

**RIGHT TO AN EDUCATION****AUTHORS-** SHREYA PANDEY & MR KARAN RAMANI,STUDENT<sup>1</sup> & ASSISTANT PROFESSOR<sup>2</sup> AT AMITY LAW SCHOOL, AMITY UNIVERSITY, UTTAR PRADESH LUCKNOW CAMPUS**BEST CITATION** – SHREYA PANDEY & MR KARAN RAMANI, RIGHT TO AN EDUCATION, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (1) OF 2024, PG. 510-514, APIS – 3920 – 0001 & ISSN – 2583-2344**Abstract**

Primary education should be the cornerstone of the educational pyramid and the nation's future. "Every child has a right to education shall be free, at elementary and fundamental stages," stated Mahatma Gandhi, advocating for universal access to free basic primary education. It will be mandatory to receive an elementary education. (The 1948 Universal Declaration of Human Rights, Article 26). The provisions of the Right of Children to Free and Compulsory Education (RTE) Act (2009) uphold the UN recommendation. On April 1, 2010, the Right to Education Act, 2009 (Article 21 A) went into force in India, guaranteeing free and compulsory education for all children aged 6 to 14. Up until the 1800s, only a limited portion of society had access to education as a right. Despite laws requiring education, not much progress was made in this area during British administration. Nevertheless, Article 45 of the post-independence declaration committed the State to "providing, within a period of 10 years from the commencement of the Constitution, free and compulsory education to all children until they complete the age of 14." However, there was little progress made in making elementary education universal. The first formal document pertaining to primary education was the National Policy on Education, 1968. National Policy on Education 1986: The inclusion of the right to education as a fundamental right in the Indian constitution was suggested during the policy review in 1990. This recommendation served as the foundation for the formulation of the National Policy on Education 1992. 1992. The right to education is a basic right guaranteed by Part III of the Indian Constitution, and every citizen is entitled to it, the Supreme Court of India ruled in the 1992 case of Mohini Jain Vs. State of Karnataka. Afterwards, the Supreme Court ruled in the Unnikrishnana, J.P. vs. State of Andhra Pradesh case that "even though the right to education is not expressly mentioned as a fundamental right, it flows from the right to life that is guaranteed by article 21 and must be included in the context of the Directive Principles of the Constitution." Thus, the right to education, as defined by Articles 45 and 41, means that: (a) every child and citizen of this country has the right to free education up until the age of fourteen; and (b) after the age of fourteen, a child's right to education is limited by the State's economic capacity and its development. Ultimately, in 2002, the Indian Constitution was amended to make education a fundamental right, but it was qualified by stating that the manner in which this right would be exercised would be determined by subsequent consequential legislation. The "The Right of Children to Free and Compulsory Education Act 2009" is the follow-up law mentioned in the 2002 Amendment to the Indian Constitution (the 86th Amendment). It was passed by parliament in August 2009 and went into effect in April 2010. The Model Rules, a subordinate piece of law, were created by the federal government based on this Act to give states guidance on how to execute it.

**KEYWORDS:** Elementary, Legislation, Vocational, Convention

## OVERVIEW

Education aids in the idealistic growth of society, shaping the current generation in a way that will profoundly impact subsequent generations. It strives for self-reliance, empowerment, and individual independence. As a result, education is regarded as a "fundamental right" in every country and is necessary for the fulfillment of all human rights. Concerns over the quality of education offered in India, particularly to the general public, have existed since the country's pre-independence era. Any nation's progress is impossible without guaranteeing that education reaches all sections of the population.

The cornerstone and starting point for all learning levels, elementary education eventually leads to mass education. It helps someone grow by giving them the analytical skills they need, boosting their self-esteem, and strengthening their will to succeed.

The 86th amendment (2002) conceptualized the aspirations of the founding authors of the constitution to enhance the quality of primary education through Article 21 A (Part III), which aims to provide free and compulsory education a basic right for all children aged 6 to 14.

Three specific clauses were added to the constitution by the 86th Amendment Act of 2002, pertaining to the achievement of children's fundamental right to free and compulsory education between the ages of six and fourteen. These were: (1) adding Article 21 A to Part III (Fundamental Rights); (2) amending Article 45; and (III) adding a new class (K) to Article

51 A (Fundamental Duties), which places responsibility for educating children between the ages of 6 and 14 on the parent or guardian. The 'Right of children to free and compulsory Education Bill' was prepared in 2005 to put this into effect. In August 2009, this was amended and became the Act.

## Education as a Basic Right

Article 21-A was added to the Indian Constitution by the Constitution (Eighty-sixth Amendment) Act, 2002. It states that all children between the ages of six and fourteen must receive free and compulsory education as a fundamental right, in a way that the State may, by legislation, specify. Every child has the right to full-time elementary education of a satisfactory and equitable quality in a formal school that satisfies certain essential norms and standards. This right is embodied in the Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the consequential legislation envisaged under Article 21-A.

On April 1, 2010, the RTE Act and Article 21-A went into force. The terms "free and compulsory" are included in the title of the RTE Act. "Free education" means that no child shall be required to pay any fees, charges, or expenses that would prohibit them from pursuing and completing their elementary education, with the exception of a child who has been admitted by their parents to a school that is not supported by the relevant Government. "Compulsory education" places a duty on the relevant government and local authorities to guarantee that all children in the 6–14 age range be admitted, attend, and complete their elementary education. By doing this, India has advanced toward a rights-based framework that places legal obligations on the federal and state governments to carry out the fundamental right to education for children as guaranteed by Article 21A of the Constitution and in compliance with the RTE Act's provisions.

## RTE Requirements

The RTE Act's provisions are outlined in brief below. The Act stipulates:

the right of children to free and obligatory education in a nearby school until they have finished their primary education.

The Act clarifies that "compulsory education" means that the government has a duty to

guarantee a child's admittance, attendance, and completion of primary school if the child is between the ages of six and fourteen. The term "free" denotes that there is no cost associated with the child that could keep him or her from finishing this type of education.

A kid who is not admitted may be admitted to a class according to the Act if they are of the right age.

It discusses the responsibilities of parents, local government agencies, and the relevant governments in guaranteeing a child's education. It also outlines how the federal and state governments will split the financial load.

It lays out guidelines and standards for Pupil Teacher Ratios (PTR), school buildings and equipment, teacher schedules, and working days.

It further states that there shouldn't be a disparity between rural and urban teacher assignments. A further provision of the Act prohibits hiring instructors for non-educational jobs, with the exception of census, election, and disaster relief activities.

The Act stipulates that the selected teachers must possess the necessary qualifications and training.

The Act forbids:

Physical punishment as well as mental harassment. protocols for child entry screening.

Capitulation costs.

The teachers provide private instruction.

managing educational institutions without acknowledgment.

According to the Act, the curriculum must be created with the values included in the Indian Constitution in mind, as well as with the child's whole development in mind. The curriculum

should build on the child's knowledge, potential, and talents while using a child-centric and kid-friendly framework to help the child overcome trauma, fear, and anxiety.

The Right to Education Is Importance Education is a prerequisite for unrestricted personal growth. It is what qualifies someone for civic responsibilities. In addition, a lack of education makes it difficult for someone to comprehend politics or maintain awareness of national interests.

As a result, involvement in state matters will be minimal. That citizen will, in other words, be nothing less than a slave to others. This will keep their personality from developing further. Usually, that person's decisions are made by others.

As such, it will be a democratic failure. A person's civil right to education protects them from all of this. Although it does not ensure that everyone would have the same intellectual training, it does include provisions for that kind of education.

People, especially those who cannot afford it, will not be able to live their lives as they choose if they do not have the right to an education. In order for our society to advance and no one is left behind, it guarantees that everyone has an equal right to an education.

For those who want to transform their lives and end the cycle of old age, the right to education can therefore be transformative. It enables people to have discrimination-free, equal access to education as any other citizen.

### **Advantages of the Education Rights**

The entitlement to education offers us numerous advantages. First off, in terms of how simple schooling is now, it has greatly altered society. It also guarantees a uniform feeschedule for all.

To put it another way, colleges are not allowed to suddenly raise tuition in order to protect students. Subsequently, it guarantees that



education is easily accessible to all by making it open to all.

Many talented but impoverished pupils are unable to access sufficient resources. As a result, it guarantees that they can lawfully continue their study. As a result, it raises a country's literacy rate.

This is unquestionably a huge benefit for any nation. Additionally, it does away with all forms of discrimination, particularly against those from diverse economic origins. It also applies to those who are impaired.

Above all, it guarantees that students who are unable to pay for their education are given seats in the school. As a result, it facilitates participation by the less fortunate, enabling education to reach all societal segments.

#### **The four A's and education:**

Education needs to be available, accessible, acceptable, and flexible in addition to having a clear purpose. Everyone who wants to acquire their foundational knowledge in studying will be able to gain from educational knowledge.

#### **Accessible:**

All people should have free access to education, at least at the elementary and foundational levels. It needs to be accessible to citizens by the government. Governments are required to provide school accessibility. "States parties acknowledge the right of the child to education, and they shall, in particular, make primary education mandatory and free for all, with the aim of fulfilling this right gradually and on the basis of equal opportunity." All people should have access to basic, higher, and primary education. The International Covenant on Economic, Social, and Cultural Rights states in Article 13.2(a) that primary education must be provided free of charge to everyone. Basic education needs to be accessible.

#### **Availability:**

All educational institutions have to be within

reach of all individuals. It is illegal to discriminate against anyone on the grounds of their race, sex, color, religion, economic status, language, immigration status, or handicap. Everyone should feel safe attending the school, and it should be situated a fair distance from the neighborhood. Textbooks and education should be within everyone's means. Everyone should be able to access and equally benefit from higher education. "In their communities, people with disabilities can receive free, high-quality, inclusive primary and secondary education on an equal footing with others."

#### **Acceptability**

The educational approach used in schools should be one that parents are comfortable with their children using, one that satisfies the national standards established by the government, and one that offers equitable education opportunities. Additionally, the educational approach is simple and well-liked by everybody. Adaptability ought to be based on lifestyle choices and educational approaches.

#### **Flexibility:**

To be adaptable, education must be simple and flexible. Flexibility encourages fair results for students. Higher students as well as youngsters and teenagers should be able to adapt to the educational system.

#### **Education for Human Rights and Human Rights:**

Every child, adolescent, man, and woman has the human right to information, education, and training. They also have fundamental rights that are contingent on the realization of their rights, for which education is a duty. The States Parties acknowledge that everyone has a right to education. We must respect human rights and human rights education.

Education should enable everyone to participate effectively in a free society and foster friendship, tolerance, and understanding among people of different

racial, ethnic, and religious backgrounds. Secondary education, including technical and vocational secondary education, should be free and widely available. Higher education should also be equally accessible to all.

Human rights education is provide information about human right to the people. "All human being are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". Article 28 and 29 of the Convention on the Rights of the Child(CRC), 1989 deals with the ensure the right to education, that means every states have to sure compulsory education and available without any cost, encourage the development of secondary education and vocational education and also government have to provide financial support if needed. On the other hand article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 says about recognizes the right to education. "The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace". The main objective of a human rights education is peace. Though the Convention on the Elimination of All Forms of Discrimination against Women mention prohibits discrimination in education of women. "State parties shall take all appropriate measures to elimination discrimination against women in order to ensure, on a basis of quality of men and women".

## **CONCLUSION**

It is noticed that Right to Education Act is a noble Act that set out to achieve basic and free education for all but is mired in controversy and lack of good infrastructure and effective implementation in order to achieve the aim it set out to accomplish. For effective implementation of the Act, there must be full cooperation between parents, teachers and school authorities. It is only when there is good coordination between school staff and government authorities that schoolchildren will benefit and education will reach out to all.

One major hindrance in this is that orphans have a problem in getting enrolled in such schools. The Act provides for admission of children without any certification. However, several states have continued pre-existing procedures insisting that children produce income and caste certificates, BPL cards and birth certificates. Orphan children are often

unable to produce such documents, even though they are willing to do so. As a result, schools are not admitting them, as they require the documents as a condition to admission

## **REFERENCE**

- Naik, J.P. (1978). Educational Reform in India: A Historical Review. Bombay: Orient Longman Limited pp.4-5
- <https://shodhganga.inflibnet.ac.in>
- <https://www.ohchr.org>
- <https://www.ohchr.org/EN/>