

The RTE Act Amendments

How Progressive are they?

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Abstract

The enactment of the RTE Act 2009 marked a historic moment for the children of our country. A landmark legislation, it makes elementary education a fundamental right for all children between the ages of 6-14 years. It has brought to centre stage the importance of formal schooling for all children, including children with disabilities and focuses on bringing about the much needed systemic changes. The recent amendments strengthen the commitment of education for all children with disabilities in our country and if applied in true spirit, will result in real and important gains for their education in the mainstream school system. There needs to be a strong focus on the preparation of this system, so that children with disabilities can get the required support to access and participate in the system as equal partners. Monitoring will be required in the coming years on how education and rehabilitation grow and complement each other. This article highlights the amendment regarding home-based education for children with severe and multiple disabilities and the mixed response it has received. It urges the reader to reflect on how progressive is this move?

Mira (name changed) shares: When I came to know that I have been granted admission in the college of my choice, rather than being thrilled the first emotion that gripped me was that of fear. After a long time I was going to be part of the rest of the world. I was terrified at the thought

of how the 'others' in my college would react to me: a wheelchair user and a person with cerebral palsy, a speech difficult to comprehend and a drooling mouth. Would they look at me with 'poor you' written all over their faces! Though I was confident about my capabilities to learn and

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grow in my discipline, I doubted my abilities to adjust in the new environment, commute daily, make good friends, move around in the college in my wheelchair and use the toilet. Many apprehensions clouded my mind. As I looked at the picture of the multistoreyed building of the college in the prospectus, I wondered what I will do if my classes are held on the first and second floors. These and many more thoughts sent a shiver down my spine and I wondered if I will be able to fulfil my dream of being a qualified English language teacher in a primary school.

My early life experiences came back as a vivid flashback and stood staring at me! I had not seen my father as he had left my mother before my birth. We belong to a minority community and lived in poverty and I remember being teased in school by others on account of my disability and background. Despite this I seemed to have learnt to take the insults in my stride, and looked forward to being in school. My mother saw to it that I would rarely miss school and my teachers loved and cared for me. They knew I was always attentive in class and rated me as 'a keen learner'. Like other children, I responded to questions and also took part in discussions. My teachers ensured no one laughed at my taking longer to say what I had to because of my disability. In fact, my answers to questions, were always well received and I was among the children who completed their work

in class and helped others. Many of my classmates admired my learning abilities, though silently.

As I finished my primary school, suddenly the world changed for me. In the beginning of sixth grade, other parents raised objections about my 'peculiar characteristics', in particular the drooling (which would spoil my books and clothes). I would be a 'bad' influence on their children they asserted and some said that it was not safe for me to be in school too! The school transport in-charge also told my mother that I was growing up and becoming heavy to carry. In addition, the process of strapping/un-strapping me in the bus seat was becoming more and more difficult and opening and folding my wheelchair time consuming. All this fuss after my mother on being asked, had unconditionally signed a declaration absolving the school authorities of all responsibilities in case of a mishap!

On these grounds I was required to leave school and was forced to continue my learning at home. The school called it a home-based education programme under the Sarva Shiksha Ahiyan (SSA). A special educator who my classmates called 'the teacher of the mad children' used to come once a month to teach me for two hours. Actually, it was my Class five teacher who continued to teach me regularly at home and with my mother worked hard to seek support from other teachers/institutions/agencies. Eventually, I completed my

schooling through the open schooling system. As I reflect I wonder had my school teacher not been there, would I have continued my education? I nor my mother ever really understood the process through which the decision was taken by the school authorities to 'push me out of the school'! I used to feel very sad every morning when my sisters would get ready for school and come back and narrate how they spent their day studying, playing and having fun. I was not allowed to go out in the locality where we lived as my grandmother felt that if people saw me, it would spoil the marriage prospects for my two elder sisters. I know she loved me but her actions made me feel miserable and sometimes even unwanted.

Many children with disabilities (not 'disabled children' as they are children first and the disability happens to be one of their many characteristics) like Mira have historically been excluded from mainstream education opportunities. Legislation has played a crucial role in changing this scenario. The Government of India on 1 April 2010 enacted the Right of Children to Free and Compulsory Education known as the RTE Act, 2009. It marked a historic moment for the children of our land. A landmark legislation, it makes elementary education a fundamental right for all children between the ages of 6-14. The Act is a result of a century-long struggle, initiated with the demand for universal education by Gopal

Krishna Gokhale in the British era, concluding in a time-bound promise under the Article 45 of the Indian Constitution. Few countries on the globe have such a national provision ensuring both free and child-friendly education to all children and allowing them to develop to their fullest potential. It is an inspiration for other countries that are looking to ensure that all children have access to equitable and good quality education.

This Act makes a number of significant provisions that can potentially mark a turning point in the quality and status of delivery of education in the country. It has brought to centre stage the importance of formal schooling for all children, including children with disabilities, and focuses on bringing about the much needed systemic changes. India has also ratified the United Nations Convention on the Rights of Persons with Disabilities which mandates equal rights and inclusion. The UN Convention outlines non-discrimination in the context of disability. Recently, the two-year old RTE Act, 2009 has been amended. How have these moves impacted on children with disabilities like Mira who have been 'pushed out' of the system and many others who have been invisible for too long?

On 9 May 2012, the Lok Sabha passed the amendments to the RTE Act, 2009. A significant part of these amendments relate to the children with disabilities. Let us try to take a

close look at them in order to form our own understanding. The recent amendments define the children with disabilities as all those coming under the two major laws with regards to children and persons with disabilities viz; Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995 and the National Trust Act for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities, 1999. Both these Acts are being amended and thus also provide a scope to include other types of disabilities. This is indeed a forward-looking step.

With the clear inclusion of children with disabilities now legally categorised as disadvantaged, all the clauses of the Act, particularly the strong non-discrimination clause, applies to the children with disabilities. These children would now come under the 25 per cent category that private schools must admit. In addition, parents of children with disabilities will now have to be included in all School Management Committees (SMCs). This is a welcome move which is hoped to create improved mutual understanding and have a positive impact on school development plans. This amendment strengthens the commitment to education for all children with disabilities in our country, and if applied in the true spirit, will result in real and important gains for their education in the mainstream school system. Children like Mira will get an

opportunity to unfold their potential, show their strengths and this will, slowly but surely, help in changing existing attitudes.

However, there is a need to be cautious. Sarva Shiksha Abhiyan (SSA) data on identification and enrolment on children with special needs for the year 2010-11 indicates that 1.5 per cent of the total number has been identified. In addition, the number of out of school children with disabilities is a cause of serious concern. Of the total children, 34.12 per cent were found to be out of school in the 2009 SRI (Social and Rural Research Institute) IMRB study. The existing understanding and opportunities for identifying these children are likely to remain a barrier unless proactive steps are taken. In addition, in the next few years we are likely to see a growing demand for the education of these children. Schools will need to gear up and rehabilitation services mainstreamed to reach children and adults with disabilities. There needs to be a strong focus on the preparation of mainstream systems, so that children with disabilities can get the required support to access and participate in the system as equal partners. Monitoring will be required in the coming years on how education and rehabilitation grow and complement each other.

Most often when we talk about educating a child, we think about school and believe that true learning can only take place within the

four walls of a formal classroom setting. We only consider schools in a traditional and formal sense. However, education occurs in many different forms and environments. The recent amendment in the RTE Act regarding an option for home-based education for children with severe and multiple disabilities is based on this latter outlook. The practice of home-based education was initiated by the Government SSA flagship programme. In order to fulfil the zero adoption policy, it follows a multi-option model for children with disabilities. The 2010 statistics of SSA show that out of the total children with disabilities identified under SSA, 7.22 per cent are enrolled in home-based education. Opportunities need to be provided regularly for these children to interact with other children, including those without disability. This will avoid their isolation in the 'prison house' called home.

The amendment regarding home-based education has received a mixed response thereby tilting the balances. What are the implications of home-based education for children with disabilities like Mira? Although the law does give a choice and an option for home-based education to parents, did Mira's mother really have a choice? Parents of children with severe and multiple disabilities are particularly vulnerable primarily because society and community at large do not see the point of their child going to the school. Families

will have very little support if they want to insist that their child goes to a formal school. Again Mira's story is an example in point. Parents, particularly with meager resources, have an unequal relationship with the system and as is evident their children will be pushed out of the system even more easily.

Post-amendment voices have argued that home is the natural and first place of education and will continue to be one of the places for lifelong education for all children. Then why should we legally legitimise it for children with high support needs? If we are legitimising this, why only for children with high support needs, and not for a child who is excessively shy or for a child with a different learning style? Should they also not be given an option? Why do we not think about asking children their own choice for the type of schooling they want to opt for? Should they not have a voice in a matter that affects their life in a big way?

Is education only for personal gain or does it also offer benefits to general growth of an entire community providing a place for children, youth and adults to interact, socialise, and unify societies? If we agree with the latter, then clearly home schooling cannot really provide for this goal. Having ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) will categorising children as "high support needs" or not be in the

true spirit of the UNCRPD. The Convention sees disability as part of human diversity and therefore persons with disabilities as equally valued members of society. It underscores the fact that disability is not just a medical issue. People become disabled because of all the social, cultural, economic, political and other factors that prevent them for participating fully in society.

Again we need to consider what are the opportunities available for the children with disability from the large population of migrants living on meagre means in deplorable sanitary and living conditions packed in small confines, and those in rural areas and expanding urban slums? Who would be identifying and certifying the children as severely disabled for providing the home-based education programme? What would be the kind of curriculum and standard of pedagogical principles followed? How often will these children be visited and by what kind of professionals? What kind of support will parents entrenched in the daily grind of making ends meet, be able to provide? Furthermore, are we in a position to provide the required support such as rehabilitation services at home, social security for the family, and personal assistance for the child everywhere in the country? Who would monitor them if they are abused or given corporal punishment? How will the children in home-based education access the available entitlements for children, for example, the midday

meal or other such incentives? The recent developments in the form of RTE Act amendment, including home-based education may be interpreted as discriminatory for children with disabilities and a watering down of their fundamental human right to inclusive education. Will not the State be shirking its responsibility to improve mainstream education systems to better respond to differences and diversity of learning and learners if we start labeling children as 'uneducable' within the education system? There is also a possibility of the home-based programme being misused by some parents of partially disabled children. For example, the parents of a partially deaf girl or a girl with low vision may not be able to escape the inclination to opt for home-based education, possibly due to social or financial constraints. In addition, discrimination has often multi-dimensions, such as, a girl child with disability who may find herself 'doubly disadvantaged' on account of her gender and disability and may remain uneducated for life!

As a result of teacher education programmes, teachers now accept and welcome diversity among their learners and are beginning to work with more responsively in their classrooms. Home-based education may have a negative or perhaps even a regressive impact on the regular school teachers' attitudes as the responsibility to address different learning needs in their classrooms

will again be passed to special educators in-charge of the home-based education. This will mean moving away from the principles of non-discrimination and inclusion.

Many argue that the current regular schools do not offer any relevant service for children with high support needs in schools. Few feel that some disabilities; for example, children with multiple disabilities, the deaf blind, autistic, low functioning intellectual disabilities, and others such as those with high level of osteoporosis will definitely need the home-based option. The counter argument given is how can systematic changes be planned for if these children remain hidden at home unseen, unheard and unknown to anyone? How will children learn to live together with each other, respect differences and diversity and realise each other's strengths and weaknesses? How will we move towards building inclusive societies if our schools are not inclusive?

Observations from the field indicate that often most leaders in the community do not have a positive opinion about children with severe disability 'fitting into' the mainstream classroom or valuable. Many, including these children's families may agree. Often, this belief is also endorsed by the advice of doctors and other medical functionaries who too

often lack an understanding of the educational merits of growing up in an inclusive classroom. Considering these prevailing attitudes, children with disabilities thus cannot be confined to the four walls of the home.

Home-based education cannot be the only alternative. It can at best be considered as a preparation for including children in the system. This too only if their will to bring them back into the mainstream is strong. Many feel that providing the option of home-based education gives the system the reason not to change. How progressive is this move, we will discover over time as we observe and build research into the implementation of the RTE Act with its amendments.

What stands out clearly though is the need for concerted efforts to make the RTE Act, 2009 provisions a reality and parents having to sign declarations absolving schools of their responsibility of children with disabilities (as Mira's mother had to do) an action of the past! Let us join hands to make schooling and life a happy experience for all children, acknowledging, respecting and celebrating diversity as enriching humanity and a normal aspect of society. Our efforts need to be geared towards 'All for the children, for all the children including Mira!'