



## Right to Education: Need for Review

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### Abstract

The Right of Children to Free and Compulsory Education Act (RTE Act), 2009, marked a landmark moment in India's legal and social policy landscape by operationalizing Article 21A of the Indian Constitution. More than a decade and a half since its enactment, the policy has achieved remarkable milestones in near-universal enrollment, infrastructural expansion, and gender parity at the primary level. However, a critical divergence persists between schooling access and actual learning outcomes.

This research paper critically evaluates the RTE Act, identifying structural bottlenecks, including:

The restrictive 6–14 age bracket

Implementation failures in the 25% private-school reservation quota under Section 12(1)(c)

The unintended consequences of the "No Detention Policy"

Severe deficits in foundational literacy and numeracy (FLN)

Chronic underfunding relative to GDP

Through a comparative analysis with international rights-based educational models and an assessment of its alignment with the National Education Policy (NEP) 2020, this paper argues for an immediate legislative and institutional review of the RTE framework. We propose dynamic legal amendments to extend coverage to early childhood and secondary levels, transition metrics from input-driven mandates to outcome-oriented accountability, and reform teacher training mechanisms to fulfill the vision of equitable, quality education.

**Keywords:** Right to Education Act, Article 21A, NEP 2020, Foundational Literacy and Numeracy, Section 12(1)(c), Educational Equity, Learning Crisis

### 1. Introduction

Education serves as the primary engine for social mobility, economic productivity, and democratic citizenship. In India, the transformation of education from a non-justiciable Directive Principle of State Policy (Article 45) into an enforceable Fundamental Right under Article 21A via the 86th Constitutional Amendment Act (2002) represented a historic paradigm shift. The subsequent passage of the Right of Children to Free and Compulsory Education (RTE) Act in 2009 provided the legislative mechanism to guarantee free and compulsory elementary education (Grades I to VIII) to every child aged 6 to 14.

#### 1.1 Constitutional & Legislative Evolution

[Article 45: DPSP] ---> [86th Amendment (2002)] ---> [RTE Act (2009)]

(Non-justiciable) (Article 21A: Enforceable) (Statutory Framework)

In its initial decade, the RTE Act generated undeniable

structural achievements. Public and private infrastructure expanded rapidly, school building standards improved, separate toilets for girls were constructed in record numbers, and national net enrollment ratios in primary education crossed 98%.

Despite these quantitative gains, the Indian educational ecosystem faces a severe "learning crisis." National sample-based assessments and longitudinal citizen-led reports consistently highlight that children are completing elementary schooling without acquiring basic reading, writing, or foundational arithmetic skills. Furthermore, systemic challenges such as administrative delays in private-school fee reimbursements, poor socio-economic integration under Section 12(1)(c), and rigid input-focused regulations have hobbled the law's full potential.

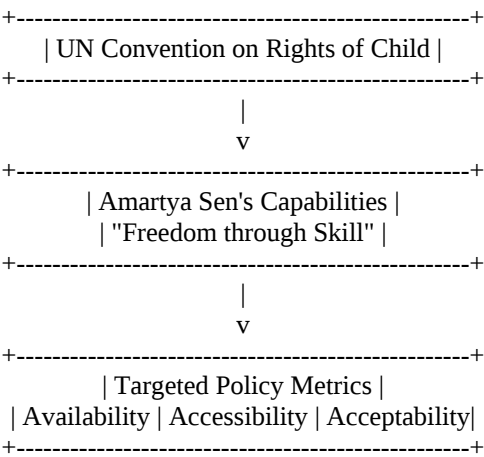
As India navigates the implementation of the National Education Policy (NEP) 2020, which emphasizes early childhood care, flexible learning, and secondary education retention, the legacy RTE legal framework requires a

thorough review. This paper systematically reviews the statutory provisions of the RTE Act, evaluates its empirical outcomes, pinpoints systemic structural flaws, and presents actionable legal and policy recommendations for reform.

2. Theoretical Framework & Literature Review  
2.1 The Rights-Based Paradigm in Education

The rights-based approach to education, codified internationally in Article 26 of the Universal Declaration of Human Rights (1948) and Articles 28 and 29 of the UN Convention on the Rights of the Child (1989), posits that basic education is not merely a public service or a developmental goal, but an inalienable entitlement. Amartya Sen's \*Capabilities Approach\* further frames education as a "fundamental freedom" that expands an individual's capability to lead a valued life, acting as an enabling right necessary for exercising civil, political, and economic rights.

RIGHTS-BASED EDUCATION PARADIGM



2.2 Legislative and Judicial Evolution in India

The legal trajectory of educational rights in India was significantly shaped by landmark judicial intervention:

LEGAL TIMELINE

- 1992: Mohini Jain v. State of Karnataka  
Supreme Court rules education is integral to the "Right to Life" (Article 21).
- 1993: Unni Krishnan v. State of Andhra Pradesh  
Right to education limited to children up to 14 years of age.
- 2002: 86th Constitutional Amendment  
Article 21A inserted into the Constitution of India.
- 2009: Passage of the RTE Act  
Operational statutory framework enacted.
- 2012: Society for Unaided Private Schools of Rajasthan v. Union of India  
Supreme Court upholds the constitutional validity of Section 12(1)(c).

2.3 Synthesis of Empirical Literature

Recent research evaluates the shift from infrastructure expansion to quality outcomes:  
Ramchand et al. (2023) [5]: Demonstrates that while post-1990s reforms successfully expanded access to marginalized groups, the system struggled to retain these students past the primary level due to diluted teacher professional standards

and inadequate support structures. Dowd (2026) [11]: Highlights that approximately 70% of children in low- and middle-income countries experience "learning poverty" by age 10. Applying one-size-fits-all institutional mandates without adaptive instruction (e.g., Teaching at the Right Level) fails to serve diverse classroom competencies. Krishnan & Ramkumar (2026) [12]: Emphasizes that education contributes to national growth only when schooling converts into actual skills, warning against confusing input compliance with quality output. Sole (2026) [18]: Argues that while the RTE Act guaranteed rights for ages 6–14, it created critical structural blind spots by excluding early childhood care (ages 3–6) and secondary education (ages 14–18), areas now targeted for integration under NEP 2020.

3. Statutory Provisions vs. Ground Realities: Key Areas of Concern:

A comparison of the legal requirements of the RTE Act 2009 with their real-world implementation reveals substantial execution gaps:

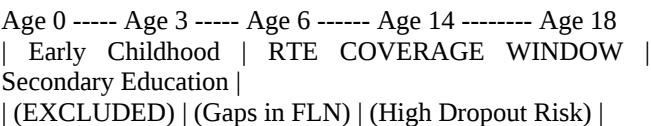
- Statutory Mandate (RTE Act, 2009) | Intended Policy Goal | Operational Reality & Empirical Gaps |
- Section 3: Free & Compulsory Education (Ages 6–14) | Universal elementary school enrollment and retention. | High initial primary enrollment (>98%), but high dropout rates persist at the transition to secondary levels (Grades IX–X). |
- Section 12(1)(c): 25% Private School Reservation for Disadvantaged Groups | Socio-economic integration in private non-minority schools. | Hindered by delayed government fee reimbursements, bureaucratic hurdles in income verification, and socio-cultural alienation of students. |
- Section 16: No Detention Policy (NDP) (Amended 2019) | Prevent dropouts caused by early academic failure and stigma. | Led to automatic promotion without skill acquisition, masking severe learning deficits until high-stakes Grade IX exams. |
- Section 24 & Schedule: Pupil-Teacher Ratio (PTR) & Norms | Maintain a 30:1 PTR and standardized physical infrastructure. | Aggregate state PTRs often meet targets, but severe regional distributions leave rural and remote schools understaffed with multi-grade teaching demands. |
- Section 29: Continuous and Comprehensive Evaluation (CCE) | Holistic, stress-free continuous assessment replacing exams. | Misunderstood by educators as "no evaluation," resulting in minimal diagnostic tracking and inadequate remediation. |

4. Critical Bottlenecks and Structural Deficits

4.1 The Age Restriction Dilemma (6–14 Years)

The strict legal bounding of Article 21A to ages 6–14 creates an artificial administrative boundary that disconnects basic education from vital surrounding developmental stages:

THE AGE DISCONNECT IN THE RTE ACT



- 1. Early Childhood Care & Education (ECCE, Ages 3–6):** Cognitive science shows that over 85% of brain development occurs before age six. Excluding the early childhood window from statutory protection leaves many marginalized children without foundational cognitive and linguistic preparation before entering Grade I.
- 2. Secondary Education (Ages 14–18):** Terminating statutory entitlement at age 14 creates a drop-off point at Grade VIII. Adolescents-particularly girls facing domestic labor pressures and boys entering informal labor-regularly drop out due to fee barriers and limited secondary school access.

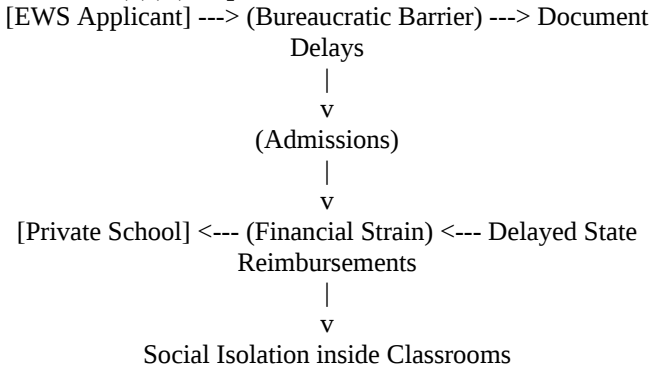
#### 4.2 The Quality vs. Quantity Paradox: FLN Deficits

The primary operational flaw of the RTE Act has been its heavy focus on physical inputs (classroom dimensions, boundaries, play material) over actual learning outcomes. The Quality Deficit: Nationally representative assessment data over the past decade reveals that nearly half of Grade V children in rural public schools cannot comfortably read a Grade II level text or perform basic subtraction. The focus on physical compliance created an environment where schools satisfied statutory mandates without meeting foundational learning benchmarks.

#### 4.3 Section 12(1)(c) Implementation Failure

Section 12(1)(c) was designed as a bold socio-economic integration initiative, mandating private non-aided schools to reserve at least 25% of entry-level seats for children from Economically Weaker Sections (EWS) and Disadvantaged Groups (DG). In practice, it faces structural friction: Reimbursement Bottlenecks: State governments frequently delay per-child cost reimbursements to private management, straining institutional finances. Elite Exclusion Mechanisms: Bureaucratic documentation demands (caste certificates, income affidavits, residential proof) systematically exclude the most vulnerable urban migrants and informal laborers. Social Integration Challenges: EWS/DG students often experience isolation, linguistic barriers, and discriminatory practices inside private school environments lacking targeted socio-emotional support mechanisms.

#### Section 12(1)(C) Implementation Bottlenecks



#### 4.4 The Financing Deficit

The Kothari Commission (1966) famously recommended allocating \*6% of GDP\* to public education-a target reaffirmed by every National Policy on Education since.

However, public expenditure on education in India hovers around 4% of GDP (Kumar, 2026)<sup>[3]</sup>.

#### PUBLIC EDUCATION EXPENDITURE (% GDP)

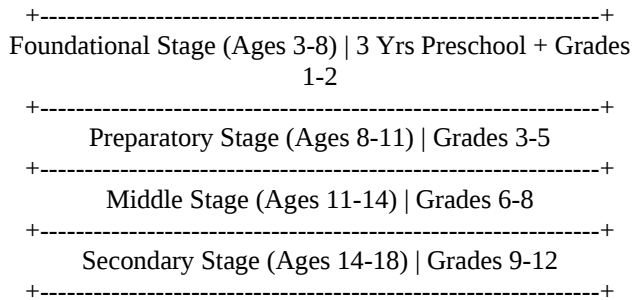
Target (Kothari Commission / NEP): [6.0%] =====  
Actual Expenditure (Current): [4.0%] =====

Underfunding manifests in persistent gaps: unfilled teacher vacancies, under-resourced learning facilities, delayed textbook distributions, and poorly funded teacher education institutes.

#### 5. Strategic Realignment: Harmonizing RTE Act with NEP 2020

The introduction of the National Education Policy (NEP) 2020 necessitates an updated legal framework. NEP 2020 replaces the traditional 10+2 structure with a holistic 5+3+3+4 pedagogical framework:

#### NEP 2020 PEDAGOGICAL RESTRUCTURING



#### 5.1 Strategic Alignment Imperatives

- 1. Legal Extension of Scope:** The statutory boundaries of the RTE Act must expand from the current 6–14 age mandate to encompass ages 3–18, aligning the law with the full 5+3+3+4 continuum.
- 2. Focus on Foundational Literacy and Numeracy (FLN):** The statutory mandate must codify FLN as an explicit, measurable right, supporting national initiatives like the NIPUN Bharat Mission.
- 3. Mother Tongue & Multilingual Pedagogy:** NEP 2020 advocates teaching in the mother tongue/regional language until at least Grade 5 (Sole, 2026; Ottapalackal, 2020)<sup>[8, 4]</sup>. Aligning the RTE Act with these guidelines can enhance comprehension while ensuring access to English language resources to avoid creating socio-economic divides.

#### 6. Recommendations & Policy Roadmap

To resolve the tension between structural inputs and educational quality, the following legal and administrative interventions are recommended:

- 1. Legislative Amendment to Amend Scope:** Amend Article 21A and Section 3 of the RTE Act to extend statutory coverage to include children aged 3 to 18 years. Integrate Anganwadis into primary school administrative structures to form a cohesive Foundational Stage (Ages 3–8).
- 2. Statutory Shift from Inputs to Learning Outcomes:** Amend Section 29 of the RTE Act to mandate regular,

non-punitive diagnostic evaluations at Grades III, V, and VIII.

Shift statutory evaluation from continuous administrative checks to student-centric, adaptive models like Teaching at the Right Level (TaRL).

3. **Reform of Section 12(1)(c) Mechanisms:** Create a direct, automated direct-benefit-transfer (DBT) portal to streamline state fee reimbursements directly to participating institutions.

Establish socio-emotional counseling programs within private schools to assist in the holistic integration of EWS/DG students.

4. **Enhancing Teacher Professionalization and Management:** Require strict adherence to Teacher Eligibility Tests (TET) for all institutional hires, phasing out temporary or ad-hoc appointments (Ramchand et al., 2023)<sup>[5]</sup>.

Reduce administrative load on teachers by restricting non-educational duties strictly to constitutional mandates (e.g., census, elections, disaster relief).

5. **Fiscal Mandate and Allocation:** Establish a statutory commitment to gradually increase state and central public budget spending on education to 6% of GDP (Kumar, 2026)<sup>[3]</sup>.

Direct targeted infrastructure grants toward rural and underserved regions to correct regional pupil-teacher ratio imbalances.

## 7. Conclusion

The Right to Education Act 2009 successfully transformed primary education in India from a policy ambition into an enforceable right, securing near-universal access and improved physical infrastructure. However, an input-heavy approach without sufficient emphasis on learning outcomes has led to a persistent quality crisis.

Addressing these issues requires a comprehensive legislative and institutional review. By extending statutory protections to ages 3–18, shifting statutory metrics from physical inputs to verified learning outcomes, ensuring adequate fiscal support, and aligning the legal architecture with NEP 2020, India can evolve its educational rights framework. Transitioning from universal schooling to universal learning is essential to fulfilling the constitutional promise of Article 21A and ensuring equitable, quality education for every child.

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