ISSN 2582-0311 (Print)
ISSN 2582-0303 (Online)

Volume 5
Issue I

August 2023

VIPS STUDENT LAW REVIEW

VIVEKANANDA INSTITUTE OF PROFESSIONAL STUDIES - TECHNICAL CAMPUS

Affiliated to GGSIP University, Delhi
Grade A++ Accredited Institution by NAAC & Recognized by Bar Council of India and AICTE,
Recognized under section 2 (f) by UGC, NBA Accredited for MCA Programme
An ISO 9001:2015 Certified Institution

TABLE OF CONTENTS

S. No. Title of the Paper/ Author **Page No.**

1. Emerging Role of Just Energy Transition vis a vis Sustainable Development Goal 7
Ms. Amita 1

2. Critical Analysis of Social Security Schemes for Women in India
Ms. Richa Srivastava 19

3. Mass Atrocities and Reparation to Rohingyas in Myanmar
Mr. Mostafijur Rahmani 28

4. Constitutional Discourse on Homosexual Rights in Nepal, India and Singapore
Ms. Mansi Singh Tomar & Mr. Kumar Mukul Choudhary 42

5. Open Prisons: Reserialising Prisoner's rights with Freedom
Ms. Ritika Kanwar 54

6. Victim Participation in the Criminal Justice Process: A Therapeutic Approach
Ms. Neha Singh 70

7. Reassessing Section 498A: Exploring Judicial Interpretations and Statistical Data
Mr. Lalit Anjana 90

STUDENTS SECTION

8. Current Regulatory Framework on Cryptos and Crypto Exchanges in India
Mr. Vedant Lathi 109

9. Taxation of Cryptocurrency in India: The Future Finance
Ms. Meher Sachdeva 118

10. Rule of Law Implementation in India: A Critical Review
Ms. Neha Samji 133

11. Beyond Borders- The Use of Comparative Law in Constitutional Interpretation
Mr. Satyam Sah and Ms. Krati Gupta 142

12. Implementation of Section 12(1)(c) of the Right to Education Act: An Overview
Ms. Anushka Singhal and Mr. Ashmit Raj 151

13. Critical Analysis of the Last Seen Theory
Mr. Chaitanya Thakur 167

14. Juvenile Justice Care and Protection Act: Framework on Adoption in India
Ms. Raghvi Kanwal 181

15. Abortion and Natural Law
Ms. Snigdha Rohilla 196

IMPLEMENTATION OF SECTION 12(1)(C) OF THE RIGHT TO EDUCATION ACT: AN OVERVIEW

Ms. Anushka Singhal*
Mr. Ashmit Raj**

VIPS Student Law Review
August 2023, Vol. 5, Issue 1, 151-166
ISSN 2582-0311 (Print)
ISSN 2582-0303 (Online)
© Vivekananda Institute of Professional Studies
https://vslls.vips.edu/vslr/

ABSTRACT

"It is not beyond our power to create a world in which all children have access to good education" -Nelson Mandela

To strengthen the position of Education and distribute its fruits among all, the Government of India took an essential initiative by enacting the Constitution (Eighty-sixth Amendment) Act, 2002, which led to the coming of The Right to Education Act, 2009 that has played an indispensable role in getting economically weaker sections, admitted to private un-aided schools. Though, the uniform application of the Act in a vast country like India is still solicited. With the introduction of reservation for the economically weaker sections, vide the Constitution (One Hundred-third Amendment) Act, 2019, the significance of implementation of Section 12(1)(c) of the Right to Education Act has been emphasized even more. The present piece of work presents doctrinal research wherein government-authenticated data has been used to shed light on the implementation of this section. This paper takes a trajectory that begins with an assessment of: (a) the history of the Right to Education; (b) goes through the question of its constitutionality; (c) examines its implementation across India; (d) compares states in terms of their performance and; (e) conclude by findings and suggestions, if any.

Keywords: *Right to Education, Economically Weaker Sections, Fundamental rights, National Education Policy.*

* Student, BA LLB, 3rd year, Symbiosis Law School, NOIDA, India.
** Student, BA LLB, 3rd year, Symbiosis Law School, NOIDA, India.

I. INTRODUCTION

Everyone has a right to Education.[1] It is the basis for a flourishing society; thus, at least in the initial stages of life, one must be endowed with "free and compulsory education." It is essential to provide "compulsory education" to all, but before applying " compulsory education, " it is vital to understand its meaning. Among various social strata, the word "compulsory education" frequently has a variety of connotations and interpretations. The most common way mandatory Education is viewed is as a necessity for attendance or as the initial level of instruction. It is seldom understood to signify something quite similar to the right to Education. The goal of compulsory Education is to preserve children's rights to Education since, when this need is unmet due to neglect or ignorance, children lack the means to claim such rights on their own. Education that is required by law in a specific nation or State is known as compulsory Education. Regulatory provisions may include schooling up to a given standard or from a specified beginning age. The government must offer these schools, and children must attend them, according to one use of the word. Another interpretation refers to the requirements that apply to these phases from both children and the government. Due to mandatory Education, Parents "have a responsibility to send their kids to school." Failure to do so will result in state intervention. The focus turns to 'self-assertion' when compulsory schooling is seen as a matter of right. Compulsory Education was considered a right in the UNESCO Yearbook of Education (1986).[2] As a result, the right has changed from being primarily applied to the State as an active subject to the population as a passive subject, such that the term "obligatory character of education" now refers to both the State's responsibility to provide it as well as the child's obligation to receive it.

Enacted in 2009, the Right to Education Act, hereinafter RTE Act, is an essential piece of legislation that provides a framework to achieve universal Education. The Act furthers the objective of Article 21-A of the Indian Constitution. Section 12(1)(c) of the Act is an indispensable part of the Act. It further helps fulfill other provisions of the Constitution like Article 15(6), which makes the provision for 10 percent reservation of seats for economically weaker sections of the society. Section 12(1)(c) of the RTE Act makes it mandatory for private unaided schools to reserve 25 percent of seats for economically weaker sections of the society in their educational institutions". Different states are now implementing this section by adopting different procedures. Various methods are being adopted from online to offline applications to allocate seats to economically weaker sections, hereinafter EWS

1 The Universal Declaration of Human Rights, 1948, art. 26.

2 UNESCO Yearbook of Education (United Nations, 1986).

of the society. Children from economically weaker strata can quickly get admission into government schools. Still, when it comes to getting access to renowned private-unaided schools, it remains a dream for them. Thus, to provide equal opportunities to all[3] and make Education inclusive, it is essential to implement "Section 12(1)(c) of the RTE Act".

II. HISTORY

The demand to recognize the Right to Education as a fundamental right has been made since the drafting of the Constitution. During the Constituent Assembly Debates, Draft Article 36 sought to give everyone access to free and required primary Education till the age of fourteen within ten years of the Constitution's adoption. Drafters like M. Ananthasayanam Ayyangar wanted to make this "an obligation on the part of the state to provide free and compulsory education." Still, Dr. BR Ambedkar and some other drafters agreed to make this a Directive Principle of State Policy (DPSP) under Article 45. Thus, the phrase "every citizen is entitled to free and compulsory primary education" was replaced with "state shall endeavor to provide free and compulsory primary education."[4] Article 46 was also introduced, directing the State to educate people to the utmost of its financial capabilities. Following that, in 1964, the Central Advisory Board of Education stated that, while statutory requirements might be required for things like the collecting of fees, the expansion of facilities in places that are not currently covered and the use of persuasion incentives would be the most successful ways to achieve universality in Education for this age group.

Since then, the 'Right to Education' was a DPSP until the Supreme Court of India stepped ahead. In AV Chandel v. the University of Delhi[5], the Hon'ble Supreme Court of India read the 'Right to Education' in Articles 19 and 21. It said that even if we read these fundamental rights in a narrow sense, we would also find the right to Education implicit in it. The same view was taken in other judgments[6] wherein the Hon'ble Courts read this right to be implied in Articles 19, 21, 41, and 45 of the Indian Constitution. As decisions like Champakam Doarairajan[7] began to surface, it became clear that the "Right to Education" needed to be recognized as a fundamental right. The Hon'ble Court first identified the need

3 The Constitution of India, art. 14.

4 Constituent assembly debates on 23 November 1948, *available at*: https://www.constitutionofindia.net/articles/article-45-provision-for-early-childhood-care-and-education-to-children-below-the-age-of-six-years/ (last visited on May 4, 2023).

5 1998 (5) SCALE 23.

6 *Bandhua Mukti Morcha v. UOI,* (1984) 3 SCC 161, *Bapuji Education Association v. State,* AIR 1984 SC 802.

7 *State of Madras v. Champakam Dorairajan,* AIR 1951 SC 226.

to acknowledge 'RTE' as a fundamental right in the benchmark judgment of Mohini Jain v. State of Karnataka[8], better recognized by 'the capitation fees' case. What was observed in this case was affirmed in Unnikrishnan[9] , but the judges in the case, also partially dismissed Mohini Jain's claim. It stated that only children under 14 are entitled to the "right to free and compulsory education." The right to Education herein was recognized as part and parcel of Article 21, i.e., the "right to life."

After that, the right again was developed in PA Inamdar v. State of Maharashtra[10] and TMA Pai Foundation v. State of Karnataka[11]. The government of India also constituted several committees, like the Saikia Committee[12] in 1997. It was suggested that making DPSP a fundamental right and imposing a "fundamental obligation" on parents to give their kids access to educational opportunities. Soon after that, the Tapas Majoomdar Committee[13] constituted in 1999 came up with the conclusion that the 'right to primary education' must be there, but that would require an extra expenditure on the part of the government. Following the recommendations of these two committees, the "Right to Education was made a fundamental right" vide "86th constitutional amendment act, 2002 and Article 21-A was inserted in the constitution". After that, two bills named The Free and Compulsory Education for Children were introduced in 2003 and 2004. The 2005 bill, called the Right to Education bill, mentioned that according to Article 45, the State has a constitutionally assigned duty to provide free Education. Even after all such recommendations, a large population of children was out of the schools. Therefore, there was an urgent need to recognize the "Right to Education in Part III of the Constitution."[14] The National Commission to Evaluate the functioning of the Constitution even recommended in 2008 that the State should provide Education for children between the ages of 6 and 14 in accordance with their economic capabilities and degree of development and that the states must provide provisions for Education beyond the age of 14 as per Article 45. It recommended the appointment of a National Commission after every five years to assess the development made in the field of Education and inform the parliament about the same.[15] Finally, the

8 1992 SCC (3) 666.

9 *Unnikrishnan case v. State of Andhra Pradesh,* 1993 SCC (1) 645.

10 (2005) 6 SCC 537.

11 1994 SCC (2) 734.

12 Department of Education, "Report of the Committee of State Education Ministers on Implications of the Proposal to Make Elementary Education a Fundamental Right" (January,1997).

13 Government of India, Tapas Majumdar committee, (1999).

14 Ayushmann, Aishwarya and Bavirisetty, Deepthi "Right to Education : Edging Closer to Realisation or Furthering Conundrum" Vol 26 Issue 1, Art. 5 *NLSI Review* 87 (2014).

15 Ministry of Law Justice and Company Affairs, "Report of the National Commission to Review the Working of the Constitution" (March, 2002).

Right to Education Act was passed in 2009 to implement the Constitution (Eighty-Sixth) Amendment and provide "free and compulsory education" to kids up to fourteen years. The Act came into effect on April 1, 2010.[16] After the amendment, India was included in the list of 135 countries recognizing the "Right to education as a fundamental right."[17]

III. TIMELINE

1950- Insertion of Article 45 and Article 46 in the Constitution.

1968- National Policy on Education: recommended that efforts should be made to implement Article 45 effectively.

2002- The Constitution (Eighty-Sixth) Amendment Act: Insertion of Article 21-A.

2003- The Free and Compulsory Education for Children Bill.

2004- The Free and Compulsory Education for Children Bill.

2005- The Right to Education Bill.

2006- States were advised to make their own education bills on the Model Right to Education Bill.

2009- The right to Education Act passed and came into force in 2010.

India's International Commitments

"The mind once enlightened cannot again become dark"; Education is the tool that enlightens a child's mind. The importance of Education is thus well known and has been recognized by various international conventions.[18] "The right to Education is recognized as a human right in Article 26 of the 1948 Universal Declaration of Human Rights; It is said that children must be provided free and compulsory elementary Education. The aim of Education must be to increase cooperation among nations and make the world a better place to live in. Article 13 of the International Convention on Economic, Social and Cultural Rights" furthermore obligates the state parties to provide free and compulsory primary Education to all and, like the UDHR, declares 'Right to Education' as a 'human right.' "The Convention on the Rights of Child, 1989" also casts a responsibility upon the signatory

16 *Supra* note 14.

17 UNESCO, *Education for all Global Monitoring Report : Reaching the Marginalised*, 2010.

18 Dr. Sheeba Pillai, "Right to Education and International Law- Defining the Right" Vol 3.Issue 1 *GNLU Law Review* 53 (2012).

states to provide the 'Right to education' to all. Article 28 of the convention, like the two-above mentioned conventions, mandates the states "to provide free and compulsory primary education to children." Article 29 of the convention describes the kind of Education that must be provided to children. Education must lead to the overall development of children. "The World Declaration on Education for all," better known as Jometian Conference, also mentions the 'Right to education for all' in one of its ten pointers.

Further, the New Delhi Summit on Education held in 1993 pledges that no child should be deprived of Education. India has signed and ratified these conventions. To honor its commitments, the Right to Education has been declared a fundamental right, and a special statute has been enacted.

The United Nations Sustainable Development Goals provide a roadmap for establishing peace and prosperity in the future.[19] Goal 4 of the 2030 agenda obliges the states to "Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all." The Sustainable Development Goals, hereinafter SDGs, are in furtherance to the Millennium Development Goals, hereinafter MDGs of the 2015 Agenda. Goal 2 of the MDGs laid down the goal of the states to achieve universal primary Education[20] , which SDG4 has now replaced. The other 16 SDGs run in consonance with SDG4, as Education is the silver bullet for almost all our problems. To honour its commitment, India has to provide free and compulsory primary Education to its children by 2030. The Right to Education Act, particularly Section 12(1)(c) of the Act, would aid in achieving this goal. No doubt, there are government schools in the country which provide free Education to children at the primary level, but that alone would not lead to the fulfilment of India's international commitments. The number of "children in the age group of 6-14 years" is significant compared to the current government primary schools. Thus, there is a need for private schools to be engaged to ensure universal and quality Education for all. The SDGs have to be attained by 2030; thus, it is high time that Section 12(1)(c) of the RTE Act is uniformly implemented.

IV. CONSTITUTIONALITY OF SECTION 12(1)(C) OF RTE ACT

It is crucial to first talk about Article 15(5), which was added to the Constitution by the 86th Constitutional Amendment, before talking about the legitimacy of Section 12(1)(c) of the

19 United Nations, https://sdgs.un.org/goals, (last visited on 14th September 2022)

20 United Nations, https://www.who.int/news-room/fact-sheets/detail/millennium-development-goals-(mdgs), (last visited on September 09, 2022).

RTE Act. Article 15(5) states that special provisions can be made for the welfare of women and children. It became compulsory for institutions to portray affirmative action towards these two classes of society. The validity of this amendment was thus challenged in the case of Ashok Kumar Thakur v. UOI[21]. The Hon'ble Court upheld the validity of this amendment by 4:1 and said that the amendment aligned with the basic structure of the Constitution. The Right to Education Act's Section 12(1)(c) mandates that non-minority private unaided schools reserve 25% of the available places at the primary level for the socially and economically disadvantaged groups in society. "Right to Education is a fundamental right" guaranteed to us by our Constitution[22] , and the rights guaranteed to us by Part III are enforceable against the State.[23] Therefore, private unaided institutions have often questioned the applicability and constitutionality of this section. The landmark judgment that ended this debate was the Society for Private Un-aided Schools of Rajasthan v. Union of India[24], better known as the RTE case. The private un-aided schools herein submitted that Article 21-A and Article 45 of the Constitution only cast an obligation upon the State. These institutions, being 'private,' cannot be forced to provide "free and compulsory education to children between 6-14 years of age". The states have a constitutional obligation, unlike the private institutions, to fulfill on their behalf. The articles guaranteeing free and compulsory Education do not provide explicit provisions for reservations, so asking "private unaided non-minority schools to reserve seats for EWS category" is not constitutionally sustainable. Freedom of trade and profession[25] was also pleaded on the part of the educational institutions.

The State replied to the petitioner's arguments in a two-fold manner. Firstly, it responded that Article 21-A being a socio-economic right, should have prevalence over Article 19(1)(g). Secondly, they replied that Article 21-A is a stand-alone provision and cannot be subjected to Article 19(1)(g). The government tried to defend the RTE Act as a whole and Section 12(1)(c). The verdict was given by Chief Justice SH Kapadia and Justice Swatanter Kumar, with Justice Radhakrishnan penning down the dissenting opinion. According to the majority, states must provide children with free and mandatory Education. The State cannot meet this duty independently; it also needs cooperation from private institutions. The Court asserted that there was a positive obligation not only to the states but also to the other stakeholders. The majority denied applying Article 19(1)(g) and said that for the socio-economic welfare of the children, Article 21-A should be upheld. Therefore, after this

21 (2004) SCC 361.

22 The Constitution of India, art. 21-A.

23 The Constitution of India, art. 12.

24 2012 (6) SCC 1.

25 The Constitution of India, art.19(1)(g).

judgment, private un-aided have to admit economically weaker sections in 25 percent of the seats available in entry-level classes. Minority and aided educational institutions have been excluded from this mandate of admitting "25 percent of children from the economically weaker sections of the society". Minority institutions have the right to admit children under Article 30(1) of the Constitution and are thus excluded from this mandate. The RTE case was further challenged in Pramati Educational and Cultural Trust v. UOI[26]. The petitioners argued that the mandate of compulsory admission in private un-aided schools led to the violation of the basic structure as it interfered with the right of the private educational institutions to run their businesses. The validity of Article 15(5), saying that it violated Article 14, was also challenged. The Hon'ble Court, while denying the petitioners' contentions, upheld the constitutional validity of Article 21-A and Article 15(5) of the Constitution.

Analysis of the performance of the states

Passed in 2009 and enacted in 2010, RTE Act has completed almost 12 years. Since the year of its inception. The states and union territories are attempting to admit children under this statute. Section 12(1)(c) of the RTE Act has been implemented effectively by certain states, while some still struggle to use this provision to the fullest. During a question-answer session in the Rajya Sabha, a question[27] was raised on the status of implementation of Section 12(1)(c) of the RTE Act. The answer to that question has been used to compile the data on the implementation of Section 12(1)(c) of the RTE Act from 2015-2020. The data collected shows that some states, like Uttar Pradesh, Bihar, Assam, etc., are doing reasonably well admitting economically weaker sections in private-unaided schools.

In contrast, some, like Andhra Pradesh and West Bengal, have not admitted children under this provision. The Constitution (One Hundred and Third Amendment) Act of 2019 established a 10% reserve for the economically disadvantaged parts of society, making it a constitutional need to develop policies for their uplift. Upholding "Section 12(1)(c) of the RTE Act" is a step in that direction. Lakshadweep lacks private unaided schools and cannot execute Section 12(1)(c) of the RTE Act, although other states can. This lack of implementation is not encouraging. The table below gives an overview of how "Section 12(1)(c) of the RTE" Act is being applied in different states all around the country

26 (2014) 8 SCC 1.

27 Government of India, "Answer Session for Rajya Sabha Session 225" *available at* https://data.gov.in/resource/stateuts-wise-children-below-poverty-line-admittedstudying-private-schools-under-section (last visited on14 September 2022).

Implementation of Section 12(1)(c) of RTE

S.No.	States and Union Territories	2015-16	2016-17	2017-18	2020-21
1.	Andaman and Nicobar Islands	540	725	1017	No Data
2.	Andhra Pradesh	0	0	0	No Data
3.	Arunachal Pradesh	0	0	0	No Data
4.	Assam	3242	15062	20731	3006
5.	Bihar	97717	139418	167039	295807
6.	Chandigarh	2825	3487	3915	5358
7.	Chhattisgarh	128639	167044	196146	276961
8.	Dadar and Nagar Haveli				No Data
9.	Daman and Diu	0	0	0	No Data
10.	Delhi	49043	51254	25178	127220
11.	Goa	0	0	0	No Data
12.	Gujarat	41586	83734	141365	385164
13.	Haryana	0	0	0	No Data
14.	Himachal	0	0	0	No Data
15.	Jammu and Kashmir	No RTE	---------	----------	----------
16.	Jharkhand	10489	13244	10539	19137
17.	Karnataka	316115	414106	523139	475083
18.	Kerala	0	0	0	No Data
19.	Lakshadweep	No private unaided school	----------	---------	----------
20.	Madhya Pradesh	795225	851538	936255	1039259
21.	Maharashtra	104945	142112	197044	386854
22.	Meghalaya	0	0	0	No Data
23.	Mizoram	0	0	0	No Data
24.	Nagaland	0	0	0	No Data
25.	Odisha	31994	38820	44519	23599
26.	Puducherry	0	0	0	No Data
27.	Rajasthan	555966	600666	622271	776271
28.	Sikkim	0	0	0	No Data
29.	Tamil Nadu	197369	287068	346510	No Data
30.	Telangana	0	0	0	No Data
31.	Tripura	0	0	0	10
32.	Uttar Pradesh	3278	21598	46188	198072
33.	Uttarakhand	83450	95427	102736	92994
34.	West Bengal	0	0	0	No Data

Figure 1

Now let us analyze the performance of four states – Uttar Pradesh, Madhya Pradesh, Gujarat, and Andhra Pradesh in detail to understand how these states are trying to implement this section and how much more has to be done to achieve free and compulsory Education for all.

Uttar Pradesh

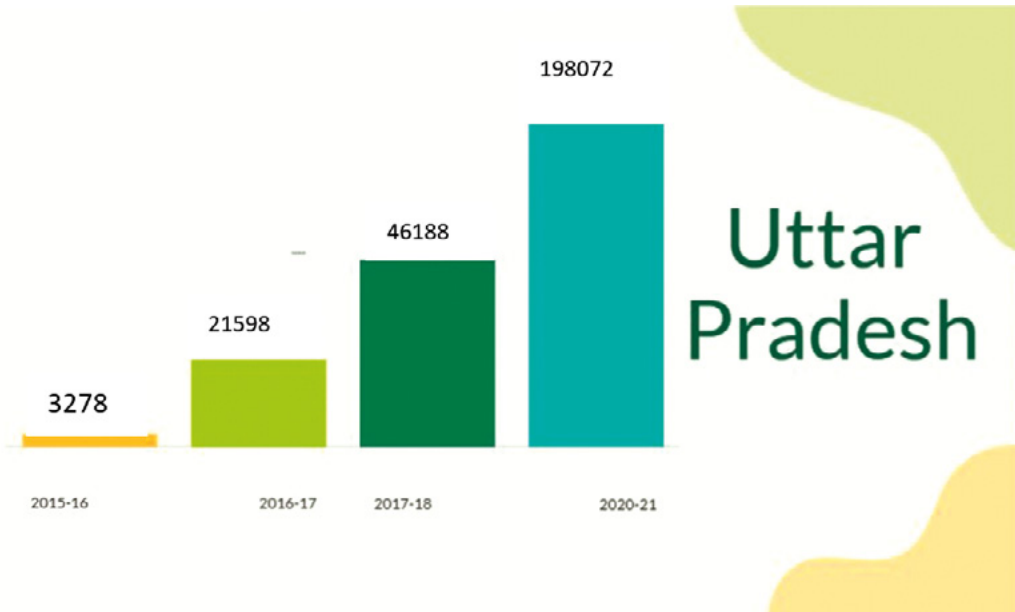


Figure 2

The State of Uttar Pradesh has admitted 198072 children in the EWS category to unaided private schools. Uttar Pradesh government has started its own RTE portal for the intake of children under Section 12(1)(c) of the RTE act. Each district's private schools are mapped to determine how many seats are available for students from economically disadvantaged sections. After completing the mapping, admissions are made through the lottery system. The applicants who want to get admission must apply through the website, and then the admissions are made according to the lottery system. The latest data shows that 124,648 seats have been allotted across the districts through the lottery system upon which the admissions will be made. In the year 2022, the applications were invited in three rounds between March 2, 2022- June 10, 2022. For each round, a cutoff date was prescribed until the Basic Education Officers of each district made the admissions. The Uttar Pradesh government accepts only online applications but has made provisions for offline applications

for those unable to access the online forms. Uttar Pradesh has even received the CSI SIG eGovernance Awards 2021 for implementing Section 12(1)(c) in the State.[28]

Madhya Pradesh



Figure 3

The State of Madhya Pradesh has also taken certain steps to "Implement Section 12(1)(c) of the RTE act". Like Uttar Pradesh, admissions herein are also made through the lottery system. The Madhya Pradesh RTE portal and the RTE Madhya Pradesh app are used to make admissions under the RTE Act in the State.[29] As per the available data, the number of private schools is 26,718 in Madhya Pradesh with 2,78,587 seats available. Till now, 2,01,304 applications have been made in 24,981 schools out of which just 17,342 have been verified. Madhya Pradesh also has a lottery system for admission. Applicants must apply through the website or the app, and then the admissions will be made through the lottery system. Several nodal officials are responsible for mapping the private unaided schools and providing a list of the institutions with seats open for the EWS category. The admission process has been made easier by providing a list of the frequently asked questions in the local language, i.e., Hindi, so that the applicants can easily apply for admission under Section 12(1)(c) of the RTE Act.

28 UP Government, *available at* http://rte25.upsdc.gov.in/UP RTE Website (last visited on July 25, 2022).
29 MP Government, *available at* https://rteportal.mp.gov.in/ (last visited on July 18, 2022).

Gujarat

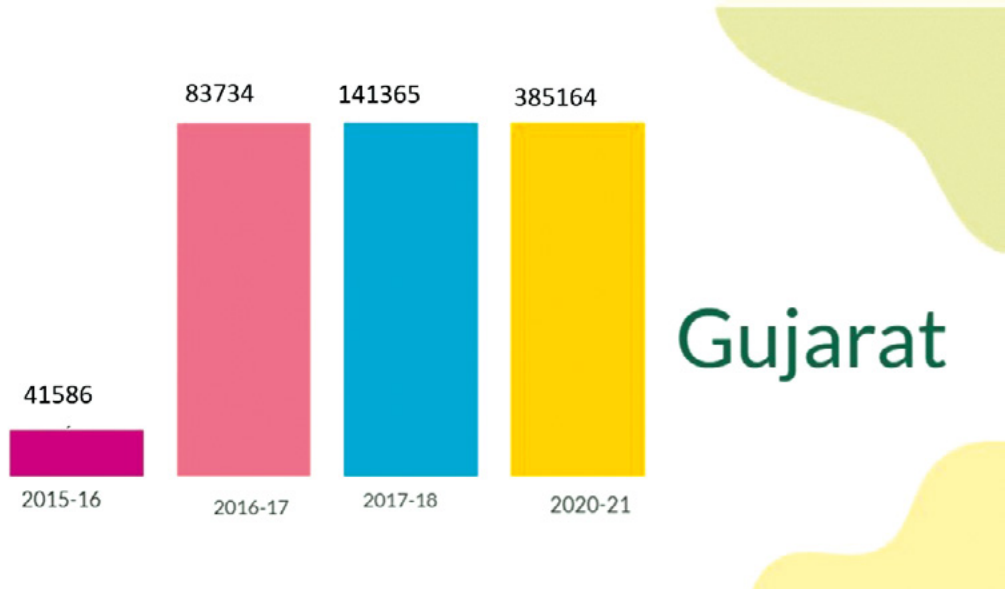


Figure 4

Gujarat is also implementing "Section 12(1)(c) of the RTE act" in a productive way. Applicants can apply through the RTE website[30] of Gujarat. They can select the preference of the schools, and they are then allotted schools through a lottery system. The applicants can refer to the FAQs given on the website and understand the whole admission process. The RTE admissions in the year 2022-23 are happening in four phases. The application process is entirely online to make it accessible and transparent. RTE help centres are also made wherein one can call and seek assistance in case of any difficulty. The schools are mapped for this session, and application forms have been closed for the academic year 2022-23.

30 Government of Gujarat, *available at* https://rte.orpgujarat.com/ (last visited on July 22, 2022).

Andhra Pradesh

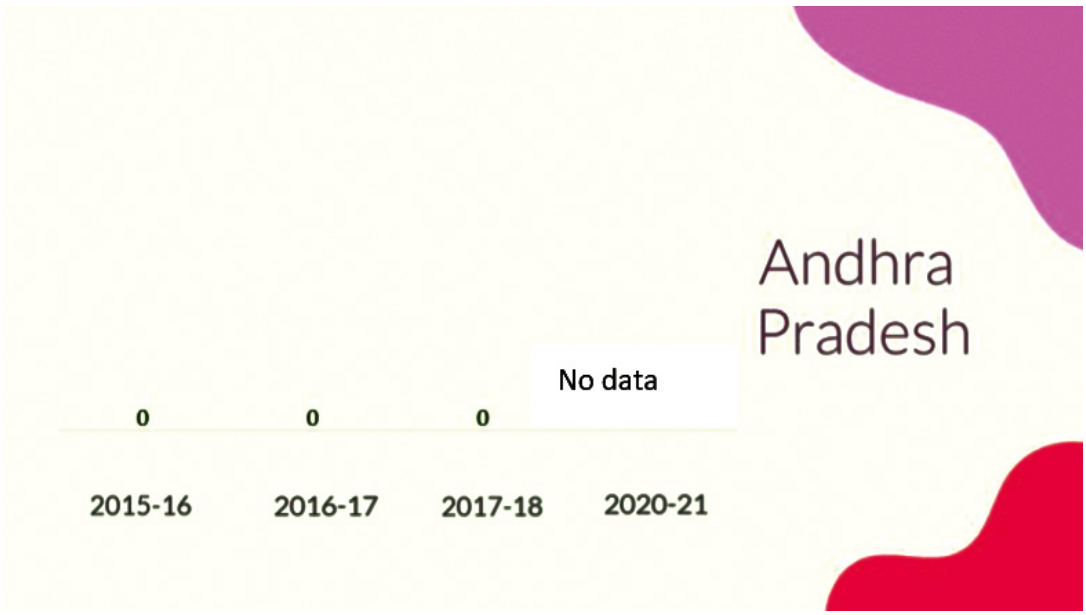


Figure 5

Andhra Pradesh is one of the states wherein Section 12(1)(c) of the RTE Act is not being implemented. The above data clearly demonstrates the same, wherein it is clearly visible that zero admissions were made between 2015-2018. In an article published in a renowned daily[31], the School Education Department of the State said it would start implementing the RTE Act from 2023 onwards. The Education Department responded to a Public Interest Litigation in the Andhra Pradesh High Court alleging the non-implementation of Section 12(1)(c). The Andhra Pradesh State Commission for the Protection of Child Rights (APSCPCR) has taken note of the issue[32] and said it would take Suo-moto actions against the private-unaided institutions that are not admitting EWS children under the 25 percent quota.

31 P. Sujatha Varma, "A.P. in list of States not implementing RTE Act" *available at:* https://www.thehindu.com/news/national/andhra-pradesh/ap-in-list-of-states-not-implementing-rte-act/article38083812.ece (last visited on January 01, 2022)

32 P. Sujatha Varma, 'Andhra Pradesh : School Education Department racing against time to implement RTE Act', *available at* :https://www.thehindu.com/news/national/andhra-pradesh/andhra-pradesh-school-education-department-racing-against-time-to-implement-rte-act/article65561243.ece , (last visited on April 25, 2023).

Findings

The states mentioned above present the bright side of the situation. The three states mentioned above are implementing the Right to Education Act well. They actively accept applications through functional websites. Economically Weaker Sections are being admitted to private un-aided schools. Schools are being mapped, and the process is going on smoothly.

On the other hand, several states still have room for progress. Certain states do not have working websites for RTE implementation; thus, there is no concrete proof of whether EWS is getting admitted under Section 12(1)(c) of the RTE act. Even a campaign known as the #HaqBantaHai campaign was started in the national capital, and a report published showed that Delhi still has a lot to do to implement Section 12(1)(c) of the RTE Act. Published in 2015, the report recommended that the implementation should be completed in three years. More than three years have passed, and much development has been made, but the uniform application is still solicited.

V. ISSUES

Improper admission procedure

The admission procedure to private unaided schools under Section 12(1)(c) of the RTE act is not uniform across the states.[33] Some states, like Madhya Pradesh, have a completely online admission procedure, while others, like Uttar Pradesh, also accept offline applications from those who cannot apply through the online portals. Admission through online mediums is indeed transparent, but one should not forget that we are talking about the admission of economically weaker sections of society who might not have access to computers and laptops. They have to go to cybercafes to fill up the admission form, which might not be feasible for them.

Lack of Awareness

Most parents are unaware of Section 12(1)(c) of the RTE Act. They are mindful that their children would get admission into government schools free of cost and be entitled to free uniforms, books, and midday meals. However, most of them are unaware that they can enroll their children in private-unaided schools.

33 Ambrish Dongre, Ankur Sarin, Shrikant Wadh, "State of Nation: RTE Section 12(1)(c)" *Centre for Policy Research, IIM, Central Square Foundation, Vidhi Centre for Legal Policy* (2015)

The approach of the government and private schools

The reluctance of private unaided institutions and the government's approach has always been a hurdle in admitting children from economically weaker sections of society. Though the Courts have ruled against private schools in many cases, they are also not actively reserving 25 percent of the seats in the EWS quota.

Violation of the Right to Information Act, 2005

Under Section 4 of the Right to Information Act, 2005, the education departments of all the states and private unaided schools have to publish the admission status under Section 12(1)(c) of the RTE on their website, notice board, etc. Most education departments and schools do not practice the same, so parents cannot get the requisite admissions information.

VI. SUGGESTIONS

Easier admission procedure

Both online, as well as offline admission applications, should be accepted. Dependency on mobile phones and the internet should be reduced, and a comprehensive offline admission procedure must start. A place should be designated where the parents or even the children's guardians can get the admission forms and submit them. The forms should be made available in the vernacular language of the region as well as in English so that the forms can be filled up quickly. The required documents should be made available in the form itself, or if the admission is taking place online, the portals should provide a detailed list of the documents required for admission.

Creating Awareness

Awareness campaigns should take place wherein parents should be informed about Section 12(1)(c) of the RTE Act. The education departments of the concerned states should conduct such awareness campaigns twice a month or even more, in which pamphlets should be distributed to create awareness. Parents should be aware of the private unaided schools in their locality where they can apply for admission. NGOs, Aganwadi workers, education officers, and municipality people should help people fill out admission forms and get their children admitted to private unaided schools.

Effective Mapping of Schools

All private unaided schools of a locality should be mapped, and comprehensive data containing their name, address, number of seats available, etc., should be made available on the State's website. No private unaided school should be left out, and at the start of each academic session, the mapping must be done so that new schools getting affiliation are not left out. Once made, the list must also be forwarded to NGOs, municipalities, Anganwadi workers, etc., so they can inform the same parents.

Establishment of Help centres

RTE-dedicated help centres can be made in each district so the Act is implemented correctly. These help centres should be essential in solving grievances and running the admission procedure. They should have a facility wherein forms can be filled online through their computers as well as they should provide physical forms to the parents intending to apply through offline mode

Progress reports

Each year a progress report should be made in each block and district to analyse whether the implementation is effectively happening. This would help the government in moulding and formulating its policy in such a manner as to match the contemporary situation.

VII. CONCLUSION

Section 12(1)(c) was enacted for fulfilling a constitutional mandate i.e., Article 21-A of the Constitution. It plays an essential role in bringing children from different social and economic backgrounds under one roof and teaches them social values like empathy and social responsibility. The lack of implementation across states needs to be addressed on a priority basis. Though both the centre and State can formulate laws on Education, it would be better if the central government frames a policy so that Section 12 (1)(c) of the RTE Act so that it can be uniformly implemented across the country. The non-uniform rules have been the biggest impediment in the implementation of this section, depriving several economically weaker children, admission in private-unaided schools. It is to be not forgotten that Sustainable Goal 4 of the United Nations i.e., quality education has to be achieved by 2030. Continuous monitoring, evaluation, and required adjustments to Section 12(1)(c) will be critical in the following years to ensure its effectiveness and impact. India can develop an inclusive educational ecosystem, empower future generations, and build a more equal and successful society by resolutely supporting this provision and working together. The suggestions incorporated in the earlier part of the paper would help solve a significant part of the issues in implementing Section 12(1)(c) of the RTE Act.