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## THE RIGHTS OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009- ISSUES AND CHALLENGES

R.VIDYA

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**Abstract:** In a developing nation like India, educated and empowered citizens are a great hope to the country. It is they who are believed to bring in the positive change in the society. So it is no surprise that education is given priority in the nation. Understanding the importance of education, various legislations have been passed from time to time. The recent legislation that was passed is the Rights of Children to Free and Compulsory Education Act, 2009.

The Act was an historic one in the sense that it aimed at providing all children of the age group 6 to 14 free and compulsory education. Apart from free elementary education, the Act also promised to solve issues such as child labour. Hence the Act assumed much importance in the present scenario and was much expected.

But once the Act was passed there have been so many concerns that have been raised regarding the Act. There is lack of clarity on various issues which has questioned the very effectiveness of the Act. There are so many areas in the Act that need to be strengthened.

This theoretical paper tries to address the various issues related to the implementation of the Act. It explains the positive change that this Act could bring into the educational sector, which would ultimately benefit the society. At the same time, the problems and shortcomings in the Act would also be explained, thereby citing reasons for resistance against the Act from various groups in the society. Various suggestions would also be put forth for successful implementation of the Act.

Thus the paper attempts to emphasize on the importance of the Act and also points out the various implications and shortcomings of the Act. As the study is analytical in nature, secondary data has been employed. The basic data are derived from journals, books and websites.

**Keywords:** Children, elementary education, free and compulsory education.

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**Introduction:** Education is the total process of developing human ability and behavior. According to the International Dictionary of Education it is defined as “a social process in which one achieves social competence and individual growth, carried in a selected, controlled setting which can be institutionalized as a school or college”. UNESCO defines it as “an organized and sustained instruction to communicate a combination of knowledge, skills and undertaking valuable for all activities of life.

In the Indian context, education assumes greater importance because social stratification in terms of caste, religion and ethnicity reflects heavily in education. This issue is addressed through providing scholarships and preferential admissions in educational schools.<sup>1</sup> Efforts are taken to pull the maximum number of children into school and also retain all of them. Special measures are undertaken in the area of elementary education as the initial few years are considered very important in the education of a child. Despite several measures being taken Indian education has its own array of problems. Lack of objective, defective curriculum, wastage and stagnation, outdated teaching and examination methods, issues related to recruitment of teachers, increasing drop out rates, problems in enrollment are few of the many problems that Indian education faces.<sup>2</sup> The Right of Children to Free and Compulsory

Act, 2009 is expected to provide solutions to these various issues through Universalization of elementary education and hence is the Act called a milestone in the history of Indian education. The Act is considered a milestone in the history of Indian education because it legally validates the provision of free and compulsory elementary education, provides for the much desired objective of school in every neighbourhood, stresses upon the establishment of school management committees to look into the proper functioning of the school and further challenges the issue of child labour in regard to the children of the age group 6 to 14.<sup>3</sup>

**Education In India- An Historical Perspective:** India being a country with a glorious history, has witnessed varied systems of education and their long lasting influence on Indian culture and values.<sup>4</sup> During the Vedic and Post-Vedic period, the Aryans established various gurukuls to impart education to the three upper varnas (Brahmanas, Kshatriyas and Vaishyas). The three groups were educated on different areas keeping in mind their varna and occupation. The ultimate aim of education was to enable the pupil to attain the much desired ‘moksha’. In the Hindu Period (Maurya, Gupta and Rajput period), the aim of education was still the same but this period witnessed the opening of world famous universities like the Nalanda University. During the

Muslim period, many schools attached to the mosques were opened which concentrated on Islamic theology and Arabic Islamic Culture. During the British period, though many schools were opened, Lord Maculay's Scheme was accepted which ultimately aimed to produce Indians who would serve British administration with a meager salary. The British government encouraged the teaching of western philosophy, physical sciences, technology and social sciences in the English language and intentionally neglected languages such as Sanskrit and Hindi. During later times when there was the prevalence of strong nationalistic ideas, many Indian leaders demanded the boycotting of educational institutions run by the British and decided to start their own institutions. Gandhiji made an important contribution by popularizing his ideas on basic education wherein he envisaged the provision of free and compulsory education, acceptance of mother tongue as the medium of instruction, the teaching of basic craft, mathematics, social studies, general science, drawing, music, physical training etc.<sup>5</sup>

The Post-Independence era witnessed the constituting of University Education Commission, Secondary Education Commission and Education Commission. The National Policy on Education, 1968 brought in a new momentum in the history of educational development in India. It was followed by The National Policy on Education, 1986 which stood for education for equality, reorganization of education, reorienting the content and process of education etc. Various initiatives were taken by the Government of India to enhance the literacy rate in the country. A few examples in this regard can be Sarva Shiksha Abhiyan, District Primary Education Programme, Computer Literacy and Studies in School and Adult Education.<sup>6</sup> The commitment of the Indian government to make education accessible to all is seen through these policies and programmes. Universalization of education was applauded by all but the debate was only on who receives it and how it is made possible. The intention to reduce social gaps through education was so much in place even before the enforcement of the Right of Children to Free and Compulsory Act but the Act further tries to strengthen this objective.<sup>7</sup>

**Background Of The Act:** The Act enforces the 86<sup>th</sup> Constitutional Amendment, 2002, which inserted Article 21 A making education a fundamental right for children in the age group 6 to 14. Though education was made a fundamental right, the amendment necessitated a separate educational bill that would exclusively deal on the method of implementation. An in-depth study had to be undertaken to draft a bill in this regard. The first draft of the bill was posted on website in October 2003 seeking comments

and suggestions from the public. In taking into consideration the various suggestions, a revised bill was prepared in 2004. The central Advisory Board of Education drafted the Bill on Right to Education and submitted it to the Ministry of Human Resource Development. The Bill was rejected by the Finance Committee and the Planning Commission in 2006, citing lack of funds as the reason. A model bill was sent to the States to know their viewpoints and suggestions. The States sent back the bill to the Centre again quoting lack of funds as the reason. No action was taken on the bill for almost two years. On pressure from various quarters, the Ministry of Human Resources Development circulated another draft of the bill. The Union Cabinet approved the Bill on July 2<sup>nd</sup>, 2009 after which it was passed in the Rajya Sabha on 20<sup>th</sup> July, 2009 and in the Lok Sabha on 4<sup>th</sup> August, 2009. After receiving the President's assent it was notified as law on 3<sup>rd</sup> September, 2009. However the law came into effect on 1<sup>st</sup> April, 2010 to the whole of India except the state of Jammu and Kashmir.<sup>8</sup>

**Rte- Features:** Free and Compulsory education to all children in the age group 6 to 14.

- No child shall be held back, expelled or required to pass a board examination until the completion of elementary education.
- A child above six years of age who has not been admitted in school, shall be admitted in the class appropriate to his/her age, after receiving special training. A child so admitted shall be entitled to free education till the completion of elementary education even after fourteen years.
- No child shall be denied admission in a school for lack of age proof.
- Provided for schools within 1km radius for children of Class I to V and within 3km radius for Class VI to VIII.
- The Act stresses on a fixed student-teacher ratio and qualified teachers.
- Provides for 25% reservation in private schools for the disadvantaged groups and weaker sections.
- Mandates improvement in quality of education.
- School infrastructure to be improved within the stipulated period, else recognition will be cancelled.
- Financial burden to be shared between central and state governments.
- Constituting of the National Commission for Elementary Education to monitor all aspects of this Act.

**Challenges In Implementation And The Way Forward:** The lack of neighbourhood schools and the unaffordable cost of education is a major reason for a substantial number of students not getting enrolled in school, but however this is not the only reason. For

many families, survival is the top priority and not education. So the issue is directly related to problems like child labour and poverty. The problem is even greater in the case of girl children as social taboos, early marriage, gender bias, domestic work etc are reasons specific to them. So compulsion alone would not pull large number of children into school. Education policies should take into account such issues and try to combine work and school. Options such as reducing the school hours, development of mobile schools can help in tackling this issue.

Although private schools are not the best schools, in many instances government schools have not kept up to our expectations. With qualified teachers and better incentives government schools should have performed much better, but they have not done so. Appropriate policies should be framed to influence teachers to prove themselves better. Also political interference in the appointment and transfer of teachers has taken a great toll on the quality of education rendered. Hence to ensure good quality citizens for future, bureaucrats and politicians should keep away from unfair influences.

The Act also speaks of pass upto Class VIII without formal evaluation. This should not mean that the teacher really does not care about what the student really knows and further encourage him/her from not working towards the real enlightenment of the child. Earlier, responsibility of sending the child to school was placed on parents so as to avoid issues such as child labour. But the Act has now placed the onus on the government which should not lead to the parents being permitted to be totally irresponsible. Also the basic issue is that which authority is to be questioned if the child is found outside school and also about the quantum of punishment. So combined efforts from both sides can take the Act much further.<sup>9</sup>

The Act stresses on the importance of School Management Committees which will undertake the task of planning and progress. The Committee will mostly have parents and the Act does not make sure as to what would encourage these parents to spend their valuable time and energy towards this exercise. Further almost 25% of teachers are absent at any given point of time and even those present do not actively engage themselves in teaching related

activities. The SMC's should be given the power to take disciplinary action against teachers, if necessary. The Act provides for 25% reservation for students from disadvantaged and weaker sections in private schools, but it does not explain the criteria for making determinations in this regard. And also the procedure for admission in the entry level and reimbursement of money spent by schools in this regard requires further explanation. There is always a chance that there can be a supply- demand gap which would then become a serious question to answer.

Shortage of funds can make all efforts futile and hence issues such as Centre-State sharing should be sorted out immediately. Also problems such as lack of adequately trained teachers and absence of proper infrastructure come in direct conflict with the basic motive of the Act. This could a great challenge because the survey on 'Elementary Education in India' points out that almost half of the recognized elementary schools do not have separate toilets for girls.<sup>10</sup>

As per the Act schools without proper infrastructure would be shut down. But shutting down of schools would only further weaken the educational status of the society and hence ways and means should be devised to upgrade these schools.

Though implementation of the Act is a major responsibility by the government, the burden can always be shared by NGO's and other institutions that work for social upliftment.

**Conclusion:** Thus it can never be denied that this Act is an historic one and promises to change the society positively, but all of this depends on proper planning and implementation. Even the best of laws and legislations have failed due to improper implementation. Also the above mentioned issues should be sorted out at the earliest as they challenge the very effectiveness of the Act. Responsibility of the implementing authorities should be made clear so as to avoid any kind of discrepancy. The powers and functions of the Central, State and Local governments should be clearly demarcated so that they do not keep blaming each other for non-performance towards the Act. Therefore, the success of the Act does not depend on one single factor but on combines and consistent effort from the government, parents, teachers and all other stakeholders.

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R.Vidya/Assistant Professor/ Department of Political Science/  
Madras Christian College/ Tambaram/ Chennai- 600059/ vidyar\_mcc@yahoo.co.in