

# Right to Free and Compulsory Education (RET) 2009: A Step to Protect Educational Right of Girl Child as Fundamental Right

**Sudershan Kumar Pathania**

Research Scholar.P G.Department of Education, University Of Jammu, Jammu (J&K) India.

Assitt.Professor.PG. Department of Education, Manav Bharti University Solan. (H.P.) India.

**Abstract:** Education is as important to girls as to boys. The education is the key to success in the changing world and Primary education is considered as foundation of education. Education provides self-confidence, become base for lifelong learning, sustainability, prepares for coming challenges and also inspire to face challenges. Provide better and quality education at primary level in multicultural and multilingual country like India is a big challenge to all concerning agencies. One cannot neglect the importance of primary education. Education is important in any country since it promotes the knowledge, skills, habits, and values .The education is the key which allows people to move up in the world and helps to seek better and comfortable life by entering in various professions. Education has long been recognized as a central element in development (Bacchus, 1992). It is not easy to provide education to all in a country like India who is facing various challenges like population explosion, poverty, disasters, security, terrorisms, cast system, traditional social structure, child labour, gender discrimination, language and backwardness. Traditional attitude toward girl's education and social constrained placed on girls is a big challenge. Besides this Government of India have good number of commissions, policies and plan to improve primary education and girl's education. Right of Children for Free and Compulsory Education act (RTE) 2009 is a mile stone in the field of making education accessible and also improving Primary education but non availability and slow recruitment of teachers remains an important issue in the implementation of RTE. The main shortcoming of the Right to Education Act is that it includes children from 6 to 14 years only and does not include children below the age of six. This paper will try to bring out the meaning of Right to Education (RTE) 2009 and also present a status of literacy of girls in India as impact of Right to Education 2009.

**Key Words:** Education, Gender, Right to Education Act, Human Right, Sustainability.

## INTRODUCTION:

### EDUCATION AND GENDER ISSUES:

Education, one of the thrust areas, is a critical input development in general and in human resource development in particular. Education is a catalyst for empowerment, poverty reduction and growth. Gender discrimination is a threat area in empowerment and is a commonly seen phenomenon. It can be seen in one or the other way especially in orthodox societies. Generally girls are given training or prepared mentally to complete household activities like cooking food, washing utensils and cloth, cleaning house, unrecognized house

hold works, serving men and giving birth to children etc. They are considered as an object of male sexual enjoyment and reproduction of children. Messer (2004) states that women are expected to satisfy the sexual desires of their husbands.

They are suffering from many problems like ill health, unequal workloads, illiteracy, property rights, ill-treatment, malnutrition, less political representation, females feticide, dowry, prostitution, trafficking, security, early marriages, limited participation in the decisions and control over resources etc. Women are not a homogenous group. In addition to poverty and gender inequality, they are also subjected to discrimination on the basis of age, ethnic group, religion, cast, colour and disability.

A number of international instruments exist to address the disproportionate discrimination faced by women and girls. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) provides framework for eliminating discrimination.

In 2000, states confirmed their commitment for reducing gender inequalities through the United Nations Millennium Declaration. This was articulated specifically in Millennium Development Goal (MDG) which called for the promotion of gender equality and women's empowerment.

Three indicators were chosen to represent this goal

- 1) The ratios of girls to boys in primary, secondary and tertiary education
- 2) The share of women in wages, employment in the non-agricultural sector; and
- 3) The proportion of seats held by women in national parliament. Gender equality is also essential in order to achieve the other seven MDGs.

Education is an agent of basic change in the status of women. In order to neutralize the accumulated distortions of the past, there will be well-conceived edge in favour of women. The national education system will play a positive, interventionist role in the empowerment of women. The removal of women's illiteracy and obstacles inhibiting their access to, and retention in, elementary education is receiving overriding priority in the shape of RTE 2009.

### **OPERATIONAL TERMS:**

**Free education:** - Free education means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.

**Compulsory education:** - Compulsory education casts an obligation on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age groups (first to eighth class).

**Elementary education:** - Elementary education means the education from first class to eighth class.

**Child:** - Child here means a male or female child of the age of six to fourteen years.

**Fundamental Right:** - Fundamental Right these are the basic rights guarantee civil freedom to all the citizens of India to allow them to live in peace and harmony. These states that every Indian citizen has the right to enjoy, irrespective of their caste, creed and religion, place of birth, race, color or gender. These fundamental rights include Right to Equality, Right to Freedom, Right to Freedom of Religion, Cultural and Education Rights, Right against Exploitation, Right to Constitutional Remedies, etc.

**Gender:**-The World Development Report (WDR) 2012 defines gender as socially constructed norms and ideologies which determine the behaviour and actions of men and women.

**Human rights:** - these are the fundamental rights, freedoms, and standards of treatment to which all people are entitled.

### **THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION (RTE) ACT, 2009**

The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the consequential legislation envisaged under Article 21-A, means that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.

Fundamental rights differ from ordinary rights in the sense that the former are inviolable. No law, ordinance, custom or administrative order can abridge or take them away. Any law, which is violative of any of the fundamental right, is void. In *Additional District Magistrate Jabalpur v. Shukla*, Justice Beg

observed "the object of making certain general aspects of rights fundamental is to guarantee them against illegal invasion of these rights by executive, legislative, or judicial organ of the State."

Even before the RTE came into force, the Government of India's (GOI's) efforts were towards universalization of elementary education in the country. To achieve the goal of Universalization of Elementary Education (UEE), a ten years target was fixed at the time of adoption of the Constitution in 1950.

**Constitution Mandate 1950:** "The State shall Endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education to all years from the commencement of this Constitution, for free and compulsory education to all"

Till 1960, all efforts were focused on provision of schooling facilities. It was only after the near realization of the goal of access that other components of UEE, such as universal enrolment and retention, started receiving attention of planners and policy makers. It is the Quality of Education, which is at present in the focus in all programmes relating to elementary education in general and primary education in particular.

**Education Facilities:** The availability of schooling facilities is measured by a set of indicators concerning access. During the period 1950-1951 to 2005-06, the number of primary schools increased by more than 17 times from 1,115 in 1950-51 to 19,178 in 2006-07, whereas the number of upper primary schools increased by more than 41 times from 139 in 1950-1951 to 5,788 in 2006-07. In terms of overall annual growth rate, the increase was to the tune of 19.61 per cent for primary level and 65.29 per cent for middle level institutions.

**Enrolment Trends:** The school enrolment (Primary and Upper Primary) increased from 0.98 lac in 1950-51 as compared to 17.13 lac children in 2005-06.

A number of programmes were initiated in India with a view to achieving UEE e.g.

- Operation Blackboard (OBB) 1987.
- The Shiksha Karmi Project (SKP) is being implemented in Rajasthan since 1987 with assistance from the Swedish International Development Agency (SIDA).
- The Andhra Pradesh Primary Education Project (APPEP) 1984.
- The Bihar Education Project (BEP) 1991.
- The UP Basic Education Project (UPBEP) June 10, 1993.
- Mahila Samakhya (MS) 1989.
- The Lok Jumbish Project (LJP).
- Non Formal Education (NFE) 1979-80.
- Mid-Day Meal Scheme 1995.
- District Primary Education Programme (DPEP) 1994 in 18 states and 272 districts.
- Sarav Sheksha Abhyan (SSA) 2001.
- Teacher Education, through District Institutes of Education and Training (DIETs) and the District Primary Education Programme (DPEP).
- Gender Specific Programmes
  - National Programmes for Education of girls at Elementary Level (NPEGEL) is implemented in 61 Educationally Backward Blocks(45 )during 2003-04 and 16 during 2005
  - Kasturba Gandhi Balika Vidyalaya (KGBV) August, 2004

**The National Policy on Education - 1986** is a major landmark in the evolution of the status of women in India.

National Policy of Education 1986 -"It shall be ensured that free and compulsory education of satisfactory quality is provided to all children up to 14years of age before we enter the twenty first century”

**Unnikrishnan Judgment, 1993** "Every child/citizen of this country has a right to free education until he completes the age of fourteen years”

This leads to narrowing the gender gap in elementary education and increased enrolment of children belonging to SC and ST. Despite this, the goal of universal elementary education is yet to be achieved in the country. Percentage of dropout particularly from disadvantaged group and those of girls, before completing upper primary education remains high. Even the learning achievement of children completing elementary education is not very much satisfactory.

**The Government of India launched Sarva Shiksha Abhiyan(2001)** programme with the objective to provide education to the children of 6-14 years age group and to those who have constraints in attending regular schools. The programme is designed particularly for girls and other children with disruptive social and financial conditions. This policy of education is extended to all parts of the country including urban slums, as well as hilly, tribal and desert areas. The program is functional in all the states and Union territories of India with voluntary assistance to centers offering non formal education.

#### **Objectives: Sarva Shiksha Abhiyan (SSA)**

- All children in school, Education Guarantee Centre, Alternate School, ' to School' camp by 2003;
- All children complete five years of primary schooling by 2007.
- All children complete eight years of schooling by 2010.
- Focus on elementary education of satisfactory quality with emphasis on education for life.
- Bridge all gender and social category gaps at primary stage by 2007 and at elementary education level by 2010.
- Universal retention by 2010.

India has made enormous progress in terms of increase in institutions, teachers, and students in elementary education.

- The number of schools in the country increased fourfold - from 2, 31,000 in 1950 - 51 to 9, 30,000 in 1989-99.
- Enrolment in the primary cycle jumped by about six times from 19.2 million to 110 million.

The country has made impressive achievement in the elementary education sector. But the flip side is that out of the 200 million children in the age group of 6 - 14 years, 59 million children are not attending school. Of this, 35 million are girls and 24 million are boys.

To address these growing problems, the RTE has been introduced to directly counter the problems of illiteracy, dropouts, and low teaching-learning and poor infrastructure quality.

#### **CONCERNS OF RIGHT TO EDUCATION ACT (2009)**

- Right to education act may be called the right of children to free and compulsory education (RTE) act, 2009, extends to the whole of India except the state of Jammu and Kashmir.
- Right of child to transfer to other school, special provisions for child not admitted to, or who have not completed, elementary education.
- Duties of appropriate government, parents and local authority.
- Extent of school's responsibility of teachers and schools for free and compulsory education.
- Curriculum, evaluation and completion of elementary education.

- Monitoring of child's right to education.
- Qualifications for appointment and terms and conditions of service of teachers.

### **INITIATIVES FOR RIGHT TO EDUCATION ACT (2009)**

**In December 2002**, the 86th Constitution Amendment Act inserted Article 21-A (Part III) in the Constitution of India to provide free and compulsory education of all children in the age group of 6 to 14 years as a Fundamental Right. This article makes Education a Fundamental Right.

**In October 2003**, first draft of the legislation envisaged in Article 21-A, was prepared and posted on website inviting comments and suggestions from the public.

**In 2004**, a revised draft of the Bill entitled free and Compulsory Education Bill was prepared by taking into considerations public comments and suggestions.

**In June 2005**, the Central Advisory Board of Education (CABE) prepares a rough draft of the Free and Compulsory Education Bill and submits it to the Ministry of Human Resources and Development (MHRD). In this draft 25% reservation was provided to disadvantaged children in private schools. This bill was send to National Advisory Council (NAC) by the MHRD .Finally the bill was send to Prime Minister for his observation.

**In 14th July 2006**, the bill was rejected by the finance committee and planning commission due to lacking in citing of funds arrangements and a model bill was sent to states for the making necessary arrangements.

The bill was approved by the cabinet on July 2, 2009. Rajya Sabha passed the bill on July 20, 2009 and the Lok Sabha on August 4, 2009. It received Presidential assent and was notified as law on September 3, 2009 as The Children's Right to Free and Compulsory Education Act.

On the historic day, **1 April 2010**, The Right of children to Free and Compulsory Education Act came into force and was given same legal status as the right to life as provided by Article 21A of the Indian Constitution.

### **SALIENT FEATURES OF RIGHT TO EDUCATION ACT (RTE) 2009**

- Free and compulsory education to all children of India in the 6-14 age groups (first to eighth class).
- The State and the Central Government shall share responsibility for providing funds for carrying out the provision of RTE Act.
- No capitation fee (payment other than notified fee) and screening procedure for admission from child /parents / guardian.
- No child shall be denied admission for lack of age proof.
- Prohibition of holding child back in any class and expulsion from school till the completion of elementary education.
- A child who completes elementary education shall be awarded a certificate.
- Prohibition of physical punishment and mental harassment of the child.
- Compulsion of certificate of recognition for the school from the concerned authority except owned by Government.
- Every school should have their own development plans.
- Prohibition of private tuition and deployment of teacher's for non-educational purposes except election duties, population census and disaster relief duties.
- No board exam till the completion of elementary education.
- As far as practicable, medium of instruction shall be of child's mother tongue.
- This act will apply to all of India except Jammu and Kashmir.

- Improvement in quality of education is mandatory for all the school.
- A child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age;\_Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time limits, as may be prescribed: Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.
- Maintain appropriate pupil-teacher ratio.
- To specifies the norms and standards relating inter alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teacher-working hours.
- Provides 25 % reservation for economically and socially disadvantaged children, as well as those with disabilities, in admission in all private schools as well as specified schools such as Kendriya Vidyalayas, Navodaya Vidyalayas and Sainik Schools.
- It provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building the child's knowledge, potentiality and talent and making the child free of fear, trauma and anxiety through a system of child friendly and child centered learning.
- Establishment of School Management Committee (SMC) to monitor the working of the school, monitor the utilization of school grants and prepare the school development plan.

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Academic Year	Primary (Classes I-V)			Upper Primary (Classes VI-VIII)			Elementary (Classes I-VIII)		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
2009-10	88.4	68.4	156.8	25.4	22.1	47.5	83.8	65.5	149.3
2010-11	88.5	64.7	153.2	27.6	24.9	52.5	86.4	68.6	155.0
2011-12	88.4	65.0	153.4	28.3	25.4	53.7	87.5	68.4	155.9
2012-13	88.3	64.7	153.0	25.3	25.2	50.5	87.1	68.9	156.0
2013-14	88.2	65.5	153.7	26.8	26.0	52.8	88.6	68.4	157.0

Source: Ministry of Human Resource Development, Government of India.

## IMPACT OF RTE ON PUPIL-TEACHER RATIO

As on 31-12-2013

Teachers		
Indicator	2009-10	2012-13
Total teachers (Govt.+Aided)	44,77,429	44,63,642
Pupil teacher ratio (PTR)	32	27
% Primary schools with PTR > 30*	46	37
% Upper primary schools with PTR > 35*	36	33
% Single teacher schools	9	9
No. of State conducted TET for teacher recruitment		26

## STATUS OF THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION (RTE) ACT, 2009

Status on RTE	Number of States/UTs	
	2009	2013
Notification of State Rules <sup>5</sup>	15	34
Constitution of SCPCR/REPA	11	32
Notification of academic authority	20	34
Policy on eight year elementary education	28	34
No detention	27	34
No corporal punishment	28	34
No board examination upto Elementary level	26	34
Banning private tuition	18	34
Banning screening procedure and capitation fees	18	34
Working days notified	21	33
Decentralized grievance redressal mechanism	-	20
Local Authority notified	-	26
% Schools with SMC constituted	-	88
25% Admission in private unaided schools at entry level	-	27

As on 31-12-2013

## IMPACT ON ENROLMENT AND DROP-OUTS

Enrolment		
Indicator	2009-10	2012-13
Total enrolment primary	13,34,05,581	13,47,84,272
Total enrolment upper primary	5,44,67,415	6,49,26,077
% Girls to total enrolment primary	48	48
% Girls to total enrolment U. Primary	48	49
Gender parity index (GPI) primary	0.94	0.94
Gender parity index (GPI) U. Primary	0.93	0.95
% SC to total enrolment	20	20
% ST to total enrolment	11	11
% Muslim to total enrolment	13	14
CWSN enrolment	14,02,817	21,75,768
Annual Average drop-out rate (Primary)	9.1	5.6

### CONCLUSION:

Fundamental rights for Indians, aim at narrowing down the inequalities of pre-independence social practices, especially the abolition of untouchability. They also guarantee the protection of cultural and educational rights of some religious minorities by granting them the liberty to conserve their languages and educational institutions. India is a developing country. To fulfill growing demand of increasing population, RTE is serving its purpose. The light of education is essential for the bright future of the citizen especially women and girls and the Nations like India. Future of any Nation reflects in the quality of education and participation of women in development which is universally recognized. The Government of India initiated a number of programmes and projects to attain the status of universal enrolment and RTE is one among them. RTE brings improvement in girls' literacy rate but still the difference from male literacy rate is more than expected to be lower. There is a need to sensitize all agencies and institutions on gender issues.

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