



Right to free and compulsory elementary education in India : An analytical study

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INTRODUCTION

One of the hardest problems for both emerging and developed nations to solve in order to advance mankind is the dynamic process of education. "In its broadest sense, it is a type of education" that helps people understand their obligations to their families, communities, and countries by passing down "knowledge, skills, and habits from one generation to the next through teaching, training, or research". Any encounter that shapes one's thinking can be categorized as educational.

A general definition of education is "all actions by which a human group passes to its descendants a body of knowledge and abilities, as well as a moral code that enables that community to exist." Education, according to Emile Durkheim, who is "hailed as the founding father of modern social science, is the action of the older generations on those who are not ready for social life." Its aim is to help the newborn acquire the physical, intellectual, and moral qualities that are necessary for him or her to function in both the community in which they live and the environment for which they are destined.

The value of getting a good education is something that cannot be overstated for anyone. It ought to go without saying that people's lives improve with increased levels of knowledge. Constantly adding to the advancement of human civilization is one of its contributions. Even while education has a significant impact on one's life, not everyone is provided with an education of the same quality. As a direct consequence of this, many approaches to resolving the issues are now being formulated. A life devoid of education is one that is fraught with difficulty and disadvantage.

The definition of education has been adopted as the official definition of the term education by the UN. "On the other hand, education can be more narrowly" defined as formal or professional training that is received inside an educational system that is run by the federal government, a state, a municipality, or a private organization.

In *Ajay Goswami v. UOI*,¹ Dr. A.K. Lakshmanan, then CJI, noted correctly that: "Perhaps the most significant duty of a state or municipal government is education". Even serving in the military services is a must for carrying out our most fundamental duties. "It is the cornerstone of responsible citizenship. Today, it serves as the main tool for exposing the kid to cultural values, preparing him for future professional training, and helping him to naturally adapt to his surroundings. Today, it is unlikely that a youngster who is denied the opportunity to receive an education can be expected to succeed in life".²

Justice S.B. Sinha of the SC made some very similar points about the fundamental importance "of education in *Election Commission of India v. Sant Merry's School*".³ This is partly because elementary and secondary education are seen as either/or options in some ways of thinking. As a result, special attention is needed to fortify the country "in order to successfully restore the educational system".

In its "historic 1954 ruling in *Brown v. Board of Education of Topeka*,⁴ the US SC emphasized the value of education by stating: It is the cornerstone of responsible citizenship. Today, it serves as a key tool in exposing the kid to cultural values"⁵, laying the groundwork for his future career, and helping him to naturally adapt to his surroundings. Today, it is improbable that any young person who is not given the chance to go to school would succeed in life.

All "levels and types of formal education are included in" the CADE's definition of education, alongside having access to education, quality and standards in education. Considering the conditions under which education is provided. The human RTE should largely be provided to people by government organizations as a welfare or second generation right. As a result, providing formal education has been viewed as the state's main responsibility.

For instance, Article 1 "1962 Central American Convention on the Unification of the Fundamental Norms of Education" says that the state's principal duty is "to make sure that every person has access to the greatest education available".

According to "Principle 4 of the Official Statement of Principles published by the Conference on the Legal Protection of the Rights of the Child in Warsaw in 1979, the primary duty to provide the means for education falls on the state".

Everyone has a right to an education, even though "children are the primary recipients. Everyone has the right to education, according to Article 26(1)"⁶; implicitly acknowledges "that education is a continuous process" that lasts a person's entire life and gives them new views while also enhancing their quality of life. Furthermore, education must "be free, at least at the primary and fundamental phases, according to the UDHR". The RTE has this as its legal foundation. Theoretically, almost every nation in the world acknowledges this right.

States must acknowledge a child's RTE in accordance with the requirements of the 1989 CRC, which 194 nations have signed. Making access to and completion of basic education mandatory would help to realize this right progressively and equally for all people.

1.1 Evolution of RTE:

"John Locke and Jean-Jacques Rousseau", respectively, discussed the parental need to educate children until they are capable of making a "full and suitable use of their freedom and skills in the Second Treatise of Government, Emile", and Treatise on Education. For a very long time, education was seen to be so essential to human life that it was prioritized over positive legislation "as a pre-existing or inherent right". The French and American Revolutions established education promotion as at least a civic obligation for the majority of citizens. Because of this, some nations included universal and free public elementary education as a part of their Const. Regulations governing compulsory education were also passed in order to provide elementary-aged students with both general education and vocational training, keeping them out of the workforce.

The first time the RTE was acknowledged internationally was "in the Geneva Declaration of 1924; although the right of children" to an education was not specifically acknowledged by this declaration, it was inferred by three of its five principles.

Since 1945, the UN and UNESCO have worked closely together on a variety of educational concerns, "including the eradication of illiteracy, the promotion of juvenile human rights, and" the elimination of educational inequity.

The ICCPR, ICESCR, CDE, CEDAW, and CRC all include provisions for the enforcement of the RTE in addition to the UDHR.

1.2 RTE and International Law:

The RTE is explicitly acknowledged and reaffirmed in the "UDHR, the CDE 1960, the ICESCR 1966, and the CRC 1989".

Everyone has the RTE, according to the UDHR. Each and every person "has the right to an education, as stated in Article 26(1)". At the very least, basic and secondary education must be free in addition to merit-based equitable access to university education for all, widespread access to technical and professional education is necessary. As a result, everyone should have access to education based on merit rather than wealth or status. A free public education system should be established in every country in order to make education available to the majority of children, according to the "commitment to providing free education to children".

In circumstances of parental carelessness or ignorance, for instance, the state is required to make sure that children receive at least a basic education.

Considering the UDHR aspirational nature at the time of its adoption; It is nevertheless amazing that these ambitions were expressed at a period when only a small number of countries had competent secondary and higher education systems in addition to free and mandatory basic education. The educational elements of the Declaration have been reinforced, enlarged, and defined in other UN documents dealing with particular subjects or populations.

Along with the ICESCR and the CRC, the UDHR has helped to create workable legal frameworks that nation-states may use to build, support, and evaluate the efficient social structures required to offer suitable educational opportunities. Take a look at Article 13(1)⁷, which states that "all people have the right to an education, according to the States Parties to the present Covenant". Additionally, they agree that education should support the UN's efforts to preserve peace, promote comprehension, tolerance, promoting peace among all peoples, regardless of race, ethnicity, or religion, and empower everyone "to actively engage in a free society".

This emphasizes the significance of acknowledging not just the "fundamental nature of having a right to education, but also its instrumental and intrinsic usefulness", beyond a vague symbolic notion. Additionally, Article 28(1),⁸ which expands on the ICESCR, states "that states Parties recognize the right of children to an education and that in order to realize this right gradually and equally for all", specifically Make elementary education available and essential for everyone. By implementing appropriate policies like free education and providing financial help where necessary, we can promote "the expansion of a variety of secondary school alternatives, such as general and vocational education, and make them accessible to all kids". Make higher education available to everybody based on aptitude using any suitable means; make all children's access to information and counseling about school and careers. Finally, take action to promote consistent attendance at school and lower dropout rates.

According to Article 29,⁹ it is essential to recognize each child's inherent rights and human dignity and to establish suitable learning environments that may support and serve as role models for these values. Through a focus on the need to develop each child's unique, developing abilities, "these articles emphasize the value of fostering and safeguarding an educational setting that aims to strike a balance between the child's" aptitude and that of their familial and cultural identities while also being specifically pertinent to their socioeconomic situation.

In his 1957 report, "Special Rapporteur Charles Ammoun" suggested establishing an international agreement to end prejudice in education and outlined the guiding principles that such a convention would be built on. These ideas were adopted by the CADE and developed upon. "The CADE was the first international document to establish thorough worldwide standards for public education. It was accepted by the UNESCO General Conference on December 14, 1960". In addition, "the Sub-Commission on the Prevention of 18 UNICEF was authorized by the CHR".

The EFA 2000 Assessment, the most thorough examination of education ever carried out, serves as the foundation for the Dakar Framework for Action. "The Assessment provided a thorough analysis of the situation of primary education globally and was requested by the World Conference on Education for All". It compelled states to promise, among other things, to strengthen national and regional procedures to guarantee that EFA "was on the agenda of every national" legislative body. It also emphasized how crucial it is to develop the legislative framework supporting the RTE in national systems at the national level. The necessity for financial aid to be given to nations with severe poverty has been brought "to the attention of the international community".

The "UN Millennium Declaration was passed in September 2000", and the UNGA established a target to achieve it, when governments committed to eradicating poverty, promote equality and human rights, to attain environmental sustainability, democracy, and peace.

The MDG, in particular, called for the eradication of severe poverty by 2025 and a reduction in extreme poverty by half by 2015. By 2015, the whole primary school curriculum should be completed by all kids, boys and girls alike, according to a global aim. Because of this, these international agreements have long recognized that everyone has the RTE, which also includes the need to end discrimination in the educational system at all levels, establish minimum criteria, and enhance quality.

1.3 RTE and Const.:

The COI is designed to further the cause of social revolution and is founded "on the ideals of Justice," "Liberty," "Equality," and "Fraternity." The FRs and DPs in Parts III and IV, respectively, provide the basis "of this social revolution's commitment". India, a "signatory to the UDHR", has included certain UDHR-related concerns into its Const. Everyone has the RTE.¹⁰ At accordance with the DPSP, Articles 41 and 45¹¹ provide that "education shall be free at least in the primary and fundamental stages."

The "state shall, within the limits of its economic ability and growth, provide effective provisions for safeguarding the rights to labor, education, and public assistance in unemployment, old age, sickness, and disability, as well as other circumstances of unreserved want."¹² The provision of education is one of the state's religious obligations. According to Article 45, the state must make every effort to guarantee free and compulsory education for all children up to the age of fourteen within ten years after the Constitution's ratification¹³. The RTE, however, cannot be argued in any court of law in the nation if it is denied or ignored since it cannot be "justified in a court of law" according to the Directive Principles. While "Article 41 just calls for the state to make necessary preparations for safeguarding the right to education, within the boundaries of its economic capabilities and growth", an examination of "Articles 41 and 45" demonstrates that. Regardless of the state's economic situation, Article 45 imposes a stricter requirement on the state "that all children up to the age of 14 receive an education within a period of ten years. All children under the age of 14 should get free and required education, according to the judiciary".

The RTE is a basic right,¹⁴ "that cannot be denied to a person by imposing a greater cost known as the captivation charge, the SC held in *Mohan Jain v. State of Karnataka*,¹⁵ also referred to as the capitation fee case. The right to life and the RTE are intricately interwoven. The Karnataka Education Institution (Prohibition of Captivation Fee) Act of 1984, which was passed to control tuition fees paid by private medical colleges in the state, was the source of the government notification that was the subject of the petitioner's legal challenge in the current case. The RTE at all levels is fundamental to the citizen under Article 21, and charging admission fees to educational institutions is unlawful and amounts to denying the citizen's right to receive an education. It is also a violation of Article 14 for being arbitrary, unfair, and unjust, according to the division bench of two judges".

"*Anand Vardhan Chandel v. University of Delhi*"¹⁶ is a significant case from the standpoint "of education as a basic right". The "DHC ruled that access to a quality education is a basic right protected by the Const. The law is now decided that even if they are not listed in Part III, the expression of life and personal liberty in Article 21" comprises a number of rights. According to the court, they can be incorporated in many aspects of an individual's freedom as long as they are required for the complete development of the person's personality and are permissible.

The SC declared that education is a basic right derived from Article 21 in its famous ruling "in *Unnikrishnan JP v. State of Andhra Pradesh*",¹⁷ 1993. However, the court only partially upheld the content "of Mohini Jain's argument". "The right to a free education is only available to children under the age of 14, the state's commitment to offer education is restricted by the limits of its economic competence and growth"¹⁸. In order to fulfill its obligations under "Articles 41, 45, and 46, the state can either establish its own institutions or" assist, acknowledge, or affiliate with private groups. Additionally, the court found that Articles 45 and 41's "definition of the right to education, guarantees free education for all children and citizens up to the age of 14". At that time, the state's financial restrictions apply to the right. "It was determined that since more than 40 years had elapsed, the state should implement the Directive in Article 45. This was meant to arouse the state from its slumber, to fully alert it to its duties under the Directive and to give an enlargement of the word life or liberty in Article 21. Support for the RTE, which is protected by the UDHR and ICESCR, was referred to by the court in this decision for the first time as a social right. By defending the right to free primary education up until the age of 14, the court was pressuring the state to attempt to fulfill its responsibility under Article 45 within a timeframe that had long since passed. In this decision, the court used the ICESCR's wording for the first time to support the progressive implementation of both the basic right to free elementary education and the right to higher education"¹⁹. By accurately and cogently interpreting the phrases "of Parts III and IV, the SC has raised the RTE to the status of a FR".

The COI was further amended "in 2002 with the 86th amendment, adding Article 21A, which states that all children between the ages of six and fourteen must receive free and compulsory education in a manner determined by state legislation. The RTE Act 2009 is also the follow-up legislation envisioned under Article 21-A. The RTE Act was passed to support UN guidelines by guaranteeing that every child has the right to a full-time, fundamental education

of adequate and equitable quality in a formal school that complies with specified fundamental standards and conditions. The SC also decided that citizens have the right to petition the government to offer educational facilities within the parameters of the state's economic capacity and growth."²⁰

"In this regard, the SC noted that the establishment of high schools may not be a Const.al function because Indian citizens over the age of 14 may not have any fundamental rights in relation to it in the case of *State of Bihar v. Project Uchha Vidhya and Sikshak Sangh v. UOI*"²¹. "But it is undeniably a human right for education to be a part of human growth. The Chief Justice of India, Dr. A.K. Lakshmanan, remarked accurately that the responsibility of municipal and state governments" is without a doubt the provision of education. It is necessary for the completion of our most fundamental responsibilities, such as military duty. The foundation of good citizenship is it. Today, it serves as the main method of introducing a child to cultural values, laying the groundwork for his future career, and helping him get more used to his environment.

Primary education delivery has produced outcomes across social categories and gender, according to the GER of 101.4. Up to the secondary level, there has been a considerable increase in female participation, and GER for females has surpassed that of males. The majority of the credit for this rise in female enrollment in primary and secondary education goes to government initiatives like the construction of residential schools in regions with low female literacy rates and the providing of financial and material incentives for the girls. Despite these initiatives, there is a sharp decline in the gross enrollment rate of pupils attending secondary and upper secondary schools. This decline in proportion can be attributed to a number of social and economic factors. India, which makes up 37% of the world's adult illiterate population, according to a UN assessment, has by far the largest educational disparity between its wealthy and poor populations. In order to close the gap between discourse and practical framework, it is necessary to review the current regulations and make additional revisions.

Several ASER studies claim that the quality of learning is not prioritized. Even while more kids are enrolling in schools, "the quality of the education they receive is not" prioritized sufficiently, and the number of kids who are not in school has also grown. Sadly, the nation currently has one of the highest rates of illiteracy in the whole globe. The universalization of basic education has helped to lessen caste, gender, class, and regional inequities, but they are still obvious and persistent. Most states and UTs' educational administrations have failed to successfully address pervasive issues related to the teacher shortage, absenteeism among teachers, underfunded and poorly constructed schools, the absence of teaching/learning resources, need-based teacher preparation, and a curriculum focused on practical needs. The fact that there are many boards that oversee instruction in schools, resulting in diverse curricula in the same grade, is another problem with the educational system. Because a course material needs to be created by carefully examining the mental capacity of a child of the specified age, homogeneity in curriculum is crucial, and such assessment must be conducted on all kids of the same age. Disparity must not exist since doing so might impede a child's growth and affect the learning process. One of the main reasons why dispute resolution with a focus on enrolling children in schools seems to be rather difficult is that there isn't a single, well-defined process in place that the general public may use.

The RTE identifies a few organizations tasked with keeping an eye on school enrollment. Furthermore, the term "local authorities," which refers to a set of organizations responsible for managing complaints and assuring school admittance, is multi-jurisdictional, meaning that no one organization fulfills the job. Considering the ability of the schools, the researcher plans to offer policy recommendations for helping the unrecognized schools to satisfy the requirements "of the RTE Act". Despite the fact that there are many different educational levels, this study primarily focuses on primary and secondary schooling.

1.4 Review of Literature:

With the "passing of the RTE Act, India has transitioned to a rights-based approach to ensuring access to education for all. This Act imposes a legal obligation on the state and federal governments to protect a child's fundamental rights". The Act lays out specifications for the necessary student-teacher ratio for providing high-quality teaching.

It also covers establishing reasonable standards for the classroom environment, access to drinking water, and the provision of male and female lavatories separately. It is vital to emphasize preventing this inequality in teacher postings since there is a substantial gap between the amount and quality "of education provided in rural and urban areas of the country". Bullying and discrimination against children are prohibited under the Act in all situations. The prohibition of admission screening practices would prevent discrimination against children on the basis of caste, religion, gender, etc.

No kid may be imprisoned before to completing the eighth grade, according to the Act. The CCE method was implemented in order to set learning objectives in schools that were suitable for each grade. The Act also mandates the establishment of an SMC in every elementary school to promote democratic participation and sound governance. These committees have the authority to supervise school operations and develop expansion plans.

When the Act's standards are not met, anybody may file a complaint through the grievance process, which is justiciable. Education is one of the most crucial precondition for the sort of growth that results in freedom, according to Amartya Sen's book *growth as Freedom*. In it, he explores the relationship between freedom and growth and how it serves as a foundational component of that growth as well as a key to other components. Amartya Sen underlines throughout the book the enormous differences between China and India in terms of health and education.

According to the UDHR, education is no longer "a privilege but rather a fundamental human right. In his book *Making Sense of Human Rights*, James W. Nickel" admirably attempts to meld the genuine ethical, political, legal, and cultural synthesis of human rights in contemporary society. James Griffin also discusses the moral principles that should be included in the legislation when it comes to "human rights in his book on *Human Rights*".

The essay "Learning History through the Universal Declaration of Human Rights" by Hilary Landor and Martha F. Pineda, published in *Social Education*, Vol. 71, explains "the importance of the UDHR in the modern age and traces its development".

The RTE is protected by the Const. for its inhabitants. The Introduction to the COI by D.D. Basu effectively conveys the underlying nature of the aforementioned right. The book is not only a well-known work of Const.al literature, but it also educates the reader on the actual meaning of the laws and

how they apply in the modern world. Tom Bingham's book "The Rule of Law, which identifies the rule of law" as the source of rights that society should have, provides the basis for the laws already in place.

In her article Mainstreaming Human Rights Education, written in 2016, Rosemary Ann Blanchard highlights the "value of human rights education and" suggests integrating it into society's general education system. She highlights potential difficulties that can arise while completing the tasks in her writing. In addition, Linda Sorter's 2005 article "Human Rights Education for Children" stressed the same points.

The 2018 article "The Intersection of Education & Human Rights" by Esther D. Brimmer traces "the development of the notion stressing Education as a Human Right in a cause-and"-effect connection.

Teachers have the real responsibility for ensuring that education is inclusive in all respects. In his paper "Teacher's Education - Challenges & Reforms," S.K. Yadav emphasizes the importance of adequate and sensitive teacher training while also highlighting the current situation of RIE.

1.5 Statement of Problem:

The following are the issues with the right to free and required primary education:

- Infrastructure shortfall;
- Bribe-taking and leaks;
- Teachers' caliber;
- The nonacademic burden;
- Low wages;
- The absence of teachers;
- Accountability issues;
- The foreign rule's disregard for education;
- A lack of experience with administrative policies;
- Political complexities;
- Lack of Resources;
- Ineffective Educational Management;
- The Language Problem

1.6 Objective of the Study:

The following are the research's goals:

- To follow the development of India's basic RTE while making use of several international human rights frameworks.
- To evaluate how well the various policies protect the RTE.
- To determine the causes of the decrease in students enrolling in higher education.
- From a human rights and human development viewpoint, "to identify and investigate the different legal challenges associated with" illiteracy and lack of education in India.
- To investigate the contribution made by the Indian SC's Const.al jurisprudence to the emergence of a basic right to education.

1.7 Research Methodology:

It is a study of doctrine. It is supported by government records. The study's conclusion was "based on both primary and secondary sources". The secondary sources are several books and journals written by various authors and academics. Government reports and literature are the primary sources.

1.8 Hypothesis:

The current legal system falls short of guaranteeing that the government authorities achieve the goals set out in the RTE legislation.

RTE – A NATIONAL PERSPECTIVE

2.1 Introduction:

The nation's social and economic advancement depends on an educated citizenry. India's educational history has been chaotic and continues to be so. The idea of a RTE was first mentioned while the Constituent Assembly was debating it. The location of the RTE became a contentious issue, despite the fact that everyone agreed that there were two categories of rights: those that could be challenged in court and those that could not. "The right to an education was not formally recognised until *Mohini Jain v. State of Karnataka*²². Subsequent judicial rulings such as *Unni Krishnan, J.P. v. State of Andhra Pradesh*,²³ *T.M.A. Pai Foundation v. State of Karnataka*,²⁴ and *P.A. Inamdar v. State of Maharashtra*²⁵ expanded on the right and established the legal basis for its enforcement".

RTE "is now a fundamental right under Article 21A" as a result of the Const.'s 86th Amendment Act of 2002. On August 4, 2009, legislation known as the RTE Act was approved in an effort to fully realize "India's Fundamental Right to Free and Compulsory Education. As a last-ditch effort to remedy the enormous imbalances that existed in the field of primary education", it was put into place. Giving everyone the chance to learn and gain from education is the aim of the legislation.

2.2 RTE and Empowered Right:

Before examining the development of the RTE in India, it is critical to comprehend why it is so significant to the nation's population. You may consider the RTE a right to empowerment. This phrase was created by Jack Donnelly and Rhoda Howard, who distinguished between empowerment, membership, protection, and survival rights. The "right to life, food, and health care are examples of survival rights" that are considered to secure individual existence. In order to guarantee that every person has an equal role in society, membership rights are upheld. Family rights and the outlawing of discrimination are given as illustrations. The person is said to be protected by protection rights from state abuses of power. An independent judiciary and the right to habeas corpus are two examples. Last but not least, it is argued that empowerment rights provide the person authority over how their life unfolds, particularly influence over (rather than only protection from) the state. Examples include the "freedom of the press, the right to free speech, and the RTE". People must be given the freedom to lead and shape their own lives in addition to being safeguarded against state aggression. The ability to use empowerment rights gives the person authority over his or her life. People may engage more easily in "political, economic, social, and cultural life thanks to them. One may argue that the practice of empowerment rights is necessary for the enjoyment of other human rights".

The RTE is a right of empowerment for a number of reasons. We are all aware of the tremendous liberating potential of education. Instead of serving as a means to cultivate creativity and individuality and promote personal liberty, educational institutions are commonly employed as an instrument of social control, ensuring intellectual uniformity. However, notwithstanding how strictly regulated the curriculum is, the abilities learned at educational institutions can be used to create concepts that are not approved by the government. The large percentage of educated individuals among political dissidents in various nations across the world supports this. A person may think critically about life thanks to education. It allows him to thoughtfully analyze his options and then base his conclusions on those considerations.

Another representation of political empowerment is education. "The right to vote and be elected, as well as the freedom of information, speech, assembly, and association, are all dependent on having a particular degree of education". Participation in political life is limited to those who possess the communication skills necessary to be knowledgeable, eloquent, and organized. Similar to this, only an educated individual can make an informed choice, "exercise their right to vote or run for public office, and take action as a consequence". For this reason, well-educated and critical individuals might be a threat to a government that oppresses its own people, claims one source. As a result, some governments do not feel compelled or motivated to devote significant resources to education.

Furthermore, socioeconomic progress depends on education. People can better understand their "economic and social rights through education". Consider the right to food as an illustration. People might learn how to safeguard their own food supply. "The right to labor, the right to a reasonable standard of life, and the right to health" are some additional examples of such rights. Only those who have acquired a particular degree of knowledge are able to use these rights in a meaningful way. The person who has been taught to read and write will ultimately be able to develop the knowledge and abilities necessary to take care of himself and his family's fundamental necessities. Education promotes social and economic integration. Only literate people can fully engage in economic life and benefit from the opportunities it offers. Education is also one of the few avenues for a disadvantaged youngster to quickly climb the social ladder in practically any nation.

A last benefit of education is that it increases people's opportunity to engage in cultural activities. "The right to take part in cultural life is protected under Article 15"²⁶. The extent to which the RTE is being realized largely reflects the state of cultural rights' enjoyment. The most crucial method for sustaining the cultural identities of religious, linguistic, and ethnic minorities is education. "Education is a human right in and of itself", as well as a crucial instrument towards obtaining other human rights. Education, which is a right to empowerment, is the major means by which people "who are economically and socially disadvantaged and children may escape poverty" and gain the skills they need to fully participate in their communities. "Education is crucial for empowering women, protecting children from hazardous and exploitative labor and sexual exploitation, advancing human rights and democracy, protecting the environment, and reducing population growth. Education is one of the best financial expenditures that states can make, and this fact is

increasingly recognized"²⁷. One of the delights and benefits of being a human is having a "well-educated, enlightened, active mind that is free to wander widely and without restriction". Consequently, education is crucial for more than just practical reasons.

It is feasible to draw the conclusion that achieving the RTE simultaneously advances other human rights. In this approach, the RTE highlights the interconnectedness and indivisibility of all human rights.

2.3 Education System Evolvement in India:

Great intellectuals have always emphasized the significance of education throughout India's history. They believe that education, or Vidya, is a person's "third eye," providing him or her insight into all situations and instructing them in appropriate behavior; it leads to our salvation, as well as to general growth and achievement in the realm of the everyday.²⁸

- A line from "Bhartruhari's Neethishatakam, which was composed in the first century B.C.", emphasizes the value of education:
- The unique expression of man is education;
- Education is a treasure that may be kept without worrying about losing it;
- Education guarantees financial success, happiness, and notoriety;
- Education is God in the flesh;
- Without education, a man is no better than an animal.²⁹

India had created its own educational system by the end of the 18th century, which was offered through schools, colleges, and universities. Post-independence Large-scale intra- and inter-regional disparities are present "in the education system that India inherited". The system only educated a small number of individuals, creating a wide divide between the educated and uneducated. Economic discrepancy, gender difference, and tight social stratifications all contributed to the education gap. Since independence, there has been a growing realization that sustainable progress requires comparable adjustments in the attitudes, values, knowledge, and abilities of the general public. The only means of bringing about these changes is via education. Under the traditional educational system, formal education was only offered at a few primary schools and higher learning institutions.

However, students from elite castes might receive a Sanskrit education in Hindu universities like Tols and Pathashala. Madrasahs served as universities where Muslims may study Arabic and Persian. Due to their employment in the administrative and judicial systems of the Moghul Empire, several Hindus also studied Persian. However, it makes a distinction between FRs and DPSP, even though the COI provides a number of human rights to its inhabitants. Although the "DPSP are necessary for the country's governance and the state is required to implement them, according to Article 37 of the Const.", they cannot be upheld in a court of law. The precise interpretation of the article's phrasing has been a topic of significant debate. However, the general consensus has been that "the executive and legislative branches of the Indian state are responsible for implementing the" rights outlined in the Directive Principles and that courts should not become involved.

Article 45,³⁰ which is covered by the Directive Principles, is particularly significant even if other parts of the Const. also "have an effect on the RTE". Originally, it said: Within 10 years of the Const.'s inception, "the State is required to work toward providing free and required education for all children up to the age of fourteen. It should be emphasized that this is the only one of the Directive Principles to have a time restriction", demonstrating how seriously the Const.'s writers took the necessity of its execution.

Since at least 1935, British India had identified education "as a topic for which only the provinces may pass laws. During the creation of the constitutional provisions pertaining to education in the constituent assembly, the framers debated whether education should be included to the union or concurrent lists so that the federal government could implement laws on education". Maulana Azad was fiercely opposed to giving education only to the states, and he won support from Nehru and other significant constituent assembly members. Maulana Azad ultimately rose to become independent India's first federal minister of education. Azad stated that in order to create consistent national educational standards, this responsibility had to be transferred to the federal government. Some of the other drafters countered that states need to have the power to enact legislation and formulate educational policy. They were inspired in part by the knowledge that education would need to be decentralized due to the variety of languages spoken throughout India.³¹

In order to provide the CG, the authority to formulate policies and adopt laws affecting some crucial parts of education, it was necessary to keep education on the state list and add entries for "higher education and scientific and technological institutions to the union and concurrent lists". This helped to address the problem. Additionally, it was determined that the federal government would create the "national policies for coordinating the provision of educational services". It does not appear that India's federal administrations made education a top priority for the country in the years after independence. According to government figures, public spending on education between 1951 and 1955 was less than 1% of India's overall GDP. In 1955–1956 education spending exceeded 1% of G.D.P. for the first time; nonetheless, this amount stayed between 1% and 2% until 1979.³²

A well-known "social activist named Dr. L. C. Jain noted that Article 45 laid under a lid" between 1951 and 1961; "not to be found a fleeting allusion to education, let alone to Article 45, in the budget speeches." The Const.'s language prioritizes universal education provision, and "certain members of the constituent assembly went on to hold important positions in the federal government", so he continued to comment on how strange this incident was. He said that the fact that education got barely "Rs. 341 crores (3.41 billion rupees or 139 million US dollars) out of the total projected spending of Rs. 12,000 crores (120 billion rupees or 2.6 billion US dollars)"³³ between 1951 and 1961 was evidence of his contempt for it.

The prior quick statistical analysis showed that the situation did not much improve during the ensuing three decades. Education was transferred "from the state list to the concurrent list in 1976 as a result of a constitutional amendment". Despite being designed to give the CG a stronger role in delivering educational services, the policy had no immediate consequences. India has a low literacy rate in 1991 only 52.21 percent compared to other growing nations.

It became evident that neither the CG nor SG were moving closer to accomplishing the goal mentioned in Article 45, even after the time period specified in Article 45 had passed by three decades.

2.4 Initiatives by the SC:

Education was only one area where the administrative and legislative parts of the Indian government lacked effectiveness. The SC appears to have been compelled to offer relief to people who were disgruntled with successive administrations' inability to accomplish Constitutionally required goals starting in the late 1970s.

The SC has utilized this authority over the years to handle "a broad and diverse range of issues, despite the" fact that it was initially intended to provide assistance to the most vulnerable segments of society. In the 1990s, the Court addressed a number of issues relating to India's expanding middle class using its P.I.L. jurisdiction. The SC was asked to rule on the Constitutionality of the RTE in two cases in the 1990s: In the cases "*Mohini Jain v. State of Karnataka*"³⁴ and "*Unni Krishnan. v. State of Andhra Pradesh*",³⁵ the legitimacy of state laws passed to reduce the exorbitant capitation fees charged by private institutions of higher learning was contested"³⁶. It's interesting that although dealing with concerns related to higher education, both of these cases ultimately led to rulings that "had an impact on elementary education".

In Unni Krishnan Case, the Const.al status of the RTE was discussed. It is important to note "that, among the several provisions in Part IV, only Article 45" indicates a time restriction; none of the other articles do. The SC expressed its unhappiness with the apparent contempt for Article 45. Is it accurate to say that the responsibility created by Article 45 becomes an enforceable right once 44 years have passed. In light of this, we are obligated to remark that India's distribution of funding to various education sectors shows a reversal of the Const.'s stated goals. The SC concluded that Article 21A, "which protects the right to life and personal liberty, is the source of the RTE". The Court's formulation of this interpretation was influenced by both the ICESCR and articles 45, 41, and 46 of Part IV.

2.5 After the Unni Krishnan Case:

However, "the decision in Unni Krishnan had the immediate result that any child under the age of fourteen who was denied access to primary education could petition a court for a writ of mandamus directing the authorities to take appropriate action". This decision reignited the debate in India about the boundaries of judicial review. "This was a strong weapon, and members of civil society and non-governmental organizations started to employ it as a tactical device to exert pressure on the president and legislature to take meaningful action on primary education". For activists and educators in India, this issue has served as a unifying theme across time. Other non-governmental organizations and independent actors started working together "as the movement for a Const.al amendment guaranteeing the RTE gained momentum".

As a consequence of one such campaign, the NAFRE was established, which at its height included a coalition of approximately 2,400 grassroots N.G.O.s from fifteen Indian states. Unexpectedly, "this coordination of efforts resulted in like-minded organizations working on separate but related issues joining forces and brainstorming the most effective strategies". Organizations that work to end child labor, such the SACCS, a coalition of over 400 human rights organizations in South Asia; and the CACL teamed up with organizations like NAFRE after realizing the value of the RTE for their objectives. To liberate child laborers, the SACCS undertakes rescue operations and raids.

The ILO estimates that India has more than 60 million bonded child laborers. These "children are deprived of their fundamental rights to childhood, education", fair compensation, adequate health care, and decent living circumstances since they are required to labor more than 12 hours a day. Most of them work as slaves in industries where they are subjected to abuse and disease. The central government sought to make the RTE a FR in 1997 by submitting the Const. (83rd Amendment) Bill, which was partially in response to the push created by such organizations. The measure "was referred to a parliamentary committee, but after a shift of power at the national level", the NDA administration reintroduced it under the name Const. (93rd Amendment) Act, 2001.³⁷

2.6 Const.al Provisions for Education:

No citizen may be refused admission to a "state-owned or supported educational institution on the basis of their race, caste, or language, according to Article 29. The right of minority communities to form and run educational institutions is covered under Article 30". According to Article 45, the government must stop providing "free and required education for all children in the nation until they turn 14" within 10 years of the Const.'s promulgation. The state government, the "federal government, local governments, non-profit organizations, and any other government body" are all responsible for providing elementary education. Article 46 makes provisions for the enhancement of the economic and educational interests of STs, SCs, OBCs, and members of lower social strata.

The specific provision for educational subsidies for the benefit of the Anglo-Indian people is governed by Article 337. Additionally, Article 350B gives linguistic minorities access to resources and opportunities.

2.7 86th Amendment:

The 86th amendment to the Const. was passed to protect citizens' access to education. To enhance its functionality and safeguard "the right of children aged six to fourteen to free and compulsory education", it added three further amendments to the Const. The "inclusion of a new Article, 21A, to Part III is one of the most important modifications made by the 86th Amendment Act"³⁸: It declares "that every kid has the right to a free, public education" that is required and of a high standard, according to specific guidelines. Additionally, it led to amendments and alterations to "Article 45, which states that the State must work to ensure that all children receive free and obligatory early childhood care and education until the age of six".

RTE ACT, 2009

3.1 Introduction:

The RTE act, a legislative proposal made on August 4, 2009, highlights and emphasizes the value "of free and mandatory education for children in India between the ages of 6 and 14. India has joined a list of 135 nations that recognize the RTE as a basic freedom" that our Const. guarantees to every child under Article 21A. The Act became operative on April 1, 2010. Governments are obligated under the RTE to guarantee that everyone has access to fundamental education. "According to the World Declaration on Education for All of 1990, these needs include both the fundamental learning content (such as knowledge, skills, values, and attitudes) and the essential learning tools (such as literacy, oral expression, numeracy, and problem solving) needed by people to be able to survive, develop their full potential, live and work in dignity, participate fully in development, improve the quality of their lives, and make informed decisions"³⁹.

We can determine the breadth of the proposed law by looking at "the fact that the entire policy is based on 4As. In this sense, education is free and the government is" required to fund it. Expert professors who are well trained in their fields are also available, as is a sufficient "infrastructure capable of sustaining educational frameworks". Accessibility means that education is open to everyone, without distinction, with the primary objective of benefiting the most vulnerable sections of society. The educational value is reasonable, there is no prejudice, and it is acceptable from a cultural perspective. In addition, the school atmosphere is secure, and the instructors are appropriately trained.

3.2 Provisions of the Act:

Every "child between the ages of six and fourteen has the legal right to free and compulsory education at a neighborhood school until they have completed elementary school", according to the RTE Act.⁴⁰

According to the Act, no child would be subject to any fees or fines that would prevent them from attending primary school. "Under the requirements of the RTE Act, a school established by the government or a local authority should offer free and required basic education to all accepted students. In addition, all independent schools are required to provide free education to at least 25% of the local kids from the most disadvantaged socioeconomic groups."⁴¹

The SC confirmed the "legality of the RTE Act, 2009, which offers 25% free seats for the poor in government and private unaided schools across the nation, in the case of *Society for Un-Aided Private School of Rajasthan v. Union of India*."⁴² A section "in the law also calls for offering special education to kids who have not yet started school or finished their primary education in a class for their age". Any such kid would have the right to special schooling, it further declares.⁴³

Additionally, RTE Act mandates the construction of schools in locations and neighborhoods where such a facility is lacking within a predetermined period of time following the Act's passage.⁴⁴ The costs of implementing the "provisions of the Act shall be split between the CG and the SGs". Private unaided schools are required by "Section 12(1c) of the RTE Act to" enroll students from poorer and disadvantaged groups at a level equal to at least 25% of their class size. The government must pay private unaided schools for their expenditures up to the "lesser of the per-child cost spent by the government or the actual amount charged for the child."⁴⁵

To guarantee "that all children aged six to fourteen have access to a high-quality primary education, RTE Act expressly forbids any school or anyone from collecting any capitation fee and from subjecting a child or his/her parents or guardians to any screening method."⁴⁶ Additionally, Section 2(o) mandates that only arbitrary methods be used to admit a child to a school. A lottery process will be used to fill the seats under the random approach if there are more applicants than there are seats at a specific institution. In "Society for Unaided Private School of Rajasthan Case", the SC confirmed the validity of certain provisions of the statute that made the RTE a basic "right of children between the ages of 6 and 14. By adding Article 21A to the Const., which specifies that the state should offer free and compulsory education to all children between the ages of 6 and 14 in a manner prescribed by law", the

RTE law was adopted. The "SC's two-judge panel, led by Chief Justice S.H. Kapadia, upheld Section 12(1c) of the RTE Act, which grants a 25% discount, as being Const.al. The RTE Act, 2009, which mandates 25% free seats for the poor in government and private unaided schools nationwide", was upheld by the SC as Constitutional.

The key responsibilities of teachers are outlined in Section 24 in order to increase their professionalism. Additionally, teachers are required to regularly notify parents and guardians on important information on their wards' progress.

The RTE Act establishes guidelines and requirements for schools (included in the act's schedule), stressing important criteria such the appropriate student-teacher ratio, school building regulations, the bare minimum of working days, hours spent teaching during "a school year, minimal number of hours per week that instructors must work" and rules for teaching or play materials, as well as a library facility.⁴⁷

Similar to this, "no school shall be allowed to function under Section 18(1) unless it receives a certificate of recognition from a qualified local authority, subject to conformity with Section 19". The authority will remove a school's accreditation if it is discovered that it has violated the conditions of its accreditation. State commissions and the NCPCR keep an eye on how the law is being put into practice. The federal government launched several initiatives prior to the R.T.E. Act, including five-year plans, the SSA, the Mid-Day Meal Scheme, and the RMSA to advance universal elementary education. We must fill in the gaps based on the knowledge gained from previously launched programs in order to make this act the most powerful weapon against illiteracy; keep tabs on the roles being performed by various parties, and take appropriate measures to prevent veering from the set route to accomplishing the goal.

3.3 Criticism against the Act:

The fact that the Act did not include kids between the ages of zero and six was one of the Act's biggest knocks. A child's vital growth happens during this time. If a child is not given enough chances to develop and grow, it will not be to their advantage. Concerns regarding education quality are also present. Citizens must have access to top-notch "education in order to fully implement Article 21-A". The majority of the subjects taught to pupils are unfamiliar to young children. There is a need for more activity-based, learner-centered non-formal education.

There are an increasing number of "private schools nowadays. They have a strong infrastructure and are also living up to the expectations of the parents. Because of this, most parents prefer private schools to public ones. Even after the R.T.E. Act was passed, the problem of quality education in government schools has continued to be disregarded".

For the Act to be efficiently executed, the Act stipulates that funds would be split between the center and the states. There are not enough resources to carry out the plan. The agency shall assess at the federal level the amount of money that needs to be set aside for the RTE Act 2009's implementation "of free and mandatory education". It is necessary to organize the allocation in phases. "For the implementation of government programs and to prevent beneficiary duplication, budget overuse, and other issues", coordination between various government agencies is essential. In order to achieve the intended aims, "existing monitoring mechanisms may be simplified, and a thorough monitoring system that takes administration and academics into account should be constructed". The No Detention Rule in the Act is criticized because it would impede pupils from obtaining a proper education. Before the end of elementary education, no kid enrolled into "a school may be expelled or held back in any classes", according to Section 16. As a result, classes 1 through 8 in the primary school level are covered by the policy

Conclusion:

The human life cycle requires the learning of fundamental competences and life skills from a young age; the area of life that is perhaps the most significant for children is probably their primary schooling. Now all that is left to find out is how effective this necessary rule will be in protecting the large number of children in our nation who are mostly suffering as a result of being forced into labor or being poor. In and of itself, legislation will not be sufficient to rectify this gap. The purpose of this research project is not to challenge the "revolutionary" legislation that is still in place, nor is it to be a treatise on educational policy in general. Both of these objectives are outside the scope of this project. Because there are not enough college classrooms, the government ought to make investments in educational infrastructure. This is in relation to the educational system. Increasing the amount of time spent on professional education is necessary in India today without decreasing the amount of time spent on primary education. Simply based on India's primary educational system, Indian graduates are already ahead of their overseas counterparts. As a consequence of this, we need to revamp our primary education system in order to create an atmosphere in which our pupils are comfortable standing up and speaking in front of others.

In general, the objectives of development and human rights are the same. These objectives include making it possible for individuals to live with dignity, equity, and freedom, as well as ensuring that policies are oriented on the human person. The protection of human rights and economic growth are intertwined; both are distinct yet interdependent aspects of the same process, much like different strands of the same fabric. As a consequence of the discussion of human rights being included in the agenda for development, the agenda for development became politicized. In order to achieve this level of inclusion, it is vital to understand rights not only as legal entitlements but also as political weapons for the transformation of social systems.

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