Right to Education Act 2009: Major Issues and Challenges

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Abstract

India remained a major centre for education of the world in the ancient and medieval period, however, during the British Raj, India's traditional system of knowledge was by and large destroyed and no other alternate system was created to fill this vacuum. In the Indian way of thinking, a human being is a positive asset and a precious national resource which needs to be cherished, nurtured and developed with tenderness and care, coupled with dynamism.

Each individual's growth presents a different range of problems and requirements, at every stage from the womb to the tomb. The catalytic action of Education in this complex and dynamic growth process needs to be planned meticulously and executed with great sensitivity.

Keywords: Right to Education

Education has continued to evolve, diversify and extend its reach and coverage since the dawn of human history. Every country develops its system of education to express and promote its unique socio-cultural identity and also to meet the challenges of the times. Twentieth century is generally known as century of Asia where India played an important role. Former president of India Mr. Abdul Kalam has made a blueprint where India has to emerge as a developed nation by 2020 (Kalam 1998). Presently, India has emerged as a leading nation in the world in software, pharmaceutical, automobile and number of other industries. On the basis of purchasing power parity method, Indian economy is the 4th largest economy in the world and likely to be 3rd largest by 2025. India has a third largest pool of technical and scientific man power. Nevertheless, there is another part of the story also. According to UNESCO data largest numbers of illiterate people of the world are in India. According to 2001 census, the female literacy in India is around 50 per cent. In other words, half of the female population of the country is illiterate. The number of child labour in India is the highest in the world and most important reason for this is the prevailing illiteracy amongst the vast majority of Indian population. Obviously, no worthwhile transformation of Indian society is possible without bringing the entire population of India under the net of education.

In the post-independence era, numbers of steps were initiated in this direction. The preamble of Indian constitution emphasized the need for equal opportunities for the entire population of the country irrespective of caste, creed or religion. In our national perception education is essentially for all. This is fundamental for all-round development, material and spiritual. Education has an acculturating role. It refines sensitivities and perceptions that contribute to national cohesion, a scientific temper and independence of mind and spirit-- thus furthering the goals of socialism, secularism and democracy enshrined in our Constitution. Education develops manpower for different levels of the economy.

It is also the substrate on which research and development flourish, being the ultimate guarantee of national self-reliance. In sum, Education is a unique investment in the present and the future. This cardinal principle is the key to the National Policy on Education.

The Constitution of India in Articles 21A, 24 and 39 of the Directive Principles of State Policy pledges its commitment towards the cause for upliftment of Children (www.labour.nic.in). According to Article 21 A, the State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State, by law, may determine (Raina 2008). Article 24 Prohibition of employment of children in factories, etc. No child below the age of fourteen years shall be employed in work in any factory or mine or engaged in any other hazardous employment. Article 39-The State shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not
forced by economic necessity to enter vocations unsuited to their age or strength. Apart from constitutional provisions, the Government of India initiated various educational policies to achieve the goal of Universalization of education. Education is fundamental to nation's all-round development, material and spiritual. Education has an acculturating role. It refines sensitivities and perceptions that contribute to national cohesion, a scientific temper and independence of mind and spirit thus furthering the goals of socialism, secularism and democracy enshrined in our Constitution. Education develops manpower for different levels of the economy. It is also the substrate on which research and development flourish, being the ultimate guarantee of national self-reliance. In sum, Education is a unique investment in the present and the future. This cardinal principle is the key to the National Policy on Education.

The National Policy of 1968 marked a significant step in the history of education in post-Independence India. It aimed to promote national progress, a sense of common citizenship and culture, and to strengthen national integration. It laid stress on the need for a radical reconstruction of the education system, to improve its quality at all stages, and gave much greater attention to science and technology, the cultivation of moral values and a closer relation between education and the life of the people. Since the adoption of the 1968 Policy, there has been considerable expansion in educational facilities all over the country at all levels. More than 9% of the country's rural habitations now have schooling facilities within a radius of one kilometer. There has been sizeable augmentation of facilities at other stages also. While these achievements are impressive by themselves, the general formulations incorporated in the 1968 Policy did not, however, get translated into a detailed strategy of implementation, accompanied by the assignment of specific responsibilities and financial and organizational support. The National Policy on Education (NPE) was adopted by Parliament in May 1986. The new Policy lays special emphasis on the removal of disparities and to equalize educational opportunity by attending to the specific needs of those who have been denied equality so far. Education is used as an agent of basic change in the status of woman. In order to neutralize the accumulated distortions of the past, there is a well-conceived edge in favor of women. The National Education System plays a positive, interventionist role in the empowerment of women. It is fostering the development of new values through redesigned curricula, textbooks, the training and orientation of teachers, decision-makers and administrators, and the active involvement of educational institutions. This is an act of faith and social engineering. Women studies will be promoted as a part of various courses and educational institutions encouraged taking up active programmes to enhance women development. The removal of women illiteracy and obstacles inhibiting their access to, and retention in, elementary education will receive overriding priority, through provision of special support services, setting of time targets, and effective monitoring. Major emphasis will be laid on women's participation in vocational, technical and professional education at different levels. The policy of non-discrimination will be pursued vigorously to eliminate sex stereo-typing in vocational and professional courses and to promote women's participation in non-traditional occupations, as well as in existing and emergent technologies. The other weaker sections, scheduled castes and scheduled tribe population were the major target group of this policy. Later on, a committee was set up under the chairmanship of Acharya Ramamurti in May 1990 to review NPE and to make recommendations for its modifications. That Committee submitted its report in December 1990. At the request of the Central Advisory Board of Education (CABE) a committee was set up in July 1991 under the chairmanship of Shri N. Janardhana Reddy, Chief Minister of Andhra Pradesh, to consider modifications in NPE taking into consideration the report of the Ramamurti Committee and other relevant developments having a bearing on the Policy, and to make recommendations regarding modifications to be made in the NPE. This Committee submitted its report in January 1992. The report of the Committee was considered by the CABE in its meeting held on 5-6 May, 1992. While broadly endorsing the NPE, CABE has recommended a few changes in the policy.

The Background of the Right to Education Act 2009

In the early 1990's India initiated major economic reforms and intensified the process of globalization. India's political and social life was also passing through a phase which posed the danger of erosion to long-accepted values. The goals of secularism, socialism, democracy and professional ethics were coming under increasing strain. Life in the coming decades is likely to bring new tensions together with unprecedented opportunities. To enable the people to benefit in the new environment would require new designs of human resource development. The coming generations should have the ability to internalize new ideas constantly and creatively. They have to be imbued with a strong commitment to humane values and to social justice. All this implies better education. Under these circumstances, India was supposed to acquire global standards in terms of human resources. For this purpose, there was no other alternative except for educating
the entire nation. The most important initiative in this direction was the Sarv Shiksha Abhiyan by which education had to reach each and every Indian. However, all these initiatives failed to deliver the desired results. According to one study, children under 18 years constitute forty two per cent of India's population. The study further reveals that between 2000 to 2005, of every 100 rupees spent by the Union Government only 3 paisa was spent on child protection, while the share of child health was 40 paisa followed by child development 45 paisa and on elementary education 1.5 rupees. It is noted that the persistence of significant deficits in development of children in India is one of the failures of the growth process witnessed over the last one and a half decades. Any strategy for removing disparities, bridging divides, and ensuring the well being of our people must begin by respecting the rights of our child population. It is increasingly being recognized that rights based development of children must be at the centre of planning (Yojna 2008). In the first decade of 21st century, some more steps were taken to acquire the global standards of education in India. The UPA government gave a top priority to the Universalization of education. In the Common Minimum programme of UPA Govt. in 2004, it pledged to rise public spending in education to at least 6% of the GDP with at least half this amount being spent on primary and secondary sectors. This was done in a phased manner. The UPA Government introduced a Cess on all central taxes to finance the commitment to universalize access to quality basic education. The UPA Government ensured that a national cooked nutritious mid-may-meal scheme, funded mainly by the Central Government, was introduced in primary and secondary school. An appropriate mechanism for quality checks was also set up. The UPA Government also universalized the Integrated Child Development Services (ICDS) scheme to provide a functional Anganwadi in every settlement and ensured full coverage for all children. 86th Amendment Act (2002) via Article 21A (Part III) seeks to make free and compulsory education a Fundamental Right for all children in the age group 6-14 years. A first draft of the legislation envisaged in the above Article, viz., Free and Compulsory Education for Children Bill, 2003, was prepared and posted on this website in October, 2003, inviting comments and suggestions from the public at large. Subsequently, taking into account the suggestions received on this draft, a revised draft of the Bill entitled Free and Compulsory Education Bill, 2004, was prepared and posted on the (http://education.nic.in). In June 2005, the CABE (Central Advisory Board of Education) committee drafted the ‘Right to Education’ Bill and submitted it to the Ministry of HRD. MHRD sent it to NAC where Mrs. Sonia Gandhi is the Chairperson. NAC sent the Bill to PM for his observation. On 19th July 2006, CACL, SAFE, NAFRE, CABE invited ILP and other organizations for a Planning meeting to discuss the impact of the Parliament action, initiate advocacy actions and set directions on what needs to be done at the district and village levels.

Right of Children to Free and Compulsory Education Act, 2009

The Right of Children to Free and Compulsory Education Act, 2009 received the assent of the President of India in August 2009. The main provisions of the Act are:

- The debates on the Right to Education in Solution Exchange,
- Innovative approaches to universalizing basic education
- Legislation for the Right to Education
- Advocacy Material on Children's Right to Free and Compulsory Education
- Right to Education act
- Role of Local Governance System in implementation of Right to Education Act

Every child between the ages of 6 to 14 years has the right to free and compulsory education. This is stated as per the 86th Constitution Amendment Act added Article 21A. The right to education act seeks to give effect to this amendment. The government schools shall provide free education to all the children and the schools will be managed by school management committees (SMC). Private schools shall admit at least 25% of the children in their schools without any fee. The National Commission for Elementary Education shall be constituted to monitor all aspects of elementary education including quality.

Main features of Right to Education 2009 act

- Free and compulsory education to all children of India in the 6 to 14 age groups;
- No child shall be held back, expelled, or required to pass a board examination until completion of elementary education;
- A child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age; as may be prescribed: Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.
For the purposes of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1856 or on the basis of such other document, as may be prescribed. No child shall be denied admission in a school for lack of age proof.

A child who completes elementary education shall be awarded a certificate;

There will be a 25 percent reservation for economically disadvantaged communities in admission to Class One in all private schools;

School teachers will need adequate professional degree within five years or else will lose job;

Financial burden will be shared between state and central government.

The Act can be considered as a major revolutionary step in the direction of Universalization of education in India, however, the goal of 100 per cent literacy in India is still a far cry. Therefore, in order to achieve the desired results, it is important to analyze the socio-economic constraints prevailing in the country.

State Level Variations in Literacy

Table -1 shows a list of the States of India in order of Literacy rate. This information was compiled from NFHS-3 and the 2001 Census of India. National Family Health Survey (NFHS) is a large-scale, multi round survey conducted by the International Institute of Population Sciences (IIPS), Mumbai designated by the Ministry of Health and Family Welfare (MOHFW), Government of India. NFHS-3 was released on 11 Oct 2007.

There are extreme variations in Indian states as far as the literacy is concerned. Some of the Indian states like Kerala, Mizoram etc., have achieved the literacy rate of developed countries while some of the states like Bihar, Rajasthan and Jharkhand where the educational level is worst than Africa. Here it is important to mention that in order to achieve 100 per cent literacy, simply the enactment of the legislation is not sufficient rather serious efforts are required through people's participation. Moreover, the states like Kerala have done a wonderful work in this direction and such experience can be a valuable guide map for the states where the literacy level is quite low. If the existing rate of literacy is allowed to continue then it will be quite difficult to achieve the target of Universalization of education even by 2015, a deadline which has been set by UNESCO. The so called Bimaru states of India need a special attention so that the act can be implemented in a full spirit.

Table -1 : Literacy Rate in Various Indian States

<table>
<thead>
<tr>
<th>Rank</th>
<th>State</th>
<th>Literacy Rate (%) - NFHS</th>
<th>Literacy Rate (%) - 2001 Census</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kerala</td>
<td>100.00</td>
<td>90.86</td>
</tr>
<tr>
<td>2</td>
<td>Mizoram</td>
<td>89.9</td>
<td>88.80</td>
</tr>
<tr>
<td>3</td>
<td>Goa</td>
<td>83.3</td>
<td>82.01</td>
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<td>4</td>
<td>Himachal Pradesh</td>
<td>81.3</td>
<td>76.48</td>
</tr>
<tr>
<td>5</td>
<td>Tripura</td>
<td>80.2</td>
<td>73.19</td>
</tr>
<tr>
<td>6</td>
<td>Maharashtra</td>
<td>77.6</td>
<td>76.88</td>
</tr>
<tr>
<td>7</td>
<td>Sikkim</td>
<td>76.6</td>
<td>68.81</td>
</tr>
<tr>
<td>8</td>
<td>Madhya Pradesh</td>
<td>76.5</td>
<td>70.53</td>
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<td>9</td>
<td>Assam</td>
<td>76.3</td>
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<tr>
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<td>Andhra Pradesh</td>
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<td>Gujarat</td>
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<td>69.14</td>
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<td>Meghalaya</td>
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<td>16</td>
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<td>71.6</td>
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<td>55.52</td>
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<td>21</td>
<td>Nagaland</td>
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<td>69.9</td>
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<tr>
<td>28</td>
<td>Rajasthan</td>
<td>64.1</td>
<td>47.00</td>
</tr>
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</table>

by the central government must be utilized for the specified purpose and for that there has to be a strong mechanism so that the Act can be implemented in full spirit and poorest of the poor should also be brought under the education networking.

**Excessive Infiltration and Migration from the Neighboring Countries.**

India being surrounded by the most backward and poor countries of the world. The countries like Bangla Desh, Nepal and Bhutan have a land border with India and are mainly dependent on India for employment etc. Every year million of people migrate to India from these countries. The total number of migratory population in India is more than 50 million which is more than the total population of large number of countries of the world. The Indian states like Assam, West Bengal etc. are facing extreme problem of infiltration and migration from these countries. In number of cases they got the ration card and other documents of Indian citizens. This huge influx from these countries creates serious socio-economic problems for India. In terms of literacy, it is very difficult to literate this population. Because of this, in states like West Bengal the literacy level remains quite low. Therefore, such migrated population makes quite difficult the implementation of Right to Education Act throughout the country.

**Extreme poverty**

"Poverty" defined as an economic condition of lacking both money and basic necessities needed to successfully live, such as food, water, education, healthcare, and shelter. There are many working definitions of "poverty," with considerable debate on how to best define the term. Income security, economic stability and the predictability of one's continued means to meet basic needs all serve as absolute indicators of poverty. Poverty may therefore also be defined as the economic condition of lacking predictable and stable means of meeting basic life needs. According to World Development Report 2009, in India, 45 per cent population is living on one US dollar a day and around 75 percent people are living below 2 dollars. In other words, that majority of India’s population is living in extreme poverty conditions and hence, people don’t prefer schools and go in search of jobs or self employment professions. Therefore, without removing poverty, it will be a dishonesty to expect that the act can be implemented in the full spirit.

**Lack of Involvement of Panchayati Raj Institutions and Other Social Organizations.**

Making law is important but it is not sufficient to transform the society. The Right to Education Act 2009 can be considered as a revolutionary step in India's post independence era but its successful implementation depends upon the fact that how far different sections of the society can be involved in making literacy a mass movement. It is just like that police alone can not control the entire crime in the society unless and until society is conscious and cooperate with the police. Similarly, for the success of literacy mission, it is important that various institutions and grass root level organizations must be involved. the most important institution is the Panchayati Raj Institutions. Since these institutions are directly linked with the common masses and success of the literacy programme is possible only through their involvement. In other words for the successful implementation of this Act, responsibility must be given to the panchayat Pardhans, members, counselors mayors etc. so that the results can be achieved in a time bound manner and the Act must become a part of life of the entire society.

**Miscellaneous Issues**

In India, private sector has also entered in the field of education in a big way. Therefore, need of the hour is to have a strong public - private partnership for the successful implementation of this Act. Public schools have to play an important role in this direction. Moreover, there must be a reward and punishment mechanism by which the district level agencies those are implementing this programme must be rewarded and defaulters should be punished. Moreover, there is a strong need for regular monitoring of this Act on a regular basis. Government must collect a data on annual basis so that those states which are lagging behind in its implementation must be checked at a proper time and remedial steps can be taken. Uttar Pradesh will become the first State in the country to implement the Right to Education Act 2009 that calls for free and compulsory primary education to children in the age group of six to 14. "U.P. will be the first State in the country to implement the RTE Act, which will ensure proper and adequate education to the children," State's Education Minister Dharm Singh Saini said here. The Secretary of basic education had been directed to initiate process for the implementation of the Act, he said. The government will focus on teachers, financial resources, and additional classrooms in schools in the first phase of its implementation, the Minister said yesterday. However, numbers of other Indian states have yet to show such commitment.

In nutshell, it can be concluded that the Right to Education Act is a major revolutionary step in the history of post independent era. However, there is a strong need for the involvement of the different sections of the Indian society for the successful
implementation of this Act. Even there is a need for continuous monitoring so that failures can be checked at an appropriate time and India can be transformed as a 100 per cent literate country in a time bound manner.

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