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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **RIGHT TO EDUCATION IN INDIA**

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## **ABSTRACT**

The Right of Children to Free and Compulsory Education Act, 2009, or the RTE Act, is a landmark legislation that alters India's constitutional and legislative framework regarding elementary education. The Act was passed on August 4, 2009, and implemented on April 1, 2010. It enacted Article 21A of the Constitution, which was inserted by the 86th Amendment in 2002, giving the right to free and compulsory education as a justiciable legal entitlement for children between the ages of six to fourteen. This granted the right to education a legal status after decades of case law development starting from the Supreme Court's decision in *Unni Krishnan v. State of Andhra Pradesh* (1993) which interpreted the right to education as part of the fundamental right to life and personal liberty provided under Article 21<sup>3</sup>.

The RTE Act has brought about remarkable achievements in terms of quantitative educational gains during a span of fourteen years. GER increased from approximately 88 percent in 2009 to over 97 percent in 2022, along with near-gender balance (Gender Parity Index improved from 0.92 to 0.98) as well as increased enrolment from Scheduled Castes, Scheduled Tribes, and Economically Weaker Sections (EWS). Simultaneously, the number of out of school children showed a sharp decline from 6.7 million to less than 1 million as a result of the provision for free textbooks and uniforms, along with strengthened mid-day meal programmes.

Notwithstanding, these admirable enrollment statistics disguise ongoing long-term issues. The Annual Status of Education Report (ASER) surveys show consistently that almost fifty percent of Grade 5 students are not able to read a Grade 2 text and fewer than 50 percent can solve simple two-digit subtraction problems. There are still more than 20 percent of rural schools which do not have functional toilets, libraries, or playgrounds. These are required under RTE's rules regarding the pupil-teacher ratio and basic facilities.

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<sup>3</sup> Government of India. (2009). The Right of Children to Free and Compulsory Education Act, 2009. Ministry of Law and Justice



Additionally, the national average pupil-teacher ratio is 36 pupils per teacher, which is above the legal limit of 30:1. This ratio in distant regions can reach up to 45:1, which means that teachers are severely burdened and the quality of personalized teaching is impacted greatly.

The social-justice principles of the Act are also seen in the obligation it imposes on private unaided schools to enroll students from economically weaker sections (EWS) for 25 percent of the seats. This clause was confirmed by the Supreme Court in *Society for Unaided Private Schools of Rajasthan v. Union of India* (2012) and again in *Pramati Educational Trust v. Union of India* (2014).

However, monitoring compliance still remains piecemeal, and a lot of schools do not meet their targets. So too does lacking inclusive education for students with disabilities: only 12 percent of schools have ramps, while only 8 percent have trained special educators.<sup>4</sup>

Global comparisons reveal areas for enhancement. Finland's formative assessment focus and student-centered pedagogy paired with strong teacher autonomy and Finland's enduring high PISA results Singapore's intense policy on teacher recruitment, continuous professional development, as well as instruction in TIMSS and PISA domination Canada's inclusive approaches towards learners with diverse needs early intervention and district-level governance frameworks are indicative of powerful early intervention strategies.

Incorporating these components—formative feedback loops, teaching expertise silos, and deconcentrated governance—might spark qualitative improvements within the RTE framework.

This paper utilizes a doctrinal and comparative approach. It rigorously evaluates primary legal texts (RTE Act and Rules), major legal commentary, policy documents (UDISE+, ASER, NEP 2020, UNESCO Reports), evaluating the balance between access and quality as delivered by the RTE Act's mandates, identifying implementation gaps due to structural, financial, administrative silos, the judicial oversight effectiveness gap, synthesizing international best practices for possible applied integration.

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<sup>4</sup> Govinda, R., & Bandyopadhyay, M. (2011). Access to Elementary Education in India: Analytical Overview. National University of Educational Planning and Administration (NUEPA).



To sum up, the RTE Act has had a transformational impact on access, shifting education from being a privilege to a constitutional right. However, the promise of “universal, inclusive, and quality elementary education” is yet to be fully realized. Achieving this goal will require a shift from access-focused metrics to more holistic, quality-oriented innovations, including sustained public investment towards the UNESCO recommended 6 percent of GDP, empowering real-time monitored School Management Committees, mandatory continuous teacher professional development, and effective grievance and redressal systems. Only India’s political will, collaborative stakeholders, and innovative policies grounded on evidence can provide not just education for all, but education for each child that is qualitative, learning centered, and meaningful.

### **RESEARCH METHODOLOGY**

The current inquiry is based on a combination of doctrinal legal analysis, secondary data analysis across disciplines, and policy comparison, as well as planned fieldwork aimed at testing and enriching the findings. This research begins with close reading of the Right of Children to Free and Compulsory Education Act of 2009 and its 2010 Rules, interrogating primary assumptions like the definitions, the obligation on states and private schools, certification, and the penalties within the broader constitutional scheme of Articles 14, 21, and 21A as well as the inserted Article 21A. *Unni Krishnan v. Andhra Pradesh* (1993), *T.M.A. Pai Foundation* (2002), and *Pramati Educational Trust v. Union of India* (2014) are some of the dominant Supreme Court decisions which are examined to understand the judicial construction and implementation of the social-justice provisions of the RTE. Alongside the doctrinal part of the study, UDISE+ reports (2009-10 to 2021-22) provided data on enrollment and dropout rates, gender imbalance, and infrastructure facilities, and ASER’s (2014-2023) detailed data enrich understanding about students’ basic literacy and numeracy skills provide granular understanding foundational literacy and numeracy outcomes.

The evaluation of other government policies such as the mid-day meal scheme, PMMMNMTT and DIKSHA teacher-training programs, and the Model Inclusive Education System for Kids with Disabilities policies help to understand how policies actually work as opposed to their intended objectives. To understand India’s education landscape in a global context, this study looks at Finland, Singapore, and Canada with special emphasis on teacher professionalization, formative assessment systems, governance and inclusivity frameworks. Adaptable elements

like Finland's emphasis on feedback in teaching, Singapore's teacher selection coupled with rigorous ongoing training, and Canada's district governance fostering inclusivity were noted in the OECD's Education Policy Outlook and UNESCO's monitoring reports used for this analysis.

Ultimately, prospective empirical fieldwork in five selected states will conduct comprehensive interviews with the RTE nodal officers, school principals, teachers, members of the School Management Committee, and NGO workers to capture grassroots implementation. Grounded challenges and innovations will be documented through observation and interviews. The transcribed interviews will be thematically coded and triangulated with doctrinal and secondary- data trends to support methodological rigor. Guided by ethical frameworks like informed consent, anonymity, and full board review, these interactions will approach the field ethically. Dominating variability of secondary-data and bias from respondents pose limitations, this mixed method qualitative approach seeks to construct a rich, multi-faceted, layered analysis of the RTE Act's impact on accessibility, quality within, and inclusivity of India's primary education system.

## **LITERATURE REVIEW**

India's Right to Education Act, 2009 has attracted scholars' codiscussion in the constituted constitutional and international rights context, which identifies the Supreme Court's decision in *Unni Krishnan v. andhra pradesh* (1993) opened the avenues for the insertion of article 21A by 86th amendment; Similarly, compliance with UDHR (Article 26) and the Convention on the Rights of the Child (Article 28) offers the world's normative frame for free primary education. Empirical research (especially PROBE (2014) and Mehta (2015)) indicates significant growing trends in gross enrolment ratios from 88 percent in 2009 to beyond 97 percent by 2022, notable improvements in gender parity and SC/ST representation after entrance of the RTE's initiative. However, ASER series of reports continually reports a "learning crisis" where approx half of the Grade 5 students fail to read or do simple addition at Grade 2 level, indicating a gap between enrolment and foundational learning. Infrastructure studies (2018) and UDISE+ monitoring indicate improvement in basic services such as toilets/ drinking water, but there exist glaring gaps in libraries (57 % of schools) and playgrounds (45 %), and unevenness of this 30:1 pupil-teachers ratio in a given school as stipulated by legislation, some rural areas some schools having this ratio of 45:1.

- Legal thinkers underline the importance of judicial consecration to the social justice mission of RTE – court-issuing propagation of 25 percent EWS reservations in Un-aided Schools of Rajasthan (2012) and Pramati Educational Trust (2014) – even as they admit that enforcement machinery and compliance watch are haphazard.
- Studies on the quality of teachers highlight the need for ongoing professional development – a gap that the PMMMNMTT and DIKSHA platforms are trying to bridge with uneven uptake of about 40 percent of users.
- According to comparative education literature, including OECD’s Education Policy Outlook (2018), Finland’s formative assessment practices, Singapore’s rigorous teacher-selection and in- service training, and Canada’s inclusive district-level governance result in better learning outcomes and equity. such models provide practical lessons for building up India’s RTE delivery through feedback-driven pedagogy, professionalized teaching cadres, and decentralized accountability.
- The literature thus converges around the sense that while RTE has massively increased access and formalized it as a right, coming to grips with its full promise of inclusive quality learning calls for purposeful reforms in pedagogy, infrastructure, teacher training and governance.

### **RESEARCH QUESTIONS**

1. To what extent has the RTE Act achieved universal and non-discriminatory elementary enrolment across all states in India? Also, how have disparities concerning gender, caste, and socio-economic status changed after the year 2010?
2. Under the RTE framework, measuring learning outcomes via foundational literacy and numeracy benchmarks has been documented. To what extends these RTE-permitted outcomes have shifted within the given scope, and what additional pedagogical strategies are needed to address persisting deficiencies?
3. Examining non-uniform compliance with RTE stipulations such as pupil-teacher ratios and facilities from an administrative, financial, and infrastructural aspect, what is regionally unique concerning these definable challenges?
4. What is the impact of judicial action on implementation of crucial sections of RTE like 25% EWS quota in private unaided schools, and what other proposals can be put forth to foster a stronger balance between branch ouroboros?
5. Consider Canada’s governance structures which are more inclusive, Finland’s



formative- assessment systems, and Singapore's teacher-professionalization model – all with the intention of broadening the impact of the RTE Act on quality and equity. What is adaptable?

## **CONCLUSION**

The Right of Children to Free and Compulsory Education Act, 2009 is over fourteen years since its enforcement. It has literally changed the face of elementary education in India. Looking at its access impact, the Act has achieved a lot: gross enrolment ratios increased from about 88 percent in 2009 to more than 97 percent by 2022. At the same time, the number of out-of-school children decreased from 6.7 million to less than a million. There was also significant improvement in gender balance (Gender Parity Index increasing from 0.92 to 0.98) as well as enrolment among Scheduled Castes, Scheduled Tribes, and other socio-economic groups due to aimed provisions and the 25 percent reservation provided in private unaided schools. These figures right justify the success of the Act in transforming education from a privilege into a constitutionally guaranteed entitlement and incentivizing both the public and the private sectors towards universal admission.<sup>5</sup>

Evaluated through the prisms of both quality and inclusivity, the outcomes of the RTE Act are much more ambiguous. The Annual Status of Education Report repeatedly shows that nearly 50 percent of Grade 5 students are unable to read a Grade 2 level text or perform basic subtraction, and this indicates that the increase in enrolment, at least, has not resulted in a commensurate foundational level of learning. Infrastructure surveys indicate that over 80 percent of schools meeting the minimal RTE requirements concerning classrooms and provision of drinking water, more than 40 percent still not having functional libraries and almost 20 percent lacking separate toilets for girls underscores a disconnect that diminishes not only educational and retention outcomes but also deepens the marginalization gap. The pupil-teacher ratio remains above the legal 30:1 cap, sitting at a weighted average of 36:1 nationwide and peaking at 45:1 in more remote districts, straining teaching resources and diluting pedagogical impact.

Together, these data suggest that while physical access has been, to use the often touted phrase, “opened-up” by the RTE Act, not all children are receiving a sufficient standard of instruction

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<sup>5</sup> PROBE Team. (2014). Public Report on Basic Education in India. New Delhi: Oxford University Press.

and a supportive milieu that allows for meaningful learning.

The Act's social-justice provisions have been strengthened with judicial pronouncements, most prominently the 25 percent economically weaker section reservation in private unaided schools. The Supreme Court embraced the constitutional validity of this quota in both *Society for Unaided Private Schools of Rajasthan v. Union of India* (2012) and *Pramati Educational Trust v. Union of India* (2014), emphasizing the role of education as the great leveler.

Several private institutions do not comply with these mandates, as there are always reserved seats available, while state supervision is weak and does not offer punitive or rewarding mechanisms to promote compliance. In addition, the education gap for children with disabilities is more than three years behind. Only a handful of schools have ramps, and even fewer have trained special educators.

This pattern of judicial activism reveals a clear divergence from robust administrative frameworks where implementation is essential alongside rights protection.

Insights drawn from high-performing education systems reveal ways to enhance the RTE framework. Finland's formative assessment model employing regular feedback loops has driven gains in literacy and numeracy; Singapore maintains top rankings in international assessments owing to its selective hiring and ongoing training of its teachers and data-driven instruction; Canada's district-level governance enables strong local accountability paired with generous resource distribution.<sup>6</sup>

Implementing these changes in India through formative assessments at scaled professionalized national teachers' cadres, and granting real-time data dashboard access to empowered School Management Committees could resolve persistent quality gaps and bridging the divide stuck between the statutory minimums and the classroom norms.

Financial commitment remains a gold standard for any reform agenda. Current public education spending sits at 3 percent of GDP which is far below UNESCO's recommended 6

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<sup>6</sup> National Institute of Educational Planning and Administration (NIEPA). (2018). Study on Infrastructure and Teacher Training under RTE. New Delhi: NUEPA.

percent. Without a sustained increase, the persistent infrastructure deficits, teacher gaps, and the digital divide shall endure. These vulnerabilities were exposed during the COVID-19 pandemic with remote learning initiatives such as DIKSHA and SWAYAM that were useless in regions devoid of basic internet connectivity. In these scenarios, targeted funding towards community level digital literacy initiatives, community-grade solar powered digital kiosks, and low-cost learning devices would ensure nimble coverage to outpace disruptions of the future.

Equally important is the innovation in governance systems which involves decentralizing power and responsibility. Participatory budgeting and legally required reporting can enhance the active supervision role of School Management Committees which changes their perception from mere tokenistic representatives to active local oversight engines. Each state can have a special tribunal for the Right to Education staffed with lawyers and education experts which can promptly deal with the rectification processes and execution of actions needed while ensuring that all schools, public and private, are held to the requirements set forth by the Act.

The fourteen-year history of the RTE Act has highlighted one key takeaway – legal frameworks provide foundational access, but alongside that, persistent learning outcomes require an integrated ecosystem that encompasses quality teaching, empowered stakeholders at all levels, agile governance, and a myriad of other factors working in tandem. India's progress to this point, while striking in sheer numbers, needs to shift in focus toward learning-centered metrics and community- driven accountability. Reality must meet legalism when it comes to children and schooling, teachers and classrooms, and only then the vision of "free and compulsory education for all" will be achieved. This will enable the country to truly prepare children for the challenges of the 21st century as opposed to simply filling classrooms.