

CHILD RIGHTS PROVIDED IN INDIA WITH SPECIAL REFERENCE TO EDUCATION

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ABSTRACT

The basic root of education is a bitter one, but yes, the resultant fruit is very sweet.

This article has highlighted the major issue that how the lack of education, as well as proper awareness, has caused so much disturbance in the life of a child that has eventually blocked their growth mentally, and they have been later even subjected to various violations.

After complete research about illiteracy, it can be clearly stated that this term has been traced for ages and the root cause of major discrimination faced by our countrymen was lack of education, and still, that issue subsists in our society; though comparatively, the ratio has described it compared with the growth of our country we still lack to provide compulsory education to every child.

Further, the article talks about the need for the RTE act which claimed free and compulsory education to every child who is under the age of 14 years it simply stated that primary education is of utmost importance for a child's overall growth and even for personality enhancement, and the article also puts light on, insertion of Art 21A and also Article 45 and hereby lastly the challenges this act faced while implementation.

The international convention that supports the importance of child education has also been discussed here and finally, the author has suggested some of the ways that can be implied for better and more effective use of the RTE Act.

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KEYNOTES: child's right, right to education act, free and compulsory education, UNICEF, UNESCO, international conventions, Article 21A, etc.

INTRODUCTION

Since bygone eras, kids have been amongst the most significant categories of casualties of criminal offenses and have been confronted with infringement of their privileges. They have forever been the culprits moreover as 'vulnerable objective' as they don't comprehend the level of the discrimination that has been committed against them. These youngsters are hence, the most favored casualties of guilty parties because of their guiltlessness and absence of development descriptors that are typically straightforwardly connected with the child's age.

Childhood appears to have evolved and changed shape over time as lives change and adult expectations shift.

It is quite saddening to watch kids being withdrawn, wandering to defend themselves even on the streets or when facing violations, also missing over the boon for the most basic elementary education. They endure many such forms of brutality. Moreover, they even lack to have a full allowance for basic and even some important medical facilities. They are bound to face cruel and also inhumane treatments every day. These are such kids who are innocently young as well as beautiful but still, these children are under privileges for their basic right to education.

Over the chronology of people, these basic rights of such kids are the most constantly ratified. Such rights of a child go beyond the mere basic human rights those warrant or even ethical treatment of every person who is all around the globe and hereby to upgrade their overall well-being. A child, who is defined as any individual who must be below 18 years of age, requires much more than just basic human rights merely because of the set of privy needs that rose from their weakness.

Education for everyone is a basic and also a fundamental human right that is very essential for the development of all the other basic human rights. It also promotes freedom for individuals and also empowerment yields important evolution advantages. Yet many of such kids, and even

adults, remain underprivileged from the basic educational opportunities, mostly which is the result of the poverty.

STATEMENT OF PROBLEM-

The right to an education that has been provided to every child is still not properly implemented amongst the kids and still demands a lot of effort for its implementation.

The kids of the society of our country are tolerating a hell of a lot of issues of illiteracy still just because of the inefficient implementation and hence these kids are made object to a lot of discrimination and they are not given their basic fundamental rights as well as duties.

OBJECTIVE OF THE STUDY-

The purpose of this study is to:

- A. Understand the viewpoint of our Indian society that what is the entitlement given for a child's education;
- B. To analyze whether the right to education is a good plan and also to point out is it tough to implement this in India or not;

REVIEW OF LITERATURE:

Sonu (2010): In this research work the researcher has emphasized child's rights as a vibrant issue that therefore needs more attention from the general people towards its implementation. It has been noticed that to date children come under a group of disadvantaged minority groups and are always discriminated against based on basic human rights also social equality. Hereby kids of these ages are considered as economically, and physically and also includes mentally defenseless. Youngsters in India however, experience the worst effects of varied medical conditions additionally during their youth and even before birth prompting short finished and undesirable lives. Here likewise the law isn't satisfactory to safeguard the overall well-being of these youngsters across India.

Further, the researcher has suggested various modifications in many of the acts such as the law that punishes child sexual abuse, HAMA, JJ ACT, CRPC, and much more acts for better protection of child's rights. (Child protection in India emerging issues)⁵

Hashmeen Fatma (2009): In this research work the author has highlighted that the betterment of children is extremely important as the upliftment of the state depends upon the betterment of the kids.

Here the researcher has also mentioned the children's rights concerning international law. There have been several constitutional provisions that were added by the constitutional framers to safeguard the rights of a child which presents the anxiety of makers to safeguard the betterment of the children.

There are various legislative rights also present to protect the kids in all ways possible for their welfare. There are various suggestions stated by the researcher in his particular study such as early marriages are surely one of the biggest loopholes in the society as they snatch their basic right that is to enjoy and cherish their childhood, and more severe and strict rules for child molestation and also for child trafficking and many more acts also need modification for the betterment of the children and also for the betterment of the country. (A study of the laws relating to the rights of child a human rights perspective)⁶

RESEARCH METHODOLOGY

The author of this particular article has adopted a purely doctoral method of research, as well as various secondary methods, have been adopted.

CONTENT DISCUSSION

⁵ <http://hdl.handle.net/10603/132616>

⁶ <http://shodhganga.inflibnet.ac.in:8080/jspui/handle/10603/60043>

1. INCLUSIVE EDUCATION

“Children are not things to be molded, but are people to be unfolded.”⁷

The primary aim of education is simply to guarantee that every student has the knowledge, information, and skills that they require to make a positive contribution to their communities and businesses around the world. This is growing more difficult as schools accommodate kids from a wider range of backgrounds and abilities in a more diverse environment. As we work to address these issues, the involvement and collaboration of educators along with their parents, and also community leaders are critical in the growth of better, more inclusive schools. Educators, parents, and community leaders must work together to build better, more inclusive schools. Whereas, in a society that places a high priority on inclusivity, inclusion is second nature. However, even though inclusive education wants to help all students reach their full potential no matter what, inclusive schools have the hardest time changing people's attitudes and abilities by which they can show support for the cause. It is generally the job of schools and other groups, such as NGOs, to put policy into reality from the grassroots level, whereas macro or policy changes are the liability of the state and possibly universities.⁸

There are various standards and also various rights safeguarded by many legal sanctions as well as statutes that govern and administer our country and also their international legal instruments which have been accepted by approving them. Many rights have been enshrined in the Constitution of our country, especially for the children. Moreover, same like any typical Indian adult whether male or even female, kids too, are truly Indian citizens, and have lots of other common and basic rights. Amongst which, education is generally the most significant right for a child as this right will be helping in boosting a child's overall personality and primary education will help to give the child a better understanding of everything that is happening in his surrounding at least this way the kid will be capable to think rationally and analyze what is good and bad for them.

Thus, this basic right has to be safeguarded for a better future for the entire country.

⁷ Jess Lair, author, <https://www.compassion.com/poverty/famous-quotes-about-children.htm>

⁸ Dabir Neela & Mohua Nigudkar (2007). “Child Abuse: Confronting Reality”, Economic & Political Weekly, Vol. 42, No. 27-28, pp 2863-2866.

2. RIGHT TO EDUCATION, 2009⁹

The term Education is the general procedure of making such things learned and this can also be explained as the enhancement of knowledge, beliefs, skills, and also its habits that assist to uplift that community who earlier belong to our society as well as economically marginalized people from poverty.

India is however also called the house for 19% of the total world's children population. And what does that mean? Also, India is a country where most youngsters live. But the contradictory part is that out of the entire illiterate population of the world 1/3rd of it resides in our country, though it is correct to state that the rate of literacy has eventually increased but that growth is far very slow in comparison to the decline. Since the year of 1991 to 2001, this rate was initially 12.6% while now it has declined to 9.21%.

To handle these alarming problems, the authorities of our country have introduced the basic right to freedom and also the compulsory education act, also stated as the RTE making the education for children a fundamental and also a basic right for the children who lie under the category of 6 to 14 years of their age.

The Right for education act is a demonstration of parliament which was proposed on 4 august 2009 which shows and features the model of the significance of free and also necessary education to youngsters who lie under the age cap of 6 years to 14 years of age. Our country has evolved as one of those 135 countries that have implemented the basic right to education granted to children as a fundamental right that is guaranteed in our Constitution under Article 21A to every child. However, this particular act came into existence on the date of 1st April 2010.

“Every child you encounter is a divine appointment.”¹⁰

3. HISTORICAL BACKGROUND OF THIS ACT

⁹ Right of Children to Free and Compulsory Education Act, 2009, Act No. 35 of 2009

¹⁰ Wess Stafford, President Emeritus of Compassion International, <https://www.compassion.com/poverty/famous-quotes-about-children.htm>

By the year 1950, provided an article under the heading of directive principles of state policy which stated that the government shall completely endeavor to make available for a tenure of ten years after the inception of the Indian Constitution, free as well as compulsory education for every child until they finally reach the age of fourteen years¹¹.

Then in the era of 1968, The First National Commission was established that was for the education of kids who are under the supervision of Dr. Kothari who also submits all its reports. It launched many far-flight modifications as the same syllabus for all boys as well as girls, mathematics also science should be very well made as mandatory subjects and they even proposed a common system for school.

Whereas in 1976 there happened a constitutional amendment was brought that made education a matter of the concurrent subject list which meant both center and state will share their responsibility.

The Apex court of our country in the year 1993 in a notable judgment of Mohini Jain and Unnikrishnan V. State of Andhra Pradesh¹² hereby stated that the right to free education is our basic and also a fundamental right and that that flows from the right to life¹³ protected by the constitution.

A constitutional amendment was launched in the year of 1997 which brought the right to education as a fundamental right in our country.

Moreover, in the year 2002, where 86th Constitution Amendment took place due to which Article 21A has been inserted. Also, 86th Amendment brought many modifications to Article 45 of the Indian constitution. it even inserted a fresh fundamental duty enshrined under Article 51A(K) of the constitution.

¹¹ Constitution of India, article 45

¹² Mohini Jain and Unnikrishnan V. State of Andhra Pradesh, 1993 AIR 2178, 1993 SCR (1) 594

¹³ Constitution of India, Article 21

Finally, on the 3rd September 2009, the Children's Right for Free and Compulsory Education Act RTE, 2009¹⁴ was made a law.

This particular policy works on the main 4A's which informs us about what education means for them as well as their current scenario in the relevance of the ideology of this policy.

Availability – The term availability talks about free education and how the state has pledged to fund the basic education of all the children of the age group of 6 to 14 years and also assist them with some the expert professionals and also provide them with sufficient and perfect infrastructure that will be able to help in boosting the educational framework.

Accessibility – This simply means that the mere basis of education is just that there must be no discrimination for such a basic need, especially for the upliftment of the economically weaker and also socially weaker section of this society.

Acceptability – This term states, That the worth of instruction is proper, there is not at all biased and socially satisfactory, and dependent upon some of the quality; within where the school is located which is innocuous and instructors are capable.

Adaptability – This term denotes that instruction is dynamic and created with the modified requirements of society and also its kin and adds to conquer the imbalances, like sex segregation.

4. THE MAIN FEATURES COVERED UNDER THIS RTE ACT

“It is easier to build strong children than to repair broken men.”¹⁵

The main objective of this particular act is free basic education for every child of the state who falls under the ambit of 6 years to 14 years.

¹⁴ The Children's Right to Free and Compulsory Education Act RTE, 2009, Act No. 35 of 2009

¹⁵ Frederick Douglass, abolitionist and statesman, <https://www.compassion.com/poverty/famous-quotes-about-children.htm>

This act further states that no kid can be expelled or scolded and nor can he be asked to pass any board examination till the tenure he reaches the stage of the elementary education.

If a kid above 6 years has not been enrolled into any of the institutions or may also not fulfill his basic elementary education, then that child shall be enrolled into a class that is depending on their age. Moreover, if the matter is that where a kid is asked to be enrolled in such a class depending on their age, so then, in furtherance to parity with others, the child must have a definite right to get some special training as well as special care inside such time limits which must be specified. Extended further also that a kid so enrolled must surely have the natural right to elementary education, also they are even guaranteed an education that is free till the child consumes the elementary education also after their child has attained the age limit of 14 years.

For enrollment in elementary education, a child's age must be calculated on the dependence of that child's birth certificate which was issued in ratification with the legal Provisions of their Birth.

Also, such a kid after getting such elementary education will be granted a certificate for their education. 25% of the total reservations will be granted to economically weaker sections. Within 3 years the infrastructure of schools should be renewed if required.

“If we want to reach real peace in this world, we should start educating children.”¹⁶

5. CONSTITUTIONAL RIGHTS

RIGHT TO EDUCATION¹⁷

As an outcome of the 86th Amendment in the Indian Constitution, Article 21A is a new extension to the right to life, which is now included as a basic right. It states that children who vary between the age span of 6 to 14 years these group of children are entitled to free,

¹⁶ Mahatma Gandhi, freedom fighter

¹⁷ Indian constitution, article 21A

compulsory education. The word "compulsory education" basically recommends that the state and authorities must safeguard that primary education is confirmed, participated in, and completed. Any adolescent person who has been denied educational rights is also denied liberty and freedom of expression, as stated in the Supreme Court.¹⁸

PROVISION FOR EARLY CHILDHOOD CARE AND EDUCATION TO CHILDREN UNDER THE AGE OF 6 YEARS¹⁹

Our government will work toward achieving the overall motive of free and also obligatory education until the age span of fourteen. Its goal is to lower India's illiteracy rate.

6. JUDICIAL PRONOUNCEMENT

In the renounced judgment of *The State of Madras v. Srimati Champakam Dorairajan*, the apex court gave a renounced judgment. Hence, this pronouncement resulted in the First of the Constitutional Amendment. Herein the apex court stated that arranging such conflicting reservations given was the basic cause of violation of Article 29(2) of our Constitution.

In the year of 1992 the landmark case of *Mohini Jain* raised the objective of free and also compulsory education, this case was majorly called the famous "capitation fee case"

7. CHALLENGES FACED DUE TO THE IMPLICATION OF THIS ACT

*"A Mistake is the crash course in learning"*²⁰

This particular act is made responsible to the state and also to the local bodies made for its execution. The state informs that these local bodies are not completely adequate in their financial

¹⁸ Saikia, W., A. Singh & R Fauzdar (2010). "Has Child Mortality in India Really increased in the Last two Decades?", *Economic & Political Weekly*, Vol XLV, No. 81, pp 62-70.

¹⁹ Indian constitution, article 45

²⁰ Billy Anderson, <https://www.momentpath.com/blog/owners-directors-inspiration-inspirational-quotes-about-teaching-children>

ability to cover every school that is bought under the ambit of universal education. In such a case, the center that has held for a maximum of the basic revenue tax needs to assist the state.

However, the other challenge that this act faced was from the private schools on the account of reservations that had been allocated in this act. They had mentioned 25% of reservations to socially and also the economic classes of the general people which will affect the right to practice any business and profession²¹ that has been guaranteed in the constitution.

On this basis, this act had been challenged in the Apex court by the private schools of the state and even by the minority schools.

It was further stated that allotting such reservations to this community is not at all illegal and neither it is unconstitutional, but hereby it was observed that this Act won't be applied to the unaided sector of private minority schools and boarding schools.

8. INTERNATIONAL BASIS FOR CHILDREN'S EDUCATION

On the authority of global recognition, the term "Right to education" has been enriched in our global law under Article 26 of the convention of the Universal Declaration of Human Rights, which also examined the basic requirement of every human. Also, in most the global events just as Article 13 and Article 14, social and also cultural rights states that every person must have primary and basic education right. In the year 1960 UNESCO, the right for education repeatedly actively clearly declared in the convention that is against prejudice in the education, also in the Europe convention that is occupied on the 20th of March 1952 that states right for education which is included in human right as well as all the people must have the approach to primary and basic education and hence to entrenched as well as the right for the education which come under the scope of Article 2.

²¹ Indian constitution, Article 19(1)G

Also, many different global human rights treaties recognized the right to education and defended and also propagated the same following:

1. The pact of the United Nations that is based on the rights of the children within the year 1989 is mentioned under article 28 as well as article 29.
2. Destruction of every type of prejudice against females that happened the year 1981 was mentioned in Article 10
3. A convention was brought which was against the prejudice on the base of their employment which is also against the corruption in the year 1953 which is covered under the article 3

Such global treaties have been seriously effective for basically main approach in the educational provisions to all and hereby to also try to the abolition of discrimination at every stage of our educational institution where they also required to give some perfect quality and also the perfect standard of the education qualification that everyone must have it.

For the activity of such treaties, it's a great pleasure to state that our country, **India** is an active part in the convention of the CERD also in the renowned CEDAW convention, and even a part of the convention for the rights of the children.

THESE ARE THE VARIOUS INTERNATIONAL ORGANIZATIONS THAT WORK FOR THE ENHANCEMENT OF THE EDUCATION SYSTEM

- The world banks
- The International Labor Organization
- UNICEF
- Amnesty International
- UNESCO

SUGGESTIONS THAT CAN BE IMPLIED FOR MAKING THE EFFECTIVE USE OF THE RIGHT FOR EDUCATION ACT

“He who opens a school door closes a prison.”²²

1. The extent of this given act ought not to be restricted to the age of just 14 years it must surely be stretched to the secondary level of education also. The state definitely should however make some justified modifications like bringing up degrees/courses/diplomas with skillfulness in software and mobile communication, IT, telecommunication, entertainment, media, construction, automobile, or need of the essentials.
2. The term CSS commonly known as Common School System was a major step as well as go in together to receive equality within decades, however analyzing the current scenario it must also be modified into MSS which is a model school system that is truly based upon the actual dynamic nature and also for the requirement of our society where education must be provided to the kids for free and also on the joint venture and hereby with joint liabilities with such private institute patterns.
3. Guardians also need to follow a very significant role in implementing the RTE policy which has to be of great success in our country and also, for this reference states must ratify this within a basic fundamental duty of their guardians as well as parents. However, it can even be done just by boosting up through some basic counseling and also by some proper guidance support, also they must be made aware about this RTE Act basically through pamphlets campaigns, rallies, hoardings, media, etc. just by this we can alarm all such persons about the significance of education who should also assume that our next generations would surely be very well educated.

²² Victor Hugo, <https://www.momentpath.com/blog/owners-directors-inspiration-inspirational-quotes-about-teaching-children>

4. Most of the Schemes such as RMSA, mid-day meals, and SSA followed by a global organization like the UNICEF which is portraying a significant role in expanding the massive admission ratio just by protecting the starting therefore, even the basic education for our Indian children. Moreover, such global, or even national agencies, must be more concentrated in the weaker areas of our society also be it an economically backward section within the society or women's and also the greatly dense states of our country, these dense areas should be considered on superior priority to enhance the description of this particular act.
5. Most significantly local authorities, and hereby also the governing bodies, must get tangled to safeguard the admission of the just newborn babies, and therefore their records must be sent to a nearby educational institution. After such admissions, the school authorities have to protect and also, have to follow up on their progress also and hence, will later send their update for registration and hereby their enrolment to their respected parents or even guardians without any waste of time.
6. The Provision that is regarding more harsh punishment that must be given for the violation of this particular action should be stated out as well as the obligations for both the forms of government be it central government or even state government, administrators, teachers, and also parents, possessors of our educational institution, surely hereby be established. It, however, must be made significant for every government employee; even if he or she is working under the state or the center or even if a person who is merely working under the center or even state-funded institution, must definitely send their children to the government or even in just government-aided institutes basically for the advancement of such schools.

CONCLUSION

“The child is a soul with a being, a nature and capacities of its own, who must be helped to find them, to grow into their maturity, into a fullness of physical and vital energy and the

utmost breadth, depth, and height of its emotional, intellectual and spiritual being; otherwise, there cannot be a healthy growth of the nation.”²³

For the most part, schooling does cover 5% of the GDP of any of the countries to help with their social change. Schooling is also a way for developing better or one more step toward the one who is not at all educated. Whereas, Education is hereby a convincing tool to accommodate liberty for a person to develop this system to the best of its capacity. Also, for the preference and also for the upliftment of the basic right to an education that comes within the ambit of UN human declaration, also many of the conventions that notify about the right to education. AMNESTY, UNICEF as well as UNESCO global organization made major efforts to improve education rights for education that is worldwide. Thus, after accepting the right given to educate our country India now becomes, therefore, the 135th state to implement and accept this law.

The Parliament of our country India, through the 86th amendment in our constitution, stated the right to education as very important and also a basic fundamental right under Article 21-A of the constitution. Also, hereby for the preferred formulation of our educational framework that also authorized an act which is stated as the right of the education act. This act gives free as well as mandatory education to every child who is within the age group of 6 years to 14 years. This act also has some additional features which authorize state as well as local bodies that give the right to education to every child of this state also if not, thus everyone is obligated for that. Thus, only our country can reform our nation into a more developing nation, that will not at all lack its citizens from being educated.

²³ Justice PN Bhagwati, Former Chief Justice of India