

## **RIGHT TO FREE AND COMPULSORY EDUCATION: A PREVIEW ON REALITY**

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### **PROLOGUE**

Every 5<sup>th</sup> child in the world is an Indian as nineteen (19) per cent of the world's children reside in India. Unlike China, where there is pretty high percentage of older generations, India is home to world's largest number of younger generation. This fact has its own implication as on one side it is beneficial as this is potential workforce and productive generation, but on the other side there are concerns about the adequacy of their education and literary factor. China was able to control its population but currently faces the problem of an ageing population. India, on the other hand is a host to 1/3<sup>rd</sup> of the world's illiterate population. Although literacy rate have increased with time, but this increase has been offset by the growing rate of population. So the net percentage has shown only slight improvements. In the previous decade, there was even deterioration and an indication of this is the statistics showing 12.6% literacy rate in 1991 which declined to 9.21% in 2001.

This was a concerning trend, so the government of India took step to improve the situation and reverse this trend. The Government introduced the Right to Free and Compulsory Education (RTE) Act, thereby making education a fundamental right for each and every child from the age of 6 to 14 years. However, there are some harsh facts associated with it. RTE provides for ensuring free and compulsory education in India to every child between the age of 6 to 14 years. Considering the population of India, especially the growth in the population of younger generations, this is a daunting task. A continuous effort is required to make it a reality. A sheer accomplishment would require Himalayan efforts, not to talk about providing a quantitative and qualitative education in this context. Accomplishing this task means not only increasing availability and accessibility to schools, classrooms, teachers and infrastructure facilities across the country but also there is a need to improve the quality of education. Unfortunately, this could not happen, so most children have remained out of the scope of the Right to Education (RTE), as these children continue to stay within below poverty line families. Tenth Annual Status of Education Report published by Pritham, has reviewed elementary education within rural areas. They found that although enrolment levels have been on the rise but the learning level remains very weak. Moreover, many of the children continue to be out of the scope of RTE as for them breaking the shackles and barriers as posed by poverty to arrive at avenues a provided by RTE continues to be a big challenge. This is so because the country is yet to connect the RTE with greater socio-economic reality of rural denizens in the neo-liberal cross-country regime.

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Commercializing education has also posed a major issue. Education, especially the premium quality of it, comes with a special price. It has been commercialised and the more one can pay, the access and affordability to a good educational institution becomes a possibility. This has its own impact on the educational institutes as envisaged under RTE. A minimum standard of acceptable quality has to be maintained. Thus, RTE has to be seen in this perspective and a comprehensive view has to be taken while considering not only availability of infrastructure, teachers or Faculties but also in terms of the quality of education and its meaningfulness in neo-liberal cross country regime.

## **A REVIEW**

In this section the actual scenarios are presented which exist at various locations in India. These scenario help u to assess the current status of affairs in the context of RTE. Lata is fifteen years old shy teenage girl who comes from a village at border of West Bengal. She came to Gurgaon with her mother just around a month before. Previously she received education upto class Five but the further education could not be continued following the demise of her father who worked as a potter. They had a very meagre financial means as lata had 3 more siblings, who are now staying with her grandmother in the village. One of her 12 year old sister is rolling beedis in village and earning Rs 300/ per week. Her uncle offered to marry her mother after she became widow, but she refused, because he is a drunkard. Lata realised that her family needs resources and therefore she persuaded her mother to bring her to city so that she can contribute to family income. For Lata, her goal is to ensure that her sibling should study. Her mother is working as a maid in four different houses in Gurgaon and earns Rs 4500/-. Lata now will be taking care of an infant at a posh residency in the city. She will be paid 3000/- for 10 hours of work. But, lata still has hopes. Her dream is to continue her studies and work in an office.

## **SCENARIO OF SURYA OUTSIDE A METRO STATION IN DELHI: A SOURCE OF ENLIGHTENMENT**

I met Surya outside the Metro Station at Mandi House, New Delhi. With a lot of big dreams in his eye, Surya a thin lean 14 year old boy was selling Chana (roasted gram). He hails from Gopalpur near Patna and has studied upto fourth grade. His father used to own a small piece of land but it was sold for the treatment of cancer of his grandfather. Surya has three younger sister and two brothers. The elder brother died in an accident and the younger one is residing in the village. His father expired after he consumed poison. With no other source of income, the family was at the verge of destitution. Therefore, Surya went to Lucknow with one of his relative in search of a job eight month back. He worked at a small dhaba for three months but left it because the owner refused to pay him any money after making him toil for 11 hours day. Beside he was given enough food or a holiday and the owner used to beat him violently. He ran away from Lucknow and came to Delhi to look for better opportunities. Since then he has been searching for work but faced disappointments. However, he considered himself to be fortunate enough to meet a man who taught him to be self-reliant and now he is happy to find a new opportunity to be an entrepreneur and to 'live a life on his own'. Every day he is selling different items and on certain days manages to earn Rs 100/ a day. He could send a

1200 to his family in village last month and feels that he is now the 'man in the house' and therefore is responsible to earn a living. He wanted to go to school but now according to him 'life is a great teacher and streets are like a school'- his wisely words are indeed a source of enlightenment.

Both these children from the lower socio-economic strata have entered into vocation because of their economic compulsion and constitute invisible work force. For them education entails learning while earning. Their stories are reflective of dreams, aspirations, longings and hopes of children from marginalised communities within the marginalised globalised India and the manner in which these are crushed by changing socio-economic environment. Attending school is not a choice as they are excluded from the mainstream education because of pressing circumstances. The Child Labour Prohibition Act or the Right to Education Act or any such legal provisions become meaningless in such a situation as these overlook the realities of life of millions of children like these two. These situations also indicate toward fragmentation of family, weakening of community bonds and increasing vulnerabilities specifically for children from poor communities. It also reflects on the impact of macrostructures and processes of globalised and capitalized world on children. In order to address such situation it is essential to look and to address the structural roots of poverty which lie in crisis created by introduction of neoliberal regime.

One of the arguments raised is that the benefit of development will trickle down and the demand for child labour will be replaced by the demand for skilled labour. However, this argument proves to be wrong in Indian situation. It is not on the basis of demand created by the market that children are compelled to work; rather it is their circumstances relating to abject poverty and dire need to work those children to work. It is therefore essential to link up microcosmic realities of life with macrocosm policie to realise rights in a meaningful way. Rights, political or civil, in themselves are futile unless they are linked up with the socio-economic rights.<sup>1</sup> The rhetoric of right to education is therefore ineffective unless the basic needs are met; education has to be link up with the food security, right to health, right to livelihood and employment and other social security measures.

Many children like these two are navigating through the maze of poverty and scarcity, helping their families to survive through the tough times. Reaching to the corridors of education is a challenge for children from marginal families because the state failed to link up the Right to Education with larger socio-economic realities of the majority of population. For millions of children, survival becomes a major preoccupation at the young age and therefore becomes the priority. Though much of debate <sup>2</sup>has been held on the issue of working children in an informal economy, however, the need is to re-examine thee deliberation in the context of RTE in the globalised framework when the state is rolling back from its obligation to provide education and instead privatizing and commercializing the same.

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<sup>1</sup> Nigam Shalu(2014) Asserting Rights, Claiming Entitlements: Revolution by Masses, Countercurrents dated December 10th <http://www.countercurrents.org/nigam101214.htm>.

<sup>2</sup> Bura Neera(2005)Crusading for Children in India's Informal Economy, Economic and Political weekly December 3.

Further, though the RTE Act has been into operation since 2010 however, the quality of education remains as a major concern. The Annual Status of Education 2014<sup>3</sup> (ASER) released by Pratham, based on the audit of education in rural areas, reported that though enrolment is high, however learning remains poor in most of the states. School facilities in some state have improved nevertheless reading and math remained as a major source of distress. The report shows that the enrolment level has increased to 96% nonetheless it is observed that only a quarter of children in grade 3 can read the text of grade 2 fluently. In a few states like Bihar, Assam, Jharkhand, Chattisgarh, Madhya Pradesh and Maharashtra the reading status has declined over previous years. Only 25.3% children in grade 3 could do two digit subtractions. A serious issue that emerged is that around 20% children in grade 2 cannot recognise numbers upto 9.

The National Achievement Survey<sup>4</sup> conducted by MHRD also reported that low score were obtained by children in mathematical questions in the states of Madhya Pradesh, Chattisgarh, Jammu and Kashmir, Bihar, Rajasthan, Haryana and Odisha. Children from these states also performed low in reading. Thus, the available data clearly indicates that focus has been laid on quantitative aspects like enrolment or attendance, what is neglected in the process is the quality of education. The 4E's strategic priorities<sup>5</sup> which define approach on education in India that is Expansion (establishing educational institutions in undeserved and unserved areas), Equity and Inclusion (bridging gender and social gaps), Excellence (improving quality and relevance of education) and Employability (focus on vocational skills) therefore failed to meet the objectives.

## EDUCATION: A PREVIEW

Education is considered as an essential pre-requisite for development – economic as well as social. It is necessary not only to create an agile workforce but also to develop a band of an active citizenship to realise the democratic ideals. MK Gandhi proposed the concept of 'Nai Talim' based on holistic education process. According to him the purpose of education is to attain 'swaraj' or self-rule. Paulo Freire warned against the banking system of education and advocated for the critical pedagogy which is transformative, empowering and political and aim for conscientization. Antonio Gramsci gave the concept of 'organic intellectuals' that promotes the interest of common people rather than perpetuating the hegemony of dominating class. For Rabindra Nath Tagore, education is a process of self realisation and freedom rather than colonization of mind.

A focus on quality of education, therefore, requires more than enhancing test scores or even preparing for vocations; it entails that a learner should develop life skills as well as experiences that promote critical consciousness, further citizenship and deepen democracy.

<sup>3</sup> ASER(2015) The Tenth Annual Status of Education Report ASER 2014 <http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202014/pressreleaseeng.pdf>

<sup>4</sup> National Achievement survey Cycle 3 [http://mhrd.gov.in/sites/upload\\_files/mhrd/files/document-reports/summary%20NAS%20Class-3%20%28Cycle-3%29-final.pdf](http://mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/summary%20NAS%20Class-3%20%28Cycle-3%29-final.pdf).

<sup>5</sup> NUEPA (2014) Education For All, Towards Quality with Equity Minister of Human Resource and Development, GOI [http://mhrd.gov.in/site/upload\\_files/mhrd/files/upload\\_document/EFA%20Review%20Report%20final.pdf](http://mhrd.gov.in/site/upload_files/mhrd/files/upload_document/EFA%20Review%20Report%20final.pdf).

The basic purpose of education is to develop a creative and an enlightened mind that has the capacity and self-confidence to question, imagine, innovate, challenge the status quo and is accountable to strengthen the process of governance. Education enables individual to act as a responsible and independent critic of government's policies, programmes and actions, to act fearlessly to expose the harsh realities thus push for democratic reforms. To create such a system there must be an educator who thinks and act liberally and therefore may guide the students towards the path of liberation. Also, the institutions which provide the education, therefore, are bound to provide a democratic environment, based on the principle of shared governance that promotes academic freedom. However, this system remain ns merely a wishful thinking in the globalised capitalised world which prefers to commercialise and privatise education.

Moreover, recently, much emphasis is being laid on the employability aspect of education in India rather than its democratic aspect which aims to develop proactive citizenship qualities. The real purpose of education is clearly not meant to serve business or profits. Schools cannot act as an appendage to serve the interest of state or corporation. Also, citizens are not mere human resource or consumers; rather they are the part of a vibrant democracy and a changing world. The need is therefore to develop active citizenry for strengthening a vibrant, grass root, plural democracy by preparing young mind to engage in critical thinking, engaging in real world issues through active and meaningful participation in civil and political processes.

### **FREE AND COMPULSORY EDUCATION UNDER ARTICLE 21A OF INDIAN CONSTITUTION**

The Supreme Court in Unnikrishnan's matter in 1993 pronounced that all children up to fourteen years of age shall be granted a Fundamental Right to Education. The Court contended that the Fundamental right to Life (Article 21) in Part III of the Constitution should be read in harmonious construction with the Directive in Article 45 (Part IV) to provide free and compulsory Education to the 0-14 year age group children. Hence, by implication, free education of equitable quality became a Fundamental right. The Court through this decision clearly upheld the rights of masses to quality education thus enabling to join the mainstream and compete with the privileged sections of the society. Indeed, it holds state responsible to provide education that is non-discriminatory, inclusive, universal and equitable. However, the state in the guise of RTE continued with its agenda of privatisation thus creating a contradiction in terms of what it intends to do or what it actually does.

The Constitution 93<sup>rd</sup> Amendment Bill (amended to 86<sup>th</sup> in process) was passed in Loksabha on November 28, 2001 to envisage education as a fundamental right of citizen rather than as a state's obligation as was provided under Article 45 of the constitution , a non justifiable provision previously. On the same historic day, it was reported that a shiksha Satyagrah was launched by the National Alliance for Fundamental Right to Education (NAFRE) where 40,000 to 50,000 people gathered to demand the right to education. "These peasants, landless labourers and slum-dwellers, both men and women , demolished the myth promoted by the state and the educated civil society that the poor people are interested only in roti, kapda and

makaan (food, clothing and shelter) and not in educating their children”<sup>6</sup>. The demand was to make the right to education a reality for all children up to class 12, equitable education irrespective of child’s background and for building a common school system. However, this rally was abruptly ended under the pressure from the government because globalisation was seen as an alternative agenda which pushes to reduce the role of state and promote the design of the Structural Adjustment programme while enhancing the involvement of private and market sector, leading to commercialisation of education.

The 93<sup>rd</sup> Constitutional Amendment Bill was so designed to fulfil the agenda of globalisation rather than fulfilling its commitment to the constitutional obligation. The state diluted and distorted the meaning of the RTE and deprived millions of children their basic entitlement by legitimising unequal, hierarchical, multilayered system of schooling. The Right to Education Act 2009 which was notified on 1<sup>st</sup> April, 2010 clearly violated the principle of equitable education. The Act in actual promoted the neo-liberal agenda and prescribed inferior discriminatory infrastructure for government schools. It provides for hiring teachers on contract denying them social security and dignified remuneration. The act was criticised for its welfarists approach rather than working on the right based model.

Through marketisation of education and paving the way to sell it like a commodity, the state denied many children the opportunity to get educated. In a country where many people are being deprived of their basic necessities like food, water or shelter because of their inability to pay, privatisation of education only act as a hindrance to access and avail opportunities to education. Yet, the state continues to commercialise the education by opening space for market to profit, shift funds from public corpus to private, unaided, commercial schools and denying unprivileged children to quality education.<sup>7</sup>

Article 21-A of the Constitution states, “the state shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the state may, by law, determine.” The conditionality introduced by adding the phrase “in such a manner as the state may by law determine” is detrimental to the interest of millions of children. It was not the paucity of fund rather it is the matter of socio-political priority for the state when it declares its intent while enacting this provisions of the constitution.

The phrase ‘free and compulsory education’ is ambiguously interpreted as education provided in the private institution is never ‘free’ and ‘compulsory’ in the state run schools is absent because there is no proper infrastructure, inadequate number of teachers and more focus on numbers rather than the value which severely impact the quality of education<sup>8</sup>. Also the word compulsory does not fit into the framework of right based perspective of education.

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<sup>6</sup> Sadgopal Anil(2002) A Convenient Consensus: The Political Economy of Constitutional 93<sup>rd</sup> Amendment Bill, The Front Line, Vol 18, (26) December 22, 20001 to January 4,2002 <http://www.frontline.in/html/fl1826/18261070.htm>

<sup>7</sup> Sadgopal Anil (2008) Misconceiving Fundamentals, Dismantling Rights, Tehelka June 14<sup>th</sup> Original version available at <http://www.educationforallindia.com/CSS2.pdf>

<sup>8</sup> Bhuyan Avantika (2013) Right to Education has failed the no-fail policy, The Business Standard dated May 4 [http://www.business-standard.com/article/economy-policy/right-to-education-act-has-failed-the-no-fail-policy-anil-sadgopla-113050400584\\_1.htm](http://www.business-standard.com/article/economy-policy/right-to-education-act-has-failed-the-no-fail-policy-anil-sadgopla-113050400584_1.htm)



Compulsory attendance in school necessarily does not ensure quality learning especially when the teacher is absent or overburdened or the school lacks other facilities or classrooms are cramped.

The phrase 'free and compulsory education' implies that it is mandatory for the state to provide for facilities and means to educate children. However, sufficient funds are never allocated to meet such provision in spite of the fact that government created a fund through education as compared to recommended GDP of 6%.<sup>9</sup>

RTE provides for free and compulsory education for children between the age group 6 to 14 years of age. The children in the age group of 0 to 6 years are left to be covered under the purview of ICDS programme. Further, none of the states have fulfilled the basic norms emphasized under the RTE act in terms of requirements of teachers, infrastructure requirement or pupil teacher ratio<sup>10</sup>. Also, education still remains an elusive goal for millions of children from tribal and minority communities and those hailing from conflict zone.

A sub clause (K) was added to 51A which states that, who is a parent or guardian to provide for opportunities to education to his child or as the case may be ward between the ages of six to fourteen years. It therefore compels parent to provide education to children shifting responsibility from state to the parents. Again, parent's ability to pay determines the opportunities he/she can provide to educate the child because the state promotes private education indirectly by not improving the quality of education in the government schools. Further, it fails to provide quality education to children who are orphan or to the children whose parents are sick, ailing or poor and therefore are not in a position to fulfil their constitutional obligations.

Why after so many years of independence, India failed to create a system that could educate all of its citizens? Lack of political clout of the illiterate masses is a major factor because of which state is neglecting education opined Dreze and Sen<sup>11</sup>. Weiner<sup>12</sup> in his famous book argued "Educator and officials do not regard education as an equalizer, as an instrument for developing shared attitude and social characteristics, but rather as a way of differentiating one class from another....Those who are educated have power over those who are not".

Also too much focus on numbers-enrolment, attendance etc is diverting the attention from the real meaning of education. Beside 3 R's- Reading, Learning and arithmetic, emphasis must be laid on nurturing creativity, imagination honing skill like art, music, handicraft, textiles, pottery, farming and similar other skills including the life skills, which are different from the

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<sup>9</sup> Rukmini S. (2014) The Price of Learning, The Hindu September 14 <http://www.thehindu.com/sunday-anchor/the-price-of-learning/article6408317.ece>

<sup>10</sup> Howdhary Kavita (2014) Right to Education: More Needs To Be Done, The Business Standard, dated April 5 [http://www.business-tandard.com/article/economy-policy/right-to-education-more-needs-to-be-done-114040500105\\_1.htm](http://www.business-tandard.com/article/economy-policy/right-to-education-more-needs-to-be-done-114040500105_1.htm)

<sup>11</sup> Dreze J and Sen A (1995) Basic Education as a Political Issue, Journal of Education Planning and Administration Vol. XI (1)

<sup>12</sup> Weiner Myron (1991) The child and The State in India: Child Labour and Education Policy in Comparative Perspectives, Princeton: Princeton University Press.

market or business requirement . However, this issue of linking education with life skills and democratic goals to make it more meaningful has been neglected for years.

### **STRIVING TOWARDS MEANINGFUL RIGHT TO EDUCATION**

In short, it may be said that the RTE remains rhetoric for majority of the people who exist on the margins. For children like Lata and Surya who entered the work force and an informal economy because of economic compulsions, education remains a distant dream. They remain behind because of reasons relating to food security, vulnerability, growing up in situation where resources are not available and face the stress of being poor. Poverty contains life leading to stress, adversity, fewer opportunities and availability of meagre resources among other problems. Acting as a breadwinner in childhood push them farther as works becomes the priority. Therefore for children from poor families, it is crucial to address a range of possible situations through innovative ways including focusing on the issue of family poverty. Supporting families economically and providing intervention directed to the children themselves may facilitate the goal of education to all. The 4 A's framework that is availability (universal availability), accessibility (free of fees and without any barrier created by cost, geography or other discrimination), acceptability (quality education) and adaptability (responsive to learner's need) has to be understood and implemented broadly to include the context of children from the marginalised sections and must be inclusive of their specific needs.

Public education is a means whereby the state fulfils its responsibility to make education available for all the citizens. However, by withdrawing its commitment to education and by promoting privatisation the state is denying right to individual as well as acting to diminish societal inspiration. The discourse on child right has to be seen in the context of globalisation and its impact in accentuating inequality in third world countries including India. While pushing for Structural Adjustment Programmes in the countries like India, factors specific to Indian situation like lack of social security policies or social welfare measures clubbed with inequalities that exist due to distribution pattern relating to land, tenancy, income, corruption, caste and class based hierarchies, marginalisation and impact of all such issues on standard of living of needs to be taken into account.

The RTE is crucial for creation of equitable society and ensuring democratic governance. Implemented properly, the RTE may help individual to respond to life challenges and take advantages of opportunities while simultaneously promoting educational and civic resources essential for democratic governance. Education is a tool to generate a sense of solidarity in a diverse society by addressing concerns relating to inequality, exclusion and segregation. It is essential to take realities of the lives of poor children and therefore the need is to think beyond the provisions of making schools available, enrolment or attendance related data.