

# The Right of the Children to Free and Compulsory Education Act 2009 (RTE) & Social Inclusion

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## Abstract:

This paper analyses the role of Right of the Children to Free and Compulsory Education Act 2009 (RTE Act) in creating social inclusion in the society. The paper, while so doing emphasises that education system should be socially inclusive. Clearly, aim of the paper is to explore if Right to Education Act, in India, is inclusive socially or not. To attain the purpose this paper is divided in to four parts, followed by the conclusion.

**Key Words:** Right to Education Act, India, Social Inclusion, Public Policy.

## Introduction

Inequality in society has been a predominant feature in the history of mankind, placing certain individuals or groups at disadvantaged position, and thereby making them excluded from the social, economic and political domain. This is reflected in the earliest writings of the classical Greek philosophers like Plato and Aristotle. The Marxist theory interprets the history in term of class conflict and argues about the inequality arising due to the exploitation of proletariats by the bourgeoisie. Similarly, the feminist theory maintains that there is inequality in society based on gender.

In the philosophical discourse, the ideas of equality, rights, liberty, freedom and justice are interconnected. In an inegalitarian society, certain individuals or groups are denied their rights, liberty, freedom and justice. The role of the State in this regard becomes very crucial, as State is the neutral entity protecting the rights and liberties of its citizens and creating an egalitarian society based on justice. It becomes the primary responsibility of the State to ensure that the disadvantaged sections of society are provided with equal rights and opportunities, and favourable conditions are created for their overall growth and development. This process of creating better opportunities for the growth and development of disadvantaged sections of society refers to the idea of their social inclusion, and the actions taken by the State for achieving these goals are public policies. Public policy can be understood as a process and an instrument of state, which primarily aims at bringing about socio-economic progress through allocation of resources. The change thereby brought about promotes social inclusion of these groups in the society.

## The Idea of Social Inclusion

Globally, the idea of social inclusion and social exclusion emerged prominently in the policy discourse in France in the mid 1970s and became a powerful concept in development discourse replacing the idea of poverty, and becoming an important determinant in formulating public policies in Europe (Aasland & Flotten, 2001).

The World Bank defines it as a dual process. Firstly, social inclusion aims at improving the conditions that decide the individual and group participation in the society. Secondly, it focuses on enhancing the "ability, opportunity, and dignity" of the disadvantaged individuals and groups "on the basis of their identity to take part in society". Social inclusion is thus, a wider goal with focus on building institutions and processes to empower individuals and social groups on grounds of a rights-based policy.

## The Right of the Children to Free and Compulsory Education Act (RTE) 2009

With the 86th constitutional amendment, India became the 135<sup>th</sup> country in the world to adopt Right to Education as a Fundamental Right. The provision for the free and compulsory education was enshrined in the Constitution in the Article 45 of the Directive Principles of the State Policy which stated that 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. But being a Directive Principle, it was non justiciable.

The first official recommendation for the inclusion of a fundamental right to education was made in 1990 by the Acharya Ramamurti Committee. In the subsequent developments, the Supreme Court of India in the cases- Mohini Jain Vs State of Karnataka in 1991 & Unnikrishnan Vs State of Andhra Pradesh in 1993 - interpreted the fundamental right to life under Article 21 of the Constitution as the right to live with human dignity and all that goes along with it. With that view the Supreme Court asserted that in order to fulfil the life and dignity of an individual the right to education is necessary. Therefore, the Right to Education flows directly from the Right to life.<sup>1</sup>With the insertion of Article 21 (A), Right to Education Act was passed in the Parliament in 2009 and it came into effect in April 1<sup>st</sup>2010.

The Act provides that<sup>2</sup>–

Every child of the age of 6-14 years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education.

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.

For the purposes of admission to elementary education. The age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1856 or on the basis of such other document, as may be prescribed.

No child shall be denied admission in a school for lack of age proof.

All children who complete elementary education shall be awarded a certificate. Financial burden will be shared between state and central government.

State governments will lay down model rules for the implementation of the Act in their respective states

Provides for 25 percent reservation for economically disadvantaged communities in admission to Class One in all private schools

Mandates improvement in quality of education

Calls for a fixed student-teacher ratio

<sup>1</sup> Coomans, Fons, Justiciability of the Right to Education (December 15, 2009). Erasmus Law Review, Vol. 2, No. 4, pp. 427-443, 2009. Available at SSRN: <http://ssrn.com/abstract=1542676>

<sup>2</sup> Ministry of Human Resources Development (2009), Government of India, The Right to Free and Compulsory Education Act

School teachers will need adequate professional degree within five years or else will lose job

School infrastructure (where there is problem) to be improved in three years, else recognition cancelled

### Right to Education Act 2009 & Social Inclusion

The Right of the Children to Free and Compulsory Education Act 2009 (RTE Act 2009) is an important step towards creating a socially inclusive society. The RTE Act focuses on the children belonging to socially and economically disadvantaged section. Education is a tool for emancipation.

For the social inclusion of Dalits, the RTE Act is very important tool on several grounds. The RTE Act 2009 also has provision of 25% reservation for weaker section of society in private school. This also provides opportunities to people with low-income groups from weaker sections of society like Dalits and others to have an access to better learning opportunities. The Act also promotes inclusion of parents in the functioning and decision-making process by providing for the proportionate representation of the parents or guardians of children belonging to disadvantaged group and weaker section of society in the School Management Committee. There is also a strong link between the RTE ACT and reservation policy. Without education it is not possible to avail benefits of the reservation policy and other benefits. Unless a person has completed primary education, he/she cannot avail the reservation benefits in higher, employment and politics. In order to promote social inclusion of Dalits in society, proper implementation of the RTE Act is very necessary. This can help in achieving the wider goals and values enshrined in the constitution like justice, liberty, equality, fraternity and human dignity, and thereby creating social justice for all.

### Conclusion

It is a fact that knowledge is power, as it plays an important role in the overall growth and development of individuals and nations. A good education system creates employment opportunities, and brings about political awareness and empowerment by making people aware about their rights and increasing their political participation. And hence Act 2009 of India is very significant as it has allowed suppressed classes to be the part of main stream and to contribute the nation. The Act has special mention for their upliftment that has empowered those who for centuries were denied their right to avail education. This paper insists that the provisions of the Act 2009 is influential as it has actually dismiss the injustice lye in the Indian education system.

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