

**“REVISITING THE RTE: EVALUATING THE QUALITY AND  
EQUALITY OF EDUCATION IN INDIA”**

Aditya Vikram Singh

The Doon School

**ABSTRACT**

India guarantees free education to all children till they are fourteen years old through the Right To Education Act. Section 12(1)(c) of the same provides free access to private schools for Economically Weaker Sections of the society on a lottery basis. This paper explores the rationale behind this section of the legislation and its intended impact. It also deals with the impact and the degree to which this law has been successfully implemented. It explains the shortcomings in both the legislation and its implementation as factors responsible for failure in achieving quality and equality in education. Lastly, it suggests a set of policy recommendations based on the principles of uniformity, contextualization and transparency which would increase the availability of quality education to the underprivileged sections of the society.

**Keywords:** Equality, RTE, Free Education, Policy

**BACKGROUND**

The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) is an Act of the Parliament of India enacted on 4 August 2009, which guarantees free and compulsory education to children between the age of 6 to 14 years in India. With the act coming into force on 1 April 2010, India became one of 135 countries to make education a fundamental right (BBC). ‘Free Education’ here implies that no child 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 in government owned schools. ‘Compulsory education’ casts a legal obligation on the Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age group (Law Journal).

RTE Section 12(1)(c) is one of the world’s largest programmes for public funding and private provision in education (Centre For Policy Research). It mandates unaided non-minority private schools to set aside at least twenty-five percent of their entry level seats for children from weaker

and disadvantaged sections of society. The said section is rooted in the belief that the values of equality, social justice and democracy can be achieved only through provision of inclusive elementary education to all (National Commission for Protection of Child Rights). It is an acknowledgement of the segregated school system in India where private schools dominate performance in academics and extracurricular activities (Majumdar and Mooij 2011). The Indian school-system is characterized by what Ramachandran and Saihjee (2002) describe as “hierarchies of access”. There are compartments of elite private schools and on one hand, and local state-run schools, low budget private schools, and tribal schools on the other hand. The exclusionary and highly differentiated nature of schooling implies an inverse relationship between access and quality, as the weaker sections find it increasingly difficult — for political, cultural, or economic reasons — to enter and cope in schools regarded as better-quality schools. Exclusion is primarily caused by five factors; gender discrimination, social differences of caste and religion, locational disadvantage, economic disadvantage and physical or mental disabilities (Govinda and Bandyopadhyay 2008). It is impossible to remove all these barriers, but section 12(1)(c) attempts to remove some of them by mandating special category schools such as Kendriya Vidyalaya, as well as unaided private schools should admit children from weaker sections and disadvantaged groups. It is the burden of local authorities to identify children who have dropped out aged above six and admit them in classes appropriate to their age after giving special training. The number of seats reserved for these children should be no less than 25%, thereby creating a minimum critical mass for inclusion. The admission is statutorily guaranteed as free and compulsory, wherein the unaided schools are reimbursed a stipulated amount. The center and state Governments share the financial burden of reimbursement at a 55:45 ratio. (The Hindu)

## **OVERVIEW OF IMPLEMENTATION**

The Act defines Economically Weaker Sections as households whose annual income from all sources is less than one lakh rupees and disadvantaged groups include Scheduled Castes, Scheduled Tribes, Orphans, children with disabilities, transgenders and children belonging to the non creamy layer of the Other Backward Castes as defined by the constitution (NCPCR).

States have adopted varied methods to implement Section 12(1)(c). In Delhi, for example, all private unaided schools declare the number of seats reserved for EWS and DG students publicly as well as on the Directorate of Education portal. The parents of the students apply for admissions to multiple schools on the Directorate of Education online portal as per their preference. The DoE then allots the EWS and DG seats to these applications considering the distance of their residences from the schools. Hereafter, the schools receive the list of student applications from the DoE, and reviews their documents required for school admissions. Once

the students have been allotted seats in the schools, the DoE receives confirmation regarding the admissions taken, and the number of seats filled. The parents of the EWS/DG students then receive information about the seats allotted against their application, and approach the respective schools for their wards' admissions. Upon admission, schools provide these students with the resources (books, uniforms etc) required in schools. They raise reimbursement claims on the DoE portal annually, depending on the preferred amount spent per child, and receive reimbursement amount from the government (National Commission for Protection of Child Rights). Despite the differences in their approach to implement Section 12(1)(c), what remains uniform across the states is the unfinished quality of their rules and structures (Central Square Foundation). Of the 28 states analysed, no state had provided complete information on the processes around implementing Section 12(1)(c). The rules and structures are incomplete and absent which disables stakeholders from accessing the law. On a national average the frameworks have been found to be inadequate in terms of Seat Fill Rate, School Participation Rate, Seats Available and Total Enrolment. States amongst themselves have large variation in their seat fill rate. Rajasthan and Madhya Pradesh cumulatively make up for half the number of children admitted under this provision while Uttar Pradesh and Andhra Pradesh have a seat fill rate of less than 1% and less than 5% respectively. Rajasthan also has the highest number of schools participating (Central Square Foundation). In Delhi, based on the data submitted by school, analysis of the overall compliance of RTE shows that there is an increasing trend every year, but the rate of improvement has declined and there was no increase (0%) from 2015-16 to 2016-17, according to the NCPCR. There is an acute lack of awareness among parents of eligible children thus preventing them from availing the benefits of rights granted to them. This lack of awareness is also a common trend prevalent in private schools. There are problems related to reimbursement of funds by state governments to private schools which creates tension between the two stakeholders.

## **CRITICISM**

Section 12(1)(c) aims at breaking barriers to provide the best education to the most underprivileged sections of a society. However, reserving seats in private schools is an ineffective policy if the students accessing those seats do not get the intended positive benefits out of it. Based on a qualitative study of urban private schools, Verma 2016 found that the parents of the non-EWS students who comprise 75% of the student body, as well as the school administrators tend to have prejudice against the children from marginalised communities. They fear that these children have inferior backgrounds, cultural disadvantages, and poor academic contributions to the classroom. Such concerns dis-incentivise private schools and governments in implementing the mandate. Children from weaker sections are more likely to drop-out because of

poor quality of their initial schooling and the difficulties they face due to the contrastly different environment in private schools.

Section 12(1)(c) also suffers from more practical problems. There have been reports of fake certificates being used to secure admissions under 12(1)(c) (Choudhary 2017) by students who do not belong to the EWS as defined by the law to get admissions into prestigious private schools. Reports from North India, especially Uttar Pradesh and Delhi, indicate that many parents are not reimbursed for uniforms and textbooks contrary to the mandate mentioned in the act. (Pandey S. Jain 2017). Reports have also suggested that the imposition of new document requirements, such as the Aadhaar Card has led to exclusion of many, especially migrant children because the complex procedure to acquire these documents are inaccessible to such groups.

Media reports repeatedly suggest that city corporations and State governments do not have trackable records of the 25% children. These records are imperative to ensure that the quota mandated by this law remains fairly accessible to the intended beneficiaries. Most elite schools have escaped this mandate (Bhatnagar 2016). It is an 'exogenous privatisation' of educational activity (Ball and Youdell 2008). The compulsion on government schools is seen as a way through which the government is shirking of its responsibility of providing free and fair education to students.

There have also been several violations with respect to the laws regarding the generation and provision of information by the state to the central government. 20 states/Union Territories have not notified per-child costs (to pay the private schools for the children admitted under the RTE provision) which is a clear violation of the letter and spirit of the RTE Act.(Drishti News) Five States (Goa, Manipur, Mizoram, Sikkim and Telangana) have not even issued notifications regarding admissions under the RTE section 12 (1)(c) which practically makes the law redundant in those regions. The Comptroller and Auditor General in its report (2017) found several inconsistencies related to financial management and implementation of the RTE Act. This could be a reflection of the systemic problem of corruption that plagues the Indian bureaucracy.

## **POLICY RECOMMENDATIONS**

There is a need to conduct regular orientation programmes for teachers and principals on how to include the children in EWS/DG category in the mainstream. This is not just restricted to interactions inside the classroom but also to important co-curricular activities conducted in the school. The policy also needs to be coherent across and within different states. The rules regarding entry-age, entry-class, and eligibility criteria should be clear and consistent throughout the admission process. Use of ambiguous language in stating the rules, or multiple notifications

announcing the changes in the rules have created hurdles for applicants as well as the schools (State of the Nation). However, it has been observed that implementation of these policies at the district level adds to the administrative convenience. Depending on the context, the admission process should be decentralised to districts. This seems to accelerate the overall schedule of activities.

The application window should be open earlier than it currently does. It is imperative that the admission of RTE 12(1)(c) applicants is synchronised with that of the other students. Delay in the process of admission causes the RTE 12(1)(c) children to face academic loss. Parents are also forced into a dilemma of opting for a paid seat in unaided schools due to this delay. The current framework is also exclusionary to orphans. Therefore it should not be mandatory that only the child's parents submit the application. Grandparents and other caregivers should be given equal authority and recognition.

The awareness around Section 12(1)(c) of the RTE is limited to online methods which many stakeholders cannot access frequently. Offline modes including pamphlet distribution, and community meetings in slum and rural areas should be used frequently. The campaigns should explicitly inform people about how to submit a 12(1)(c) application, how to track it, and how to obtain the redressal of grievances. Local NGOs, Anganwadi workers, and ward councillors should be engaged in the campaign to generate awareness amongst potential applicants, assist them in form-filing, and track their admission status.

Finances related to this provision require increased transparency. Information submitted by private schools on their costs should be put in the public domain and open for verification. In turn, governments need to be willing to share more details about methods of calculation of reimbursement amounts. Reimbursements by state governments that are even lower than the per student expenditure on government teacher salaries weakens the state's legitimacy to demand compliance from private schools. In conclusion, Section 12(1)(c) of the Right to Education Act remains a work in progress. For the mandate to achieve its true potential, it should not be seen in isolation but as a necessary response in a society that needs greater social inclusion (Centre for Policy Research).

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