

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

# **EDITORIAL TEAM**

## **EDITORS**

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



### **Dr. Namita Jain**



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## **Mrs.S.Kalpana**

Assistant professor of Law

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## **Avinash Kumar**



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **FROM PROMISE TO PRACTICE: UNPACKING INDIA'S RIGHT TO EDUCATION ACT, 2009**

AUTHORED BY - JAYDEEP FINDORIA

## **Introductory Note**

In the realm of Indian education, the Right to Education Act shines as a beacon of hope, promising universal access to learning. Yet, beneath its veneer of promise lies a reality marred by unfulfilled potential. While envisioned to provide education from ages 6 to 14, this cornerstone legislation encounters formidable challenges, particularly concerning gender parity and the empowerment of marginalized communities. Echoing the wisdom of Nelson Mandela, who proclaimed, "Education is the most powerful weapon which you can use to change the world," we confront the stark divergence between aspiration and actuality. Socio-economic barriers cast shadows over access, compounded by the intricate web of school seat reservations that further marginalize the underprivileged. Despite constitutional pledges, the elusive trifecta of quality education, experienced mentors, and adequate infrastructure remains a distant dream. Amidst these trials, the recent unveiling of the National Education Policy advocates a holistic approach, signaling a potential paradigm shift. However, the efficacy of this policy pivot hinges crucially upon genuine implementation, a challenge yet to be fully realized. As to embark on this exploration of the hurdles facing the Right to Education Act, let this be in mind that education is not merely a right; it is the very foundation upon which progress and empowerment, both are built.

## **Glimpses of Statutory Provisions**

In December 2002, the Indian Constitution witnessed a transformative shift with the introduction of the 86th Amendment, enshrining free and compulsory education as a fundamental principle under Article 21A. This monumental amendment paved the way for the historic enactment of the Right of Children to Free and Compulsory Education Act in 2009, affectionately known as the RTE Act. With its implementation on April 1, 2010, India proudly joined the ranks of 135 nations globally, affirming education as an inalienable right for every child aged 6 to 14. A watershed moment in Indian legislative history, the RTE Act not only cemented education as a cornerstone of national development but also marked a significant departure with its unprecedented introduction. It signaled a resounding commitment to providing quality education to every child, irrespective of their socio-economic background.

Under the RTE Act, the promise of education is extended to every child aged six to fourteen, ensuring access to free and compulsory education in local schools until the completion of elementary education. Gone are the barriers of financial burden, as the Act mandates that no child should be deprived of their right to education due to economic constraints. Additionally, private schools are mandated to reserve a quarter of their seats for children from disadvantaged backgrounds, fostering inclusivity and equal opportunities. Furthermore, the Act extends a compassionate hand to children who may have missed the initial educational journey, offering them a pathway back through age-appropriate admissions and specialized support if needed. It firmly denounces the practice of retention, expulsion, or premature board examinations, emphasizing the importance of nurturing each child's educational journey without undue pressure or prejudice.

Moreover, the RTE Act champions the spirit of mobility and choice, granting children the freedom to transfer to other schools within or outside the state to pursue further primary education. This mobility is facilitated by the issuance of transfer certificates, ensuring seamless transitions and unhindered access to educational opportunities. In the spirit of collective responsibility, the Act mandates the establishment of schools by government and local authorities within a stipulated timeframe. Both the Central and State Governments share the onus of providing adequate resources for its implementation, underscoring a collaborative approach towards realizing the vision of universal education. Above all, the RTE Act lays down a solemn mandate for every government and local administration to uphold the sacred promise of education for all. It demands a steadfast commitment to eradicating barriers, preventing discrimination, and ensuring timely curriculum approval without imposing financial burdens on students. In this noble pursuit, the National and State Commissions for Protection of Child Rights emerge as guardians of the Act, empowered to make recommendations and take proactive steps to safeguard the educational rights of every child. Their role is pivotal in ensuring that the lofty ideals enshrined in the RTE Act translate into tangible realities, fostering a future where every child can thrive and realize their fullest potential.

### **Notable Impediments**

Navigating the landscape of education under the Right to Education (RTE) Act reveals a multifaceted tapestry of challenges, each demanding careful attention and strategic resolution. Firstly, the Act's focus on children aged 6 to 14, while aligned with international standards, overlooks the educational needs of adolescents up to the age of 18, creating a critical gap in

addressing holistic development. Moreover, entrenched gender biases and inadequate infrastructure perpetuate high dropout rates, particularly among girls in rural areas, amplifying disparities in educational access. Further complicating matters is the oversight concerning children with special needs, as the RTE Act fails to adequately address provisions for their inclusion, highlighting the urgent need for tailored infrastructure and trained educators to cater to their diverse requirements. Financial challenges loom large, with grants per child often failing to translate into effective utilization due to implementation deficiencies and low awareness across society.

Additionally, mandated reservations in private schools strain resources and pose operational challenges, potentially compromising the quality of education offered. This burden is compounded for low-income families, who may find themselves unable to afford ancillary costs such as uniforms and supplies, exacerbating socio-economic disparities in access to education. Quality control emerges as another critical concern, with the RTE Act primarily focusing on enrollment rather than ensuring the delivery of high-quality education. Inadequate teacher training and skewed student-teacher ratios in government schools further undermine educational outcomes, threatening student retention and academic success.

Moreover, balancing institutional autonomy with regulatory compliance in private schools presents practical challenges, as implementation issues and scrutiny risk compromising institutional integrity. Meanwhile, School Management Committees, though vital for fostering community-school partnerships, grapple with volunteer participation, fund management, and decision-making, hindering their effectiveness. Addressing these multifaceted challenges demands coordinated efforts from policymakers, educators, and communities to ensure equitable access to quality education for every child, regardless of socio-economic status or geographical location. Only through collaborative action and innovative solutions can the transformative potential of education under the RTE Act be fully realized.

### **Holistic Recommendations**

To foster greater transparency and efficacy within the educational landscape, it is imperative for each state to not only establish model guidelines but also ensure their robust implementation to uphold the right to education. These guidelines should be formulated in consultation with local communities and stakeholders, thereby fostering a sense of ownership and inclusivity. Moreover, stringent regulatory measures need to be enforced for private schools, emphasizing transparency

and accountability in their operations. This includes measures to address the pervasive issue of teacher shortages in government schools, necessitating concerted efforts by authorities to recruit qualified educators and ensure the delivery of quality education to all children.

Rather than resorting to drastic measures such as the closure of unrecognized schools, proactive intervention programs should be initiated to support these institutions in enhancing their infrastructure and facilities. This can be facilitated through financial assistance and partnerships with financial institutions to ensure sustainable development. Additionally, policy amendments are warranted to extend the ambit of the Act to encompass children below the age of six and above 14, potentially through the provision of scholarships or grants to deserving students from marginalized backgrounds. Furthermore, collaborative efforts with governmental bodies such as the Human Resource Development Ministry, Labour Ministry, Women and Child Development Ministry, Panchayati Raj Ministry, and Rural Development Ministry are crucial to secure financial assistance and facilitate effective implementation of the Act's provisions.

This entails the establishment of mechanisms to monitor and evaluate the utilization of funds allocated for developmental projects in schools. Additionally, there is an urgent need for a comprehensive review of school curricula and textbooks to ensure their relevance and alignment with the diverse learning needs of students. In conclusion, while the RTE Act has undoubtedly paved the way for significant strides in advancing the quality of school education, there remain critical challenges that must be addressed to ensure its full realization. Collaborative action between stakeholders, coupled with proactive policy measures and stringent regulatory oversight, is essential to bridge existing gaps and foster a more equitable and inclusive educational landscape.

### **References**

- United Nations Instruments, 2022
- The Right of Children to Free and Compulsory Education Act, 2009
- The Constitution of India, 1949
- [https://legislative.gov.in/sites/default/files/A2009-35\\_0.pdf](https://legislative.gov.in/sites/default/files/A2009-35_0.pdf)
- <https://www.indiatoday.in/education-today/featurephilia/story/why-nep-teaching-in-mother-tongue-could-transform-education-in-india-1711187-2020-08-14>
- <https://www.right-to-education.org/page/united-nations-instruments>
- Roshan Melwyn Lobo, *RTE Act 2009 and Issues in its Implementation*, 10 INTERNATIONAL JOURNAL OF CREATE RESEARCH THOUGHTS 949-954, 954 (2022)