

Right to Education Act, 2009: Historical Perspective

Abstract

Education plays an important role in human life by giving human beings proper equipment to lead a genial and harmonies life. The main aim of this research paper is to analyse the historical perspective of Right to Education Act, 2009. The chiefintend of right to education is to give everyone chance to learn and advantage from basic education-not as an accident circumstances, or as anopportunity, but as a right. The Right of children to free and compulsory education, which was passed by the Indian government on 4th August 2009, describes the modalities of the provision of free and compulsory education for all children between 6 and 14 years of age in India under Article 21A of Indian constitution. India joined the association of 135 Countries which make the education is a fundamental right of every child. So it is very important to explore the historical perspective of RTE Act, 2009. Present study is an attempt in this direction.

Keywords: Right to Education Act, Human Rights.

Introduction

The right to education has been globally recognized as a key to other human rights with United Nations' Universal Declaration of Human Rights in 1948 and since then has been enshrined in various international conventions, national constitutions and development plans. The Universal Declaration of Human Rights and several covenants are also in the Constitution of India, which proclaims 'dignity of individual' as a core value in its preamble. But the issue of compulsory education was not given much importance by the framers of the constitution, though it was perceived that over a period of time, state will take all endeavors to make primary education free and compulsory for all.

Therefore, over the years there has been significant spatial and numerical expansion of elementary schools in the country, yet the goal of universal elementary education continue to elude us. The number of children, particularly children from disadvantaged groups and weaker sections, who drop out of school before completing elementary education, remains very large. Moreover, the quality of learning achievement is not always entirely satisfactory even in the case of children who complete elementary education¹, which called for a major reform in the form of RTE in 2009.

Objective of the Paper

This paper explores in detail the historical perspective of Right to Education Act 2009. For this purpose the study is organized into four sections.

Review of Literature

Sharma² (2004) observed that in India, most of the children who receive primary education eventually relapse because they live with illiterate parents. The author said that most people's primary education was not primary, but terminal. Parents are often unwilling to send their children to the primary schools. More children can be brought into the fold of primary education only if education system can clearly show the benefits of acquiring education.

Pankaj and Dholakia³ (2009) argue that even an allocation of 6% of the gross domestic product to the education budget would not be sufficient to fund universal school education in the very distant future if the government school system is used as the only instrument. The only way to meet the Right to Education obligation is to rely on low cost private schools as a significant instrument of the government education policy. On the



Gurpreet Singh

Research Scholar,
Deptt. of Public Administration,
Punjabi University,
Patiala, Punjab

contrary, the RTE Act introduces provisions that would oppose low cost private schools.

Ramachandran⁴ (2009) criticized Jain and Dholakia's alternative solution for universalization of school education by relying on low cost private schools with PPP (private-public participation), for it would condemn the poor and marginalized to a second-rate education since they can never afford private and expensive schooling. Therefore, there is a need to be wary of the "voucher model" and higher public investment in school education to ensure access to best quality education of deprived and disadvantaged section.

Aggarwal and Gupta⁵ (2010) viewed that the planning management and monitoring of education have been in the hands of full technocrats (IAS, PCS, etc.) and armchair academicians working in national and state level educational institutes for the last five decades. The history of educational reforms in India clearly indicates that the educational practitioners have not been given due share in the formulation of educational policies and programmes. The personnel framing and implementing policies not only have poor capability and quality but also frame policies which are unrealistic in ambition, unachievable in scope and non-pragmatic in implementation. The gloom and malice of the system would continue unless correctly diagnosed.

Chadah⁶ (2010) focused on the issues and challenges in operationalizing Right to Education Act. He viewed that full realization of the Right to Education is not merely a question of access but a holistic approach, encompassing educational quality and the environment in which education is provided as well. Thus, the issue of quality presents a daunting challenge. Some of the challenges posed before the government is inadequate resources, lack of capacities to implement policies, lack of public demand, low level of information awareness and training which are making implementation of the law difficult.

Mishra and Pathana⁷ (2010) unraveled the missed opportunities in the quality education in India. They viewed that participation rates in education are poor. Apart from difficulty in pursuing education, low quality education is a major setback to the disadvantaged group trying to catch up with the rest. To improve the participation rate in education, dropout rate need to be contained especially in girls. The right to education act to a large extent addresses the issue of quality among education, first time in the history of India by making it fundamental right. The avowed aims RTE act can be achieved through an integrated approach to improve quality of education, a uniform structure of education, bridging gaps in allocation for education & better planned services of the teachers, to ensure them total commitment to teaching.

Rao and Murthy⁸ (2010) observed that right to education act 2009 could be a path-breaking measure towards universalization of education only by upgrading the present standards and objectives. Further, it was suggested that for the proper

implementation of RTE act, care should be taken to reduce the bureaucratic domination in the form of inspections. The government should offer a constructive role to educationally well placed private schools in the implementation of RTE act. It was found that teachers in government schools show lack of motivation and encouragement. So, entry level of primary school teachers should be raised so that a well educated teacher could discharge his duties with commitment and devotion.

Roy⁹ (2010) analyzed the Right to Education and its futuristic perspective. He viewed that enacting legislation is easier than implementing. It has been found that big gap lies between private and public schools in relation to quality education, which is a great challenge pertaining to the implementation of the Right to Education. The Right to Education Act does not provide for an effective mechanism with a view to strengthen the edifice of pre-primary education. Consequently, near 17crores children in the age of 0-6 years appears to be neglected.

Venkataiah¹⁰ (2010) viewed that inclusive education in modern times meant ensuring dignity of the human individual that constitutes the moral foundation of the envisioned social order. The education is not able to address the issues of social inclusion. It is found that high tuition fee, inadequate finance allocation, ignoring the

pre-primary education, fear of loss of autonomy of states, high dropout rate of children, the poor quality of education and so on, are the major hurdles in ensuring the Right to Education to the weaker sections, particularly dalits.

Gouravjeet Singh¹¹ (2011) studied the awareness of education as a Fundamental Right among the adults in relation to gender and residential area. It was found that the Right to Education Awareness among the graduate adults residing in urban and rural areas is low. There is not much difference between their awareness about the Act as well as there is not much difference between graduate males and females about their awareness.

Kaur¹² (2012) concluded that public expenditure on education was only around 3.6 percent of GDP, which would be raised to 6 percent as targeted by national common minimum programme. Several steps were taken in the Tenth Plan to expand access to primary education especially the expansion of the SarvaShikshaAbhiyan (SSA) and mid-day meals scheme. Number of out of school children declined from 32 to 7 million. It highlights the role of teachers in the implementation of the Act that seeks to work towards heterogeneous and democratic classroom where all children participate as equal partners.

Paur¹³ (2012) uphold the Right to Education at par with Right to life and bounds all the stakeholders like parents, schools, society, states as well as central governments to play their roles in order to provide free and compulsory education to the

children between the 6-14 yrs of age. To make RTE effective, he suggested extension of RTE to secondary level or vocational level courses, Model School System based on needs and demands of society, motivating parents through media and counseling, targeting weaker sections, economically backward, females and highly populated states of India on top priority to improve efficacy of this act, involvement of local governing bodies to enroll new born babies and sending their records to nearby school as well as strict punishment for the violation of the Act.

Sankaranarayanan¹⁴(2012) was of the view that the governments intentions of engineering a social revolution by the RTE shall remain a mere wishful thinking if the issues like upgrading infrastructure, enhancing teacher quality and promoting educational attainment in public schools are not addressed. Using a report published by McKinsey and Company as a base, the author highlights the reasons for some school systems in the world to rank high in international assessments of literacy, numeracy and problem solving. Three factors regarding their education systems were high-status of teaching profession, intensive teacher training and close monitoring of student performance. Therefore to achieve educational excellence both private educators and the government have to work synergistically.

Tandon¹⁵ (2012) has reported a dismal status of implementation of RTE in the state of Jammu and Kashmir, where the RTE Act does not apply. The Act was enacted under entry 25 of the Concurrent List of the Constitution, which does not hold in Jammu and Kashmir. The Act sets March 31, 2013 as deadline for states to ensure that elementary school under their jurisdiction has minimum infrastructure facilities, including toilets, playgrounds and boundary walls. But the progress on school infrastructure in J&K is the poorest in the North. 27075 elementary schools surveyed across 22 districts of J&K by the ministry and the National University of Education Planning and Administration (NUEPA) revealed a grim picture of infrastructure in J&K.

Gurpreet Singh¹⁶ (2013) studied the organisational structure of primary education in urban Bathinda and also analyzed the job satisfaction among primary school teachers. From parents and teachers of randomly selected 9 primary schools, it was found that organizational structure of primary education in Bathinda was lagging behind the expectations. Lesser number of General Category students joined primary schools than SC/OBC students. A majority of primary school teachers were satisfied with their jobs. Only 34% parents thought that the education was better in the government schools.

Mohamed, Imranullah S.¹⁷(2013) analyzed advantages and disadvantages of the Right to Education Act and focused on 25 percent reservation of seats in private schools for children belonging to 'disadvantaged groups' and 'weaker sections'. Lack of

awareness about the Act, inability to meet the distance criteria and difficulty in obtaining necessary certificates from government authorities, as well as inability to constitute School Management Committees (SMCs), consisting of representatives of the local authority, parents of children admitted in schools, are the major failures in the implementation of the act.

Parida¹⁸ (2013) focused on the critical analysis of Right to Education from human rights' perspective. As a matter of fact, RTE provides a platform to reach the unreached, with specific provisions for the sub-alters and the marginalized sections. It is found that the right to education has not been fulfilled yet due to widespread existence of poverty, socio-cultural practice and some of the built mechanisms in our society.

In this study, the existing literatures on the subject have been reviewed thoroughly. There are very few studies which examined the historical perspective of RTE Act, 2009 and these studies are narrow in scope. So, there is a need of comprehensive analysis on the historic perspective of RTE Act, 2009. The present study is a modest attempt to fill the gap in RTE literature.

History of Compulsory Education

Ancient to Medieval Era

Although Plato's *The Republic* is credited with having popularized the concept of compulsory education required to teach their children at least informally. Over the centuries, as cities, towns and villages developed, a class of teachers called rabbis evolved. According to the talmud (tractate bavabathra 21a), which praises the sage Joshua Ben Gamla with the institution of formal Jewish education in the 1st century AD, Ben Gamla instituted Schools in every town and made formal education compulsory from the age 6 to 7. The Aztecs (AD1325-1521) had one of the first compulsory educational systems. All male children were required to attend school until the age of 16.¹⁹

Early Modern Era

During the Reformation in 1524, Martin Luther advocated compulsory schooling so that all parishioners would be able to read the Bible themselves, and Strasbourg then a free city of the Holy Roman Empire passed accordant legislation in 1598. In Scotland, the Reformation prompted the establishment of the first national compulsory system of education. The education act 1496 had obliged the children of noblemen and freeholders to attend school, establish a school paid for by parishioners. The parliament of Scotland confirmed this with funding. The required majority support of parishioners, however, provided a tax evasion.

The uproar of the age meant that in 1661, there was a provisional reversion to the less compulsory 1633 position. However, in 1696 a new act reestablishment the compulsory provision of a school in every parish with a system of fines, sequestration, and direct government implementation as a means of enforcement where required. In

Austria, mandatory primary education was introduced by Empress Maria Theresa in 1774. Prussia can claim the first modern compulsory system that was widely recognized and copied. It was introduced by decree of Frederick the great in 1763-65 and was later expanded in the 19th century. This provided a working model for other state to copy; the clearest example of direct copying is probably Japan in the period of the Meiji restoration. Prussia introduced this model of education so as to produce more obedient soldiers and serfs.²⁰

Modern Era

Compulsory school attendance on this model gradually spread to other countries, reaching the American state of Massachusetts in 1852, and spreading to other state until, in 1917, Mississippi was the last state to enact a compulsory attendance law. Massachusetts had originally enacted the first compulsory education law in the American colonies in 1647. In 1852, the Massachusetts general court passed a law requiring every town to create a grammar school.

Compulsory education had not been part of early American society, which relied instead on church run private schools that mostly charged tuition. The spread of compulsory attendance in the Massachusetts tradition throughout America, especially for Native Americans, has been credited to General Richard Henry Pratt. Pratt used techniques developed on Native Americans in a prisoner of war camp in Fort Marion, Augustine, Florida, to force demographic minorities across America into govt. schools. His prototype was the Carlisle Indian industrial school in Pennsylvania. One of the last areas in Europe to adopt a compulsory education was England and Wales, where the elementary education act of 1870 paved the way by establishing school boards to set up schools in any places that did not have adequate provision until age 10 in 1880.²¹

History of RTE in India

"I beg to place the following resolution before the council of its considerationthe state should accept in this country the same responsibility in regard to mass education that the government of most civilized countries are already discharging and that a well considered scheme should be drawn up and adhered to till it is carried out. The well being of millions upon millions of children who are waiting to be brought under the influence of education depends upon it."²²

The path to the most sought 'Right to Education' was not as simple and easy. For understanding it in a better way, we will have to dwell into the history of Indian Education. During the Vedic period, Education was the sole privilege of the priestly class (Brahmins) primarily. Because of the religious basis for the content of education, coupled with the elitist medium of instruction that was chosen to impart the knowledge, people from lower castes, and so called 'shudras' (Untouchables), in particular, were barred from receiving education. Buddhism and Jainism overthrew the dominance of classical Vedic

Education by the end of the eighth century AD, freeing education beyond the confines of hermitages. But still the education was not in the reach of common people. The Muslim rulers of the Indian subcontinent also did not consider education as a function of the state. It was perceived as a branch of religion and therefore entrusted to learned theologians called 'Ulemas'. Therefore, in ancient and medieval India, education was interlocked with religion and was clearly not accessible to all persons. During the Colonial period, development of modern education system in the Indian subcontinent was reported. Although many scholars have remarked the British policy of introducing modern education as not a spontaneous benevolent act but were facilitated with a view to serving their vested interest, i.e. to train Indians as clerks, managers and other subordinate workers to staff their vast politico-administrative machinery. However, education of the Indian masses was largely neglected and by the beginning of nineteenth century, it was in shambles. In the early nineteenth century, Campbell, the then District collector of Bellary reported about the situation of education in his district that "it cannot have escaped the government that of nearly a million of souls in this district, not 7000 are now at school. In many villages where formerly there were schools, there are now none."²³ In 1856 AD a missionary stated that in India, a school, either government or missionary is as rare as a light house on our coast... three or four schools existing among three or four million of people. The neglect of education by the British was acknowledged by the Wood's Dispatch. In the evidence placed before the Hunter Commission appointed in 1882, DadaBhai Naoroji and JyotibaPhule from Bombay demanded state sponsored free education for at least four years. This demand was indirectly acknowledged in the commission's recommendations on primary education. The Commission recommended that schools should be open to all castes and classes.

In the first decade of 20th century Sir ChimanlalShitalwad and Sir Ibrahim Rahimatulla demanded strongly from the provincial government to compulsory education in the Bombay city. In order to pacify them an advisory committee on this issue was appointed in 1906. The committee declared forcefully that it was rather before time and hence impossible to start compulsory education in Bombay. On the contrary, Maharaja Sayaji Rao Gaekwad made this impossible thing possible by initiating compulsory Primary Education in 9 villages of Amroli district in his State of Baroda as a pre-test on in the year 1893 AD. After getting positive results, State of Baroda was first to introduce law on Compulsory Education in 1906. This law provided for compulsory education for boys and girls in the age groups of 7 to 12 years and 7-10 years respectively. The first documented use of the word right in the context of elementary education appears in a letter written by RabindraNath Tagore to the International league for the Rational Education of Children in 1908 AD. In 1911 AD, Gopal Krishna Gokhale moved a bill for compulsory education in the

Imperial Legislative Council, albeit unsuccessfully. The Legislative council of Bombay was the first amongst the provinces to adopt a law on compulsory education. Gradually, other provinces followed suit as control over elementary education was transferred to Indian Ministers under the Government of India Act, 1919.²⁴

The pace of this nationwide movement of compulsory elementary education slowed down or rather obstructed during the period between 1931 and 1937 AD. There were basically to reasons behind the event. First, the period of 1931-1937 was the period of worldwide economic depression and India was also directly affected. Secondly Hartog Committee (1929) suggested qualitative growth rather than quantitative growth of primary education. Hence the establishment of new primary schools was restricted.

In 1937 AD, at the All India National Conference on education held at Wardha, Gandhiji advocated the idea of self supporting 'Basic Education' for a period of seven years through vocational and mental training. This concept of self support was floated in order to counter the Government's constant excuse of lack of resources. The plan was to not only educate children through vocational training/manual training by choosing a particular handicraft, but also to simultaneously use the income generated from the sale of such handicrafts to partly finance basic education. The next landmark development in the history of free and compulsory education in India was the post war plan of education development of 1944, also called the Sargent Plan, which recommended free and compulsory education for eight years (6-14 years age group).²⁵

After independence the Indian Constitution recognised the need of free and compulsory education. Article 29 and 30 of the Indian constitution provide citizens the Educational and Cultural Rights. Similarly, Directives of state policy emphasized on intellectual development of the Citizens. Article 45 states that the state shall endeavour to provide free and compulsory primary education to the children of 6-14 age group by 1960 AD. But due to resource crunch, we have not been able to make this dream a reality for many further decades.

The period spanning between 1950 to the judgement in Unnikrishnan's case in 1993 saw several developments. The Indian Education Commission (Kothari Commission) 1964-66, reviewed the status of education in India and made recommendations. Most important amongst them was the recommendation of a Common School System with a view to eliminate inequality in access to education. National Policy on Education, 1968 was the first document evidencing Indian Government's commitment towards elementary education. The policy dealt with issue of equalisation of educational opportunity and required the common school system to be adopted in order to promote social cohesion.²⁶

In 1975, during the Emergency, the central government put the responsibility of primary education

on centre as well as state by putting primary education under 'Concurrent List' in an amendment (the 42nd) to the constitution. The school reformer Prime Minister Rajiv Gandhi, himself, decided in a military vocabulary to launch "Operation Blackboard" in 1986. Operation Blackboard was a centrally sponsored scheme, in which centre and state share responsibility for joint implementation. It was simultaneously a normative and remedial programme: it was to ensure that in future all standard 1- 4/5 (lower) primary schools adhered to the newly defined 'minimum essential' level of facilities; and it was to bring all existing schools up to that level. The Operation Blackboard package consisted of three independent components of two rooms, two teachers and a set of teaching-learning aid. But the operation failed immensely in finance, logistics and overall implementation.

National policy on Education 1986, while reaffirming the goal of universalisation of elementary education, did not recognise the 'Right to Education'. The 1986 policy is also severely criticised for having introduced non-formal education in India. The 1986 policy was reviewed by the Acharya Rammurti Committee in 1990, and thus review process contributed to the revised National Policy on Education of 1992. The Acharya Rammurti committee recommended that the right to education should be included as a fundamental right in part III of the constitution. However, this recommendation was not implemented immediately.²⁷

A great legal breakthrough was achieved in 1992 when the supreme court of India held in Mohini Jain Vs. State of Karnataka that the 'Right to Education' is concomitant to fundamental rights enshrined under part III of the constitution and that every citizen has a Right to education under the constitution. The Supreme Court reconsidered the above mentioned judgement in the case of Unnikrishnan, J P vs state of Andhra Pradesh. The court (majority judgement) held that, though right to education is not stated expressly as a fundamental right, it is implicit in and flows from the right to life guaranteed under Article 21 and must be construed in the light of the Directive principles of the constitution. So far as the right to education is concerned, there are several articles in Part IV which expressly speak of it. Article 41 says that the "State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want".²⁸ Article 45 says that "the State shall endeavor to provide, within a period of ten years from the commencement of this constitution, for free and compulsory education for all children until they complete the age of fourteen years".²⁹ Article 46 commands that "the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them

from social injustice and all forms of exploitation."³⁰ The three Articles 45, 46 and 41 are designed to achieve the said goal among others. Thus, right to education, understood in the context of Article 45 and 41 means: (a) every child/citizen of this country has a right to free education until he completes the age of fourteen years and (b) after a child/citizen completes 14 years, his right to education is circumscribed by the limits of the economic capacity of the state and its development. In the meanwhile major policy level changes were made under the dictates of the IMF-World Bank Structural adjustment Programme and the World Bank funded District Primary Education Programme (DPEP) was introduced in 1994. Under DPEP, the national commitment towards free and compulsory education up to 14 years was reduced and primary education for the first five years was introduced. Further, the concept of multigrade teaching and Para teachers were also used.³¹

In order to enforce the Unnikrishnan judgement and acquire admission into schools, several public interest litigation petitions were filed in different High courts. This created tremendous pressure on the parliament and thereafter a proposal for a constitutional amendment to include the right to education as a fundamental right was made in 1996. Accordingly, the constitution (83) Amendment Bill was introduced in the Rajya Sabha in July 3rd 1997. The 83 Amendment proposed that Article 21-A be introduced (fundamental right to education for 6-14 years), former Article 45 be deleted (the then existing directive principle on free and compulsory education) and Article 51-A (k) (fundamental duty on parents) be introduced. Between 1997 and 2001, due to change in governments, the political will that was required to bring about the amendment was absent. In November 2001 however, the bill was re-numbered as the 93rd Bill and 83rd Bill was withdrawn. The 93rd Bill proposed that former Article 45 be amended to provide for early childhood care and education instead of being deleted altogether. This Bill was passed in 2002 as the 86th Constitutional Amendment Act. Free and compulsory elementary education was made a fundamental right under Article 21 of the Constitution in December 2002, by the 86th Amendment and in translating this into action; the 'Right of Children to Free and Compulsory Education Bill' was drafted in 2005. This was revised and became an Act in August 2009, but was not notified for roughly 7 months.³²

Right to Education Act (2009)

The landmark act in the history of India RTE i.e. right of children to free and compulsory Education Bill having been passed by both the houses of parliament received the assent of the president on 26th August, 2009. It came on the statute book as the right of children to free and compulsory education Act (35 of 2009). The right of children to free and compulsory education act has come into force from April 1, 2010. This was a historical day for the right to education will be accorded the same legal status as the right to life as provided by article 21A of the Indian constitution.

Timeline of the Act

1870

Compulsory Education Act passed in Britain.

1882

Indian Education Commission: Indian leaders demand provision for mass education and compulsory Education Acts.

1893

Maharaja of Baroda introduces compulsory Education for boys in Amreli Taluk.

1906

Maharaja of Baroda extends compulsory Education to rest of the state.

1906

Gopal Krishna Gokhale makes a plea to Imperial Legislative Council for introduction of free and compulsory Education.

1910

Gokhale proposes Private members Bill (Rejected).

1917

Valabhbhai Patel is successful in getting the Bill passed – first law on compulsory education passed (Popularly known as Patel Act).

1918

Every Province in British India gets Compulsory Education Act on its Statute book.

1929

Hartog Committee recommendation for better quality (less focus on quantity) hinders spread and development of primary education.

1937

None of the above initiatives, however, were seriously implemented; lack of resources and enforcement being the chief reasons. The situation worsened over the years forcing Mahatma Gandhi to give a stirring call for universal education in 1937 at Wardha. Although the primary focus of the conference was on Vocational Education but still it adopted 'free and compulsory education to be provided for seven years on a nation-wide scale' as one of the resolutions of the conference; His plea for adequate finances for universal education was met with a response that if at all, the way out was to utilize revenues from liquor sales.

1944

The Central Advisory Board of Education submitted a comprehensive Report on Post-War Educational Development, known as the Sargent Report, visualizing a system of universal, compulsory and free education for all boys and girls between the ages of 6 and 14 years.

1946

Constituent assembly began its task.

1947

Constituent Assembly subcommittee on Fundamental rights places free and compulsory education on list of Fundamental Rights.

"Clause 23-Every citizen is entitled as of ... right to free primary education and it shall be the duty

of the State to provide within a period of ten years from the commencement of this constitution for free compulsory primary education for all children until they complete the age of fourteen years."

1947 (April)

Advisory Committee of the Constituent Assembly rejects free and compulsory education as a fundamental right (cost being the reason). Sends clause to list of "non – justiciable fundamental rights" (later termed as 'Directive Principles of State Policy').

1949

Debates in constituent assembly removes the first line of 'Article 36 "Every citizen is entitled as of right to free primary education and it shall be the duty of the state to..." and replaces it with "The State shall endeavor to..."

1950

Finally, Article 45 of Directive Principles of State Policy accepted: "The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years".

1993

The Supreme Court in a landmark judgment in 1993 held free education until a child completes the age of 14 to be a right (Unnikrishnan and others Vs State of Andhra Pradesh and others) by stating that: "The citizens of this country have a fundamental right to education. The said right flows from Article 21. This right is, however, not an absolute right. Its content and parameters have to be determined in the light of Articles 45 and 41. In other words, every child/citizen of this country has a right to free education until he completes the age of fourteen years. Thereafter his right to education is subject to the limits of economic capacity and development of the State."³³

2002

Spurred by the Unnikrishnan judgment and a public demand to enforce the right to education, successive governments from 1993 worked towards bringing a constitutional amendment to make education a fundamental right. That led to the 86th amendment in December 2002 which inserted the following articles in the Constitution:

Article 21A

"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."³⁴

Article 45

"The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."³⁵

Article 51A(k)

"Who is a parent or guardian to provide opportunities for education to his child or as the case may be, ward between the age of six and fourteen years."³⁶

October 2003

A firstdraft of the legislative envisaged in the 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.

August 2004

Subsequently, taking into account th suggestions received on this draft, a revised draft of the Bill entitled Free and Compulsory Bill, 2004, was prepared and posted on the <http://education.nic.in> website.

June 2005

The CABE (Central Advisory Board of Education) Committee drafted the 'Right to Education Bill and submitted to the ministry of HRD.MHRD send it to NAC (National Advisory Council) where Mrs. Sonia Gandhi is the chairperson. NAC sent the Bill to PM for his observation.

14 July 2006

The finance committee and planning commission rejected the Bill citing the lack of funds and a model bill was sent to states for the making necessary arragnemnt. (Post-86th Amendment, Sates had already cited lack of funds at the state level.

19 July 2006

CACL (Campaign Against Child Labour), NAFRE (National Alliance for the Fundamental Right to Education), CABE invited ILP (Indian Literacy Project) and other organization for a planning meeting to discuss the impact advocay actions and set directions on what needs to be done at the district and village level.

2006

Central legislation discarded. States advised to make their own Bills based on The Model Right to Education Bill 2006 (UPA I government).

2 July 2009

The bill was approved by the cabinet on 2 July 2009. Rajya Sabha passed the bill on 20 July 2009.

4 August, 2009

On 4 August the bill was passed by Lok Sabha.

3 September 2009

It is received presidential assent and was notified as law on 3 September 2009 as the children's right to free and compulsory Education Act.

2008/09

Central legislation revived. The Right of Children to Free and compulsory Education Bill, 2008 was introduced and passed in Rajya Sabha and Lok Sabha. Received President's assent in August 2009. However, the notification of the Act and the 86th amendment, issued on Feb 19, 2010 in the Gazette of India, stating that implementation will begin from April 1, 2010, eight months after the presidential assent (UPA II government).

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