

The Fundamental Human Right to Education and its Implementation in the State of Sikkim

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Abstract- The fundamental right to education enshrined in Article 21A of the Constitution of India guarantees free and compulsory education for all children upto a certain age.² Sikkim being India's first state to notify Right to Education (RTE) Rules is one of the leaders in practical implementation of the mandate of free and compulsory education. It has prioritized access, inclusivity and equity in educational policies and the implementation strategies include early legislative compliance, tailored interventions for tribal and marginalized children and infrastructure development. While challenges persist, Sikkim's proactive approach is an example of effective realization of this constitutional mandate.

Keywords- Right to Education, RTE, Sikkim INSPIRES, Mid-day meal, Jodogyan, Jollyphonics, Beti Bachao, Beti Padhao

I. INTRODUCTION

“Sa vidya ya vimuktaye” or "That is education which leads to liberation" is an old Sanskrit maxim which speaks of the liberation from ignorance and superstitions which paralyses effort, liberation from prejudices which blind the vision of the truth. Education is enlightenment. It is the one that lends dignity to a man. Today, education is perhaps the most important function of State and Local Governments. Education is the foundation of good citizenship. It is said that in the Twenty First Century, 'a nation's ability to convert knowledge into wealth and social good through the process of innovation is going to determine its future,' accordingly twenty first century is termed as century of knowledge. The quality of education of the child will determine the quality of life in nation. Both at national and international levels efforts are being

made to educate more and more people as education contributes in the development of the society which is consistent with the dignity of the human being.

The Right to Education is a guaranteed fundamental human right under article 26 of the Universal Declaration of Human Rights, 1948 which speaks of the free and compulsory elementary education and equitable access to higher education.³ The same guarantee has also been contained in binding international treaties like the International Covenant Economic, Social and Cultural Rights 1966 (ICESCR) and the Convention of Rights of the Child (CRC). This important right also forms part of the UNESCO convention against Discrimination in Education (1960) and also the Sustainable Goal 4 (SDG4) which aims inclusive and equitable quality education for all.

The Constitution of India when adopted did not contain any express provision guaranteeing the right to education. However, the Constitution indirectly recognized the importance of education in the Directive Policy of State Policy in Part IV of the Constitution. Thus Art.45 provided that 'the state shall endeavour to provide, with in a period of ten years from the commencement of Constitution, for free and compulsory education for all children until they complete the age of fourteen years.⁴ Art.46 imposes an obligation to promote with special care the educational interest of the weaker sections including SCs and STs.⁵ Similarly, Art.41 states that, the state shall make effective provision for securing the right to education, with in its economic capacity and development. Even though the Constitution imposed an obligation on the state to ensure free and

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² Article 21 A (provides for free and compulsory education to children from 6-14 years).

³ Article 26, UDHR

⁴ Article 45 of the Constitution of India

⁵ Article 46 of the Constitution of India

compulsory education to its citizens, the state owing to its financial capacity, was not in a position to discharge its constitutional obligation. Therefore, during the first decade of our independence education remained an activity which was charitable in nature. But after nearly 5 decades, now right to education has been not only recognised by judicial pronouncements but also expressly by the Constitution itself.

Though the judiciary in a number of cases held that the Directives were subordinate to the Fundamental Rights, on various occasions attempts were made to achieve the ideals mentioned Directive Principles. It did not take much time for the dynamic judiciary to realize and come to the conclusion that there should not be any conflicts between two sets of provisions of the Constitution which have a common origin and a common objective. There is nothing that would nullify either of them. Thus, the doctrine of harmonious construction was born, arising out of the canon of interpretation that parts of the same instrument must be read together in order to reconcile them with one another. Applying this doctrine, the Supreme Court came to adopt the view that in determining the ambit the ambit of Fundamental Rights themselves, the court might look at relevant Directive Principles.

The development of Right to Education as a fundamental right in India is a story of gradual development of the concept of life under Article 21 and its harmonious construction between Article 45 of the Indian Constitution. Article 21 says, 'no person shall be deprived of his life and personal liberty except according to the procedure established by law.'⁶

Initially the Fundamental Right to Education was architected by the dynamic Indian Judiciary through judicial activism and expansion of the concept of the right to life under Article 21 of the Indian Constitution which was first interpreted to include right to live with human dignity⁷ and justifying Right to Education to be the part and partial of right to live with human dignity and thus the right to life under Article 21 itself.⁸ Later to give legislative

recognition to the fundamental right to education the Government of India by Constitutional (86th Amendment Act) Act, 2002 had added a new Article 21A which provides that "the state shall provide free and compulsory education to all children of the age of 6 to 14 years as the state may, by law determine". It has further strengthened this Article 21A by adding clause (K) to Article 51-A which assigns a duty on the person who is a parent or guardian to provide opportunities for education to his child or ward between the age of 6 and 14 years.⁹ By the same amendment Article 45 of the Constitution was reworded which now says that "the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."¹⁰

On the basis of Constitutional mandate provided in Article 41, 45, 46, 21A and various judgments of Supreme Court the Government of India has taken several steps to eradicate illiteracy, improvement the quality of education and make children back to school who left the school for one or the reasons. One of the pivotal steps to make the fundamental right to Education on the ground has been the enactment of the Right to Education Act.

In order to ensure free and compulsory and quality education aimed at the overall development of all children of the age group of 6 to 14 years, the Right to Education (RTE) Act includes several key policies. The key policies can be discussed as under:

II. MAJOR RTE POLICY OBJECTIVES:¹¹

Free and Compulsory Education: The Act mandates the state that every child of the age group of 6-14 years has the right and opportunity to free and compulsory elementary education, for which school should be available in the neighbourhood. Obligation is posed on the government to ensure that the child is admitted, attends school and completes the school. This mandate is for the benefit of all children in this age group.

1. 25% Reservation in Private Schools: There is a mandate for all private unaided schools that

⁶ Article 21 of the Constitution of India

⁷ *Francis Colarie v. Union Territory of Delhi, Maneka Gandhi v. Union of India*

⁸ *Mohini Jain v. State of Karnataka, Unni Krishnan v. State of Andhra Pradesh*

⁹ Article 51 A (k) of the Constitution of India

¹⁰ Article 45 of the Constitution of India

¹¹ Right to Education Act, 2009

they must reserve 25% of their entry-level seats for children from economically weaker sections and disadvantaged groups. For the cost these schools incur, the government has to reimburse.

- 2. No Capitation Fees or Screening: The Act prohibits levy of any capitation fees by the schools. The schools are also prohibited from conducting any screening procedures or interviews for the admission of the child in the school.
- 3. Prohibition of Punishments and Harassment: Schools are strictly prohibited from imposing any physical punishment or mental harassment on the students. The school must ensure a child-friendly environment.
- 4. No Detention Policy: The Act mandates no detention. Initially, no student was allowed to be detained or expelled until the completion of elementary education (Class 8). By virtue of the Amendments, Evaluations are allowed in Classes 5 and 8, with strict provisions for remedial training and re-examination.
- 5. School Infrastructure and Quality Standards: Some minimum standards are set under the Act for classroom size, student-teacher ratio, drinking water facilities, sanitation facilities, and infrastructure.
- 6. Qualified Teachers: Teachers must meet basic qualification and training standards, and cannot be assigned non-educational duties except for specified government tasks (like elections or disaster relief).
- 7. Ban on Private Tuition by Teachers: Teachers employed by schools cannot offer private tuition for personal gain.
- 8. Recognition of Schools: All schools, except those run by the government, need to meet specified quality norms to obtain recognition status within three years of the Act's implementation.
- 9. Formation of School Management Committees (SMCs): There is a mandate on the schools to have SMCs comprising at least 75% parents or guardians. This is aimed to ensure community participation and local vigilance in school management.
- 10. Child-Centric Curriculum: The curriculum must be child friendly with a focus on child development. It must be free of trauma or fear, and must promote constitutional values.

The policies pointed above collectively aim to ensure access, quality, accountability, and inclusivity in elementary education system in India.

III. IMPLEMENTATION OF RIGHT TO EDUCATION IN THE STATE OF SIKKIM

The implementation of the Right to Education (RTE) in the state of Sikkim has been ambitious, robust and multi-faceted. The state has aligned the implementation of RTE closely to the National Education Policy (NEP) 2020. It has prioritised vocational education, foundational literacy and numeracy, early childhood care and inclusive initiatives. This is strengthened by ensuring it to reach both urban and rural learners alongside a strong policy focus and major budget allocations. The serene environment, good climatic conditions, student friendly teachers, accessible location of schools etc. make the implementation smooth and as intended. Through various initiatives the state has achieved all the major RTE policy goals which brings the state in the forefront with other leading states in the education sector.

IV. KEY INITIATIVES

The following are some of the key initiatives taken by the Government of Sikkim in implementation of the Right to Education:

- 1. The first state in India to introduce the kindergarten system in all government schools is the State of Sikkim. It has integrated Anganwadi centres with primary schools to facilitate smooth early education.
- 2. Special ECCE training is mandated for all primary teachers, with additional focus on Foundational Literacy and Numeracy through the NIPUN initiative and Special Numeracy Programme.
- 3. Vidya Pravesh, a play-based readiness module, and child-centric pedagogies like *Jodogyan* and *Jollyphonics* have been institutionally adopted.
- 4. Curriculum enrichment including new textbooks for Classes I-V emphasizes sustainable development, local relevance, and child-friendly approaches.
- 5. Vocational education is expanding to all schools and STEM laboratories are being established to strengthen science and technology education.

Institutional and Technological Advancement:

Various institutional and Technological Advancement initiatives have been taken by the State for the effective implementation of Right to Education. They include:

1. The Vidya Samiksha Kendra utilizes big data, AI, and machine learning to monitor educational outcomes in real time, facilitating responsive governance.
2. Sikkim has launched the Chief Minister's Mentorship Program, particularly benefitting Class X students with free coaching and assessment to enhance CBSE board exam results.
3. Substantial investments have been made in digital learning, including the distribution of thousands of tablets.

Legislative and Policy Measures:

Various legislative and policy measures have been taken by the Government to aid and support the effective realisation of Right to Education which include:

1. The Sikkim Model Schools Act, 2025 attempts to institutionalize government-aided model schools, with a focus on equitable, high-quality, and inclusive education as a fundamental right for all children.
2. School rationalization merges small schools, boosting resource optimization and learning environments.
3. New schemes like the Chief Minister's Education Assistance Scheme and APATAN Fellowship provide financial support for higher and technical education and local PhD scholars, respectively.

Outcomes and RTE Implementation Specifics:

Some of the outcomes and RTE implementation specifics are as follows:

1. The state maintains a literacy rate of 90.8%, with near parity between male and female literacy.
2. Full coverage of 25% reservation in private schools as mandated under the RTE Act and

initiatives like *Beti Bachao, Beti Padhao* further enable universal access and gender equity.

3. Active monitoring by the State Commission for Protection of Child Rights ensures proper implementation and compliance with the RTE Act.
4. The government of Sikkim's nearly 20% allocation of its budget to education, underscores its commitment to the sector.

Other Initiatives:

Mid-Day Meal: An ambitious and tedious initiative of serving free, cooked and nutritious food to school children has been an appreciated initiative which improve the nutrition of children, improve attendance of students and support interest and concentration in the classrooms. It combats malnutrition and hunger and also reduces school dropout rate and ensures that the children receive food conducive to their physical and mental wellbeing.

Free Uniforms for Students: A good initiative has been taken by the Government by providing free uniforms to the children of all Government Schools. It is a part of the boarder efforts to support students from all backgrounds. Such initiative while removing financial strain on parents also promote equality, reduce bullying and social pressure related to expensive and trendy attire. Along with Uniform Shoes and bags are also provided to the students.

Free Learning Materials: Like free uniform, students in Sikkim can access free learning materials, including textbooks, notebooks, and uniforms distributed directly by the state government through its educational initiatives. In addition to this, students also have access to free online resources (BOSSE and Vikaspedia Protal etc.)

Chief Minister Education Assistance Scheme: This Scheme offers financial assistance to students from economically weaker sections, marginalized communities and those with special needs for higher education. This policy covers education within Sikkim, outside the State and even abroad.

Ensuring Safe and Inclusive Schooling: safety and inclusiveness have been ensured through integrating counselling sessions, awareness programmes and value-based education. Teachers not only take care

of the academics but also the emotional health of the children. Effective mechanisms and contact have created an atmosphere of safety and any complaints to be promptly reported. Children from all walks of life have access to safe and inclusive schooling.

Some Recent Initiatives in Education Sector:

Recent initiatives by the Government of Sikkim in the Education Sector include the launch of Sikkim INSPIRES, a World Bank supported programme for integrated service provision and innovation, the establishment of the Vidya Samiksha Kendra for enhanced educational monitoring and governance, the implementation of NEP 2020 goals which include *Shiksha Saptah* Program which encourages eco clubs, plantation drives etc. and also community involvement through initiatives like *Tithi Bhojan* and *Vidyanjali*.

Sikkim's concerted efforts, policy innovations, and effective deployment of resources have made it one of the leaders in Right to Education implementation at the national level. The state has made significant strides in improving literacy rates and also educational infrastructure, fostering a culture of learning and empowerment initiatives such as mid-day meals, scholarships, and infrastructure development etc. have bridged gap educational opportunities, particularly for the weak and marginalised. The states commitment to education is reflected in its policies and programs. The present ruling government has given top-most priority to education and health sector. The holistic approach the government has taken in this sector has not only improved academic outcomes but also has significantly contributed in ensuring inclusiveness and accessibility. By ensuring access to quality and inclusive education the state of Sikkim is building a better and brighter future for its people.

- [5] <https://dsel.education.gov.in/rteun>
- [6] <https://www.india.gov.in/right-children-free-and-compulsory-education-act-2009un>
- [7] <https://www.ijcrt.org/papers/IJCRT2409750.pdf>
- [8] https://education.sikkim.gov.in/GeneralSection/UploadedFiles/HRDD_Initiatives2017.pdf
- [9] <https://www.sikkimexpress.com/news-details/right-to-education-act-2009-a-thorough-view>
- [10] <https://sansad.in/getFile/loksabhaquestions/annex/16/AU3169.pdf>
- [11] <https://www.righttoeducation.in/rte-implementation-sikkim>
- [12] <https://righttoeducation.in/resources/states/sikkim>
- [13] <https://www.sikkim.gov.in/departments/education-department>

REFERENCES

- [1] <https://www.un.org/en/about-us/universal-declaration-of-human-rightsun>
- [2] <https://www.un.org/en/about-us/universal-declaration-of-human-rightsun>
- [3] <https://www.unicef.org/child-rights-conventionun>
- [4] <https://www.india.gov.in/my-government/constitution-india/constitution-india-full-textun>