bearers, have to respect, protect and fulfill the right to education, 2009 by making education available, accessible, acceptable, adaptable and accountable. The framework also places duties on other stakeholders in the education process: the child, which as the privileged subject of the right to education has the duty to comply with compulsory education requirements, the parents as the 'first educators', and professional educators, namely teachers.

The 5 A's have been further elaborated as follows:

- 1. Availability:** Funded by governments, education is universal, free and compulsory to the all children up to the age of 14 years. There should be proper infrastructure and facilities in place with adequate books and materials for students. Buildings should meet both safety and sanitation standards, such as having clean drinking water and separate toilets for girls and boys. Active recruitment, proper training and appropriate retention methods should ensure that enough qualified staff is available at each school.

- 2. Accessibility:** All children should have equal access to school services regardless of

gender, caste, race, religion, ethnicity or socio-economic status. Efforts should be made to ensure the inclusion of marginalized groups including children of refugees, the labourers, the homeless or those with disabilities in short there should be universal access to education i.e. access to all. There should be no forms of segregation or denial of access to any students. This includes ensuring that proper laws are in place against any child labour or exploitation to prevent children from obtaining elementary education. Schools must be within a reasonable distance of 2 km for children within the community, otherwise transportation should be provided to students, particularly those that might live in rural areas, to ensure ways to school are safe and convenient. Education should be affordable to all, with textbooks, supplies and uniforms provided to students at no additional costs.

3. Acceptability: The quality of education provided should be free of discrimination, relevant and culturally appropriate for all students. Students should not be expected to conform to any specific religious or ideological views. Methods of teaching should be objective and unbiased and material available should reflect a wide array of ideas and beliefs. Health and safety should be emphasized within schools including the elimination of any forms of corporal punishment. Professionalism of staff and teachers should be maintained.

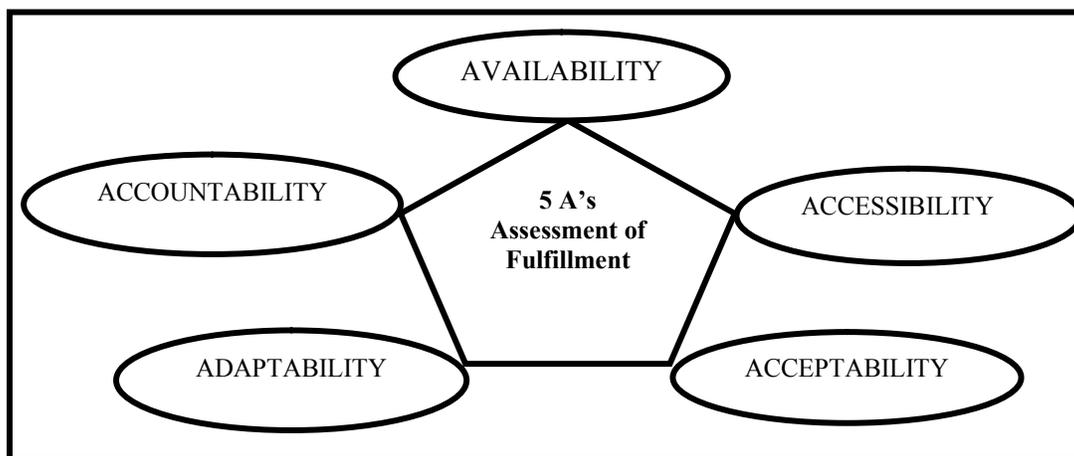


Fig. I: 5 A's Assessment of Fulfillment.

4. Adaptability: Educational programs should be flexible and able to adjust according to needs of society and societal changes and the needs of the concerned community. Observance of religious or cultural holidays should be respected by schools in order to accommodate students, along with providing adequate care to those students with disabilities.

5. Accountability: The education providing agencies and institutions should be accountable towards the outcome of the educational programs. If a child not managed to secure admission in a school according to age, it should be the Govt.'s responsibility to get the child admitted in an age-appropriate class. The schools should be accountable to organize training

sessions to allow such a child to catch up with others. The various programs are being organized in the educational institutions and the authorities of the institutions and the governance should supervise the programs to ensure good and fruitful outcomes of such programs.

International law does not protect the right to pre-primary education and international documents generally omit references to education at this level (Beiter, K. D., 2005). The Universal Declaration of Human Rights states that everyone has the Right to Education; hence the right applies to all individuals, although children are understood as the main beneficiaries.

Every child has the rights other than the Right to Education as shown in Fig. II. It includes the following rights:

- Proper Education
- Fresh food and water
- Safe environment
- Proper health care
- Time to play recreation
- Safe and decent shelter

Conclusion

It is borne in mind that beyond the Right to Education for all children of age 6-14 years, many children are involved in child labour in the country. Child workers cannot be easily classified into groups. Children still do other work. They work in a mine during part of the year and on the land during the harvest season. Moreover, it is questionable how much children can actually learn after a hard day's work. Even it is discussed in the paper that every child has other rights including RTE which should be taken into consideration by the concerned authorities. Ultimately, informal education does not truly help them and they remain disadvantaged in comparison to their more privileged peers who have regular full-time education. An additional problem is that informal education by private organisations is more likely to be limited to temporary projects. When lenders withdraw, everything stops. Moreover, it takes the responsibility for education out of the government's hands. Yet ultimately, only governments are capable of developing and providing a sustainable system of education for all children and fulfillment of the RTE. The often moderate or poor quality of regular full-time education is not a reason to set up an alternative system for working children but a reason to improve the quality of the education system as a whole.

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