

Ten Years of RTE Act: Revisiting Achievements and Examining Gaps

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ABSTRACT As India’s landmark Right to Education (RTE) Act, 2009 completes its decadal anniversary, the country continues to grapple with the problem of poor learning outcomes in schools. This brief argues that the RTE Act must now move beyond “easy to measure” metrics and focus on the quality of learning. Moreover, since states across India have varying requirements, the law must work towards increasing the scope for decentralisation. The brief takes stock of the RTE Act’s successes, while highlighting the challenges that confront it: streamlining the 25-percent reservation system; the implementation of the no-detention policy; the unreasonably stringent input norms; and the need to include early childhood care and education within the ambit of the Act. The brief also provides recommendations—both at the systemic and policy levels—on how to address these challenges in the next iteration of the Act.

Attribution: Sanchayan Bhattacharjee, “Ten Years of RTE Act: Revisiting Achievements and Examining Gaps”, *ORF Issue Brief* No. 304, August 2019, Observer Research Foundation.

INTRODUCTION

Providing universal education has been one of the main objectives of successive Indian governments since Independence. This has resulted in various policy and financial interventions over the last several decades. According to the recent Abidjan Directives[#],

“States must respect, protect, and fulfil the right to education of everyone within their jurisdiction in accordance with the rights to equality and non-discrimination.”

Almost a decade ago, India passed the Right to Education (RTE) Act, making

The Abidjan Principles - a set of guiding principles on the human rights obligations on states to provide public education and regulate private involvement in the sector. <https://bit.ly/2ynIZr5>

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education a fundamental right, and ensuring free and compulsory schooling and education for children from the age of six to 14. The Act also mandates age-appropriate enrolment for children, infrastructure norms for schools, inclusivity, and provisions for community participation in the education process. Even in light of the Ministry of Human Resources Development's (MHRD) recently renewed focus on skilling and higher education, the RTE remains one of the most important catalysts for India to reap its much-anticipated "demographic dividend."

Since its enactment, the RTE Act has achieved success in overall enrolment rates but has faced criticism for administrative and structural lapses. Several provisions have fallen short of achieving their intended effect of significantly improving the quality of learning. While some provisions have failed due to implementation hurdles, others struggle due to a lack of coordination and the paucity of funds or delay in allocation. Moreover, the Act has since undergone certain amendments that tend to run contrary to the law's spirit.

DISCUSSION: RTE ACT'S IMPACT

1. Increase in Enrolment

The RTE Act has caused increase in enrolment in the upper primary level (Class 6-8). Nationally, between 2009 – 2016, the number of students in the upper primary level increased by 19.4 percent (See Table 1). In rural India, only 3.3 percent of children in the 6-14 years of age were out of school in 2016.¹

However, these national figures conceal massive state-wise discrepancies. For instance, in the age group of six to 10 years, the enrolment was more than 97 percent in Odisha but less than 80 percent in Andhra Pradesh.² While the states of Bihar, Uttar Pradesh and Rajasthan, for instance, have seen a steady increase in their enrolment numbers in the upper primary section, Madhya Pradesh, Assam and West Bengal saw a significant decrease in the same time period. (See Tables 2a and 2b)

Table 1: Percentage increase in enrolment in the upper primary levels

Year	No. of students enrolled in class VI-VIII (upper primary)	Year-on-year increase (in %)
2007-08	50,911,110	NA
2009-10	54,467,415	6.5
2011-12	61,955,154	12
2013-14	66,471,219	6.8
2015-16	67,593,727	1.7

Source: District Information System of Education

Table 2a: Percentage Increase in Enrolment of Students in the Upper Primary Section (2014-2016, Top Three States)

State	Percentage Increase in Enrolment
Bihar	6.5
Uttar Pradesh	1.1
Rajasthan	4.5

Source: Enrolment in Institutions and Schools (All India and State Wise), Ministry of Statistics and Programme Implementation, Government of India

Table 2b: Percentage Decrease in Enrolment of Students in the Upper Primary Section (2014-2016, Bottom Three States)

State	Percentage Decrease in Enrolment
Madhya Pradesh	2.7
Assam	5.1
West Bengal	1.5

Source: Enrolment in Institutions and Schools (All India and State Wise), Ministry of Statistics and Programme Implementation, Government of India

To be sure, the RTE Act alone did not accomplish this feat. One of the most important contributors to higher enrolment is sanitation; there is a positive correlation between access to basic sanitation facilities and higher enrolment rates. This has led to an increase in female student enrolment as well as female teacher retention. As sanitation and hygiene improved, there was a decrease in sick days, and therefore, students and teachers stayed in school. While unisex latrines may suffice for the younger children, it is important to have clean toilets exclusively for older girls for reasons of privacy and safety. Female teachers are also more likely to be present in schools with clean toilets.³ In this regard, government programmes such as

“Clean India: Clean Schools” that focus on adequate water, sanitation facilities and the overall hygiene of a school have contributed to better implementation of the RTE.

2. Improved Infrastructure Norms

Qualitative norms specified under Section 19 of the RTE Act include a teacher–student ratio of 1:30, ramps for students with disabilities, office space for the principal, provision of drinking water, and availability of a playground. According to the District Information System of Education, only 13 percent of all schools in India have achieved full compliance with these RTE norms. The reasons include not only inept management

and lack of funds but also the failure to make the best use of available infrastructure. For instance, consider the inability of schools to incorporate a playground in their premises, especially in congested urban pockets. A possible solution is to use the municipal corporation ground as a collective, instead of ruling such a school out on grounds of non-compliance.

There are many schools in the country that do not meet the RTE norms but remain the only option for schooling for students in the vicinity. Thus, non-compliance must be dealt with on a case-by-case basis. It is counterproductive to shut down an educational institution that fails to meet the infrastructure norms without evaluating the reasons and the quality of education being provided to the students. In evaluating the performance of schools, the RTE Act must focus less on “input” factors and more on the “output,” i.e. the learning outcomes of students.

While all states are responsible for enforcing the Act, their capabilities to do so vary significantly. Therefore, it is difficult to set a national deadline for compliance, and states must be allowed to set their own timelines. The Centre must allocate budgets and incentivise adherence in accordance with these timelines.

3. The 25-percent Quota

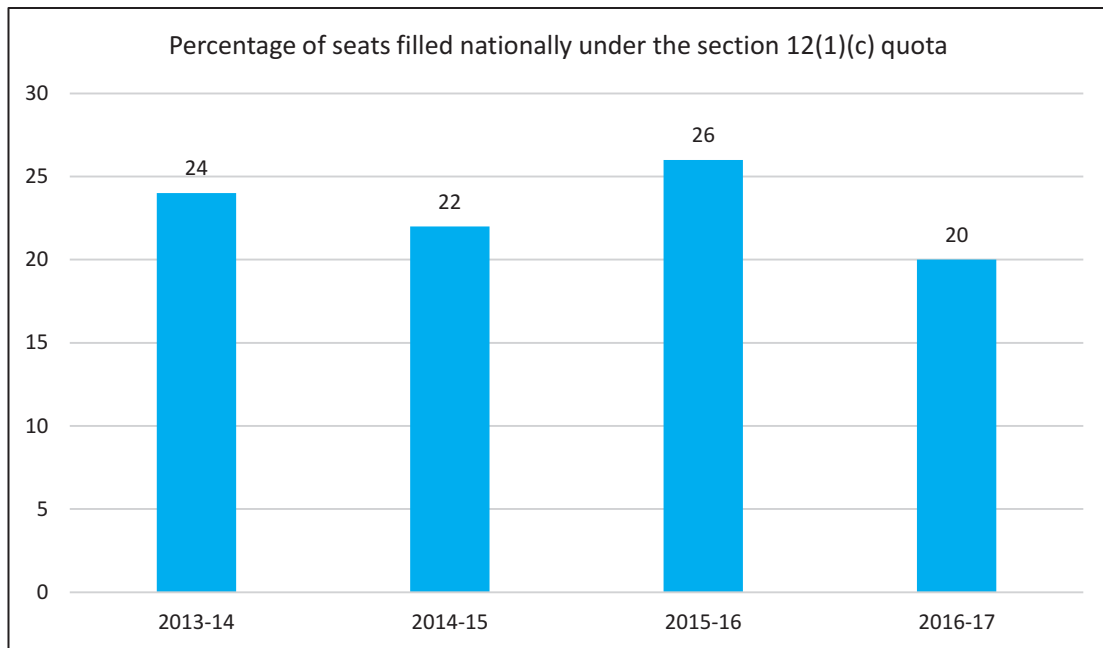
One of the most far-reaching and inclusive aspects of the RTE Act is its objective to ensure equal opportunity for basic education for all children, irrespective of their socioeconomic status. While previous attempts towards this

goal were driven by policy-level decisions, the RTE Act has facilitated the creation of a legislative ecosystem that makes ‘education for all’ a fundamental right, and a legal and constitutional obligation.

Under Section 12(1)(c) of the RTE Act,⁴ all schools—private, aided, unaided or special-category—must reserve at least 25 percent of their seats at the entry level (class one) for students from economically weaker sections (EWS) and disadvantaged groups (DG). In 2018–19, more than 3.3 million students secured admission under this provision.⁵ States are allowed to frame their own rules with regards to the eligibility and income levels for the EWS and DG, further classification of the 25-percent reservation, level of entry, and the kind of documents required for admission. The essence of this provision goes beyond the ideal of ‘education for all’. It strives for social integration: its constitutional mandate is to bring children “from different backgrounds to share interests and knowledge on a common platform.”⁶

The resultant cost incurred by the schools is to be reimbursed by the central government. This reimbursement, according to the Act, will be equal to either the per-child expenditure borne by the state government or the fees charged by the private schools, whichever is lower.

In 2016-17, this provision resulted in the creation of more than 2.1 million seats for children from the EWS and DG.⁷ However, due to implementation hurdles including financial allocations as well as varied state contexts, the fill rate of these seats has hovered only between 20-26 percent since 2013 (See Table 3).

Table 3: Percentage of seats filled nationally under section 12(1)(c)

Source: *The Bright Spots: Status of Social inclusion through RTE Section 12(1)(c) 2018, Indus Action*

As with enrolment numbers, there are massive state-wise variations when it comes to filling up these EWS and DG seats. For instance, in 2013-14, Madhya Pradesh had a fill rate of 88.2 percent and Rajasthan's stood at 69.3 percent. The performance of these two states was in stark contrast to that of Uttar Pradesh, for example, which had a fill rate of 3.62 percent, and Andhra Pradesh with 0.21 percent.⁸ These variations occur across parameters, highlighting the need for state-specific budgetary and policy interventions.

Since India does not have a common schooling system, even without execution hurdles, the 25-percent quota system is susceptible to inequalities at different levels. Some of the criticisms levelled against this provision include discriminatory behaviour towards parents, difficulties experienced by students to blend in with a different socio-cultural environment, reliance on the private sector to provide quality education. In

addition to social inclusion issues, there are other obstacles to the full implementation of the RTE law's quota provision.

Implementation Hurdles

To implement the 25-percent provision, schools must release the number of seats available under the quota and publicise it through different avenues. Parents can then identify a nearby school and fill in the application for admission. (In some states, the admission process is online.) In the event of the number of applications exceeding the number of seats, the school conducts multiple rounds of lotteries to assign seats, until all the seats are filled.

Unfortunately, this process is fraught with problems at every stage. For one, most states have been unable to operationalise a mechanism wherein the local authority must maintain a record of all children from birth to 14 years of age within their jurisdiction. Such a

mechanism is imperative, since children from the EWS or DG are often first-generation learners and need to be sought out for admissions. Moreover, families from the EWS and/or DG often find it cumbersome to fill out forms. For example, in Gujarat, nearly 33 percent of the applications were found to be either incomplete or inaccurate.⁹ Help desks set up by state governments have been either inadequate in number or concentrated only in certain areas. In some cases, parents have alleged that they have been asked to pay for the application form or help desk service—which is in direct violation of the RTE Act.¹⁰

Another recurring problem is the delay in the admission process. Unless all students in the first round get admission, it is not possible to begin round two and the process gets delayed further. Often, the number of students in the final admissions is significantly smaller than those participating in the lottery. In 2018, more than 44,000 students in Indore in the state of Madhya Pradesh were not granted admission in time. Such delays, even if rectified in a few months, can severely impact the academic progress of a student.¹¹

Calculation of Per-Child Cost

While the provision is applicable across India (except in Jammu and Kashmir, and Lakshadweep), as of January 2019, only 15 states and Union Territories have notified a ‘per-child cost’ to the central government, a mandatory requirement to claim reimbursements.¹² Even in these states, the methodology to determine this amount has come under scrutiny. For example, the state of Maharashtra’s ‘RTE Rules’ state that the

amount spent by the government (state, central or any other authority with government affiliations) on elementary education must be divided by the total number of children enrolled in such schools (unaided private schools excluded) to arrive at the per-child expenditure.¹³ This is the government’s expenditure formula. Other states, too, have similar provisions with minor variations. For instance, Tamil Nadu has an additional provision of using the fee fixed by the “Regulation of Collection of Fee Committee” as the per-child cost, if it is lower than the amount based on the expenditure formula.¹⁴

However, even if this formula were to be accepted as ideal, the per-student costs given by different states do not add up. A study calculated the per-child expenditure in Uttar Pradesh (UP) in 2018–19 using the government expenditure methodology and found the amount to be INR 3,064 per month. This figure was vastly different from the INR 450 declared by the UP government as the per-child cost for reimbursement. Moreover, the governments of UP, Himachal Pradesh and Bihar have not revised the per-student cost since 2014–15,¹⁵ raising doubts on the accuracy of the costs presented, especially upon factoring in the increasing teacher salaries and the decline in enrolment of students in government schools.

Issues within the annual budget and expenditure plan have further resulted in several schools not receiving reimbursements for years.¹⁶ A number of private schools across states also burden EWS students with additional costs such as transport and exam fees.¹⁷ Due to a lack of clarity regarding grievance redressal mechanisms (which

function at the district level through courts and regulatory authorities), parents are pressured into paying substantial amounts to schools. Often, EWS families find such expenses unaffordable. This has led to a decline in the number of unaided private schools participating in the 25-percent reservation endeavour, from 49 percent to 46 percent between 2013 and 2017, despite an increase in the number of private schools in the same period.¹⁸

As the first cohort of EWS students complete class eight this year, there is no clarity about who pays for students from class nine onwards, since the 25-percent quota ceases to be mandatory after 14 years of age.¹⁹ There is thus a real risk of creating a pool of 15-year-old students rendered ineligible to attend any school and falling out of the education system completely. The RTE Act must find a way to address these issues. Technology should be utilised for the mapping of schools at the district and state levels, to create a state- or district-wise database of schools for the seat allotment as well as for monitoring purposes.

4. No Detention ≠ No Assessment

A January 2019 amendment to the RTE Act modified the erstwhile policy of “not detaining” students from classes one to eight that intended to prevent them from having to bear the social stigma of failing.²⁰ Students in classes five and eight must now appear for regular annual examinations. In case of failure, a student must be provided additional training and a re-examination is conducted within two months. If the student fails for a second time, they can be detained. This amendment came after several states argued that children

cannot be assessed adequately without exams, and learning levels were frequently found to be wanting after class eight.²¹

Only six states in India were against the amendment, viz. Andhra Pradesh, Karnataka, Kerala, Goa, Maharashtra and Telangana. These states have significantly higher learning outcomes amongst students as compared to the national average,²² because of their relatively successful implementation of the Continuous Comprehensive Evaluation (CCE) mandated in the RTE Act. Nationally, only 58.46 percent of secondary schools have implemented the CCE.²³ Therefore, in the last decade, both exams and assessment were eliminated, which is contrary to the intentions of the RTE Act. The CCE is a pedagogical tool to ensure learning, with measurable outcomes. It entails a year-long evaluation of students on various parameters without the burden of exams. However, since current education administrations across states are structured to ensure schooling and not learning, most states—with the teachers’ cadre accustomed to certain methods—found it difficult to make the transition to the CCE form of assessment. This is a direct result of the lack of adequate orientation and teacher training. However, the blame was assigned to the no-detention policy, and consequently it was toned down to its current form. Going forward, the RTE must codify certain norms for assessment. These must be overarching in nature, and its specific design and implementation procedures must be decentralised as much as possible.

Due to various economic and social conditions, India’s primary section students are not always admitted to an age-appropriate class. Often, children follow a non-linear path

of schooling, at least in their initial years, which adversely affects learning outcomes. The Act must ensure that assessments are based on learning outcomes, instead of age or completion of syllabus. It is acceptable to have students in lower classes relative to their age, as long as their learning levels are commensurate to that class. The RTE Act must guard against the stigma of failing children, while also ensuring their learning at appropriate levels and effective measuring of the same.

RECOMMENDATIONS FOR THE WAY FORWARD

1. While enrolment rates have increased, keeping students in school for the requisite number of hours each academic year remains a challenge. There is no national database to track student attendance, as enrolment figures are mostly calculated based on names on the register, which is often an unreliable source. The focus of the RTE Act must therefore shift from enrolment to attendance. This has a direct bearing on the retention rate of students. The Unified District Information System for Education (U-DISE) data suggest that government-managed schools have poor retention rates compared to other managements.
2. Parents are the most important cog in the RTE wheel. They must be made aware of processes and provided with assistance for activities such as online filling of forms and lodging complaints. School Management Committees (SMCs), which the RTE mandates for every school, must be empowered to be the nodal monitoring agency in this regard. The Delhi government has taken a number of initiatives to this end, including the creation of a fund to empower the SMCs.²⁴ Issues such as late/no applications for reimbursements or non-payment of dues are bureaucratic hurdles that must be removed. It is impossible for funds to percolate in a timely manner from the central government to different schools via the state government, considering the sheer magnitude of coordination and logistics involved. Thus, decentralisation, combined with the digitisation of processes to eliminate delay and pilferage, is the only operationally viable option for the disbursement of funds.

Table 4: Retention Rates in Schools

YEAR	All Management		Government Management	
	Primary	Upper Primary	Primary	Upper Primary
2015–16	84.21	70.70	77.59	52.00
2014–15	83.74	67.38	73.75	48.46

Note: This table does not contain data from Chandigarh, Daman & Diu, Delhi, Kerala, Puducherry and Tamil Nadu.

Source: Unified District Information System for Education

3. The methodology and frequency of per-child cost calculation must be revisited. Considering the socioeconomic diversity of India as well as the different types of school management, it is impossible for all states to agree on the same amount. Designing normative frameworks to arrive at realistic costs is a more suitable option in this regard.²⁵ The methodology followed must be in the public domain and updated annually, without fail.
4. If public funding and private provisions have created more hurdles than successes over the past decade, their viability must be reassessed. There is a case to be made for private schools shouldering the responsibility of providing free education in areas where there are no government schools in proximity. However, declining enrolments in government schools against increasing enrolment in private institutions points to a larger malaise, i.e. the deterioration of the quality of education in government schools. India's public education system has been in the doldrums for many years now. While their private counterparts have not fared much better, the eroding faith in public schools is a matter of concern. The quota systems in private schools cannot be a panacea for the ills that plague India's education system.

CONCLUSION


The draft National Education Policy of India recommends the inclusion of Early Childhood Care and Education (ECCE) within the ambit of the RTE Act.²⁶ India has more than 164.47 million children aged six or below,²⁷ the age

bracket within which scientists say neurological advancement is relatively faster.²⁸ This is a compelling argument to increase the ambit of the RTE Act to include ECCE. The RTE cannot continue to ignore the latter's foundational tenets and the cascading effect it has on students' lives.

India's flagship Integrated Child Development Services Programme (ICDS), which includes ECCE as a component, currently falls under the jurisdiction of the Ministry of Women and Child Development. Since all RTE-related matters are handled by the MHRD, implementing the Act for children ages zero to six requires consistent inter-ministry coordination. Considering India's bureaucratic web, such coordination at the ground level can be fraught with complications.

Extensive consultations must be conducted at every level to devise a pathway that ensures an optimal level of preparedness before the child enters the formal schooling system. Under current circumstances, it is neither fiscally nor operationally prudent to include ECCE within the RTE. Similar to the 'no-detention' policy, it is a principally sound idea but needs careful deliberation before codification.

It took India 62 years after Independence to guarantee school education as a fundamental right for its young children. The RTE Act must now focus on improving the quality of education. It must also be ensured that any further amendments to the Act are well thought out to avoid complexities in implementation. Most of the challenges facing the Act can be overcome by its next decadal anniversary. Its current lacunae notwithstanding, the RTE Act remains one of

the most important reforms in India's school education, and its future may yet determine how India overcomes its most fundamental problems of poverty and exclusion. 

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ENDNOTES

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