

## Concerns about the Right of Children to Free and Compulsory To Education Act 2009 (RTE)

### Brief history

- 1948 Constituent Assembly Draft of Article 36 that included primary education as a Fundamental Right.
- Part IV Directive Principles of State Policy as Article 45 of the Constitution of India 1950.

*The State shall endeavour to provide, within a period of ten years of the commencement of the Constitution, for free and compulsory education of all children upto the age of 14 years.*

- Unnikrishnan Judgement.

1993 Supreme Court's judgement that right to education concomitant to the Fundamental Rights Part III whereby the converted the said "obligation created by the Article into an enforceable right. "

- 2001 86<sup>th</sup> Amendment to the Constitution Article 21 A

*The state shall provide free and compulsory education to all children between 6-14 years of age.*

Article 45 changed to :

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

( Note in Article 51 A a clause was added laying responsibility for early childhood care on parents which explains why it was not included in RTE. )

### Brief Outline of the Act

1.

Differences between compulsory attendance and entitlement.

2. Increasing bureaucratic control at all levels that could possibly lead to harassment and corrupt practices both of individuals and institutions.

### 3. Areas for concern

a. Serious commitment to implementing on account of resources, infrastructure, teachers as reflected in recent budget.

b. Serious commitment to ideal of equity :

- Reserved status for schools in special categories such as Kendriya Vidyalayas
- Evasion of even mentioning Common School system
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c. Impractical and unrealistic aspirations

d. Abdication of responsibility of gvt. by assuming dependency on private sector.

e. Omissions –

- Adequate provision for children with disabilities.
- Providing facilities for pre–primary schooling
- Provision for secondary schooling

### 3. Some contradictions in the Act

### 4. Particular problems affecting non recognized schools

**The Act has serious repercussions for the following individuals and institutions :**

1. Individual children whose parents have opted for another kind of education outside any formal structure and consciously provide home schooling.
2. Individual children who are 'out of school' on account of their own volition and are unmotivated to attend school.
3. Individual children who are 'out of school' owing to economic or practical issues such as inaccessibility to nearest school.
4. Disadvantaged children attending alternative educational institutions that act as a bridge for entry to mainstream schools.
5. Disadvantaged children attending alternative educational institutions that provide an alternative curriculum .
6. Children attending schools that provide alternative education for fee paying parents who choose not to send their children to conventional schools.
7. Children attending unrecognized schools that are seeking recognition within the present specified norms .
8. Children attending unrecognized schools that are seeking recognition within the present specified norms but have serious reservations about the demands and constraints that are embodied in standard schooling such as an overloaded or prescriptive curriculum.
9. Children attending schools that have recognition but do not follow the prescribed norms such as qualification of staff.
10. Children attending unrecognized schools that are primarily set up for profit.

As will be seen from above there is a wide spectrum of categories of individuals and institutions affected by the Act and therefore it is necessary to outline shared areas of concern and strategies to address particular problems.

### **Possible ways of moving forward.**

- Challenging the Act for not being consistent with Fundamental Rights as mandated by the Constitution itself :
  - Right to Equality ( Article 14 )
  - Right to life with dignity ( Article 21 )
  - Right to Education (Article 21 A )
  - Right to Social Justice ( Article 38 )
- Challenging the Act itself on the grounds of ideology – need for plurality as opposed to standardization, right to choice of kind of schooling.
- Finding existing loopholes that might provide an alternative kind of recognition such as Open Schooling or Bridge Schools or Special Category schools.
- Creating a possibility of a different kind of recognition.

### **Further information needed on :**

Differences between States in provision for non formal schooling.

Central Government recognition of different kinds