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Applying the Political Process Approach to the Public Policy- Making Process to the Right to Education Act, 2009

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Abstract:

This article examines the Right to Education policy, 2009 using the lens of the political process approach to the study of public policy. Public policy is primarily a political activity involving political actors and institutions based on which the political process approach analyses public policy from the purview of political behaviour rather than an institutionalist perspective. This approach delineates the policy process into a set of specified activities: identification of problems, agenda setting, policy formulation, legitimation, implementation and evaluation. Applying this approach towards public policies in India in the field of education, this article endeavours to explore the Right to Education (RTE) Act, 2009 tracing the evolution of the policy through the aforementioned stages. Firstly, the stage of identification of a policy gap requiring governmental intervention is studied succeeded by the agenda setting stage. It further discusses policy formulation and its legitimation through state institutions. After the policy is framed and comes into practice, the implementation stage of the policy is analysed. After the formulation and implementation of policies, policy evaluation is discussed assessing the intended and unintended impact of the policy and the degree of its efficacy in producing the perceived outcomes.

Introduction: The essence of the process model is to view public policies as political activity. Political processes and behaviour have gained prominence during the era of behaviouralism in political science. Behavioural trends in the discipline of politics focus on studying the activities of political actors such as interest groups, voters, presidents, legislators, bureaucrats, judges etc. One of the main purposes has been to explore the patterns of political processes and activities rather than focusing on institutionalism which was traditionally dominant in political science. In this context, policy sciences have also grouped various activities according to their relationships to the public policy resulting in a set of 'policy processes'.

The policy process can be defined as a series of political activities - identification of problems, agenda setting, policy formulation, legitimation, implementation and evaluation. The process model of policy-making is crucial to understand the sequence of various activities involved in policy-making. The purpose of the essay is to deconstruct and comprehend the process of policy-making in India by applying the political process model of policy-making to one of the most important social welfare policies in India- the Right to Education Act, 2009. The Right to Education Act was a revolutionary attempt undertaken by the Government of India to realise the universalization of elementary education in India. Right to education was a part of the Directive Principles of State Policy in Article 45 of the Indian Constitution prior to the enactment of RTE; it was made legally enforceable with the enactment of the RTE Act. Under the 86th Amendment Act in 1997, the right to education was made enforceable by placing it in Chapter 3 of the Constitution as Article 21A entitling all children from the ages six to fourteen to have free and compulsory education as a fundamental right.

Problem Identification: Prior to the enactment of the RTE, there were various issues plaguing the Indian education system. The status of elementary education prior to the enactment of the RTE was faced with several challenges such as poor enrolment ratio, high rates of out-of-school children and dropout rates, persistent gaps in social inclusion of marginalised groups such as Scheduled Castes and Scheduled Tribes, skewed gender ratio and high gender gaps, gaps in recruitment of teachers possessing adequate academic qualification, inadequate teacher-student ratio, poor sanitation and drinking water facilities, lack of school infrastructure and effective learning materials, poor learning outcomes, lack of appropriate facilities meeting the needs of girl children, ethnic minorities and children with disabilities, lack of investment and public expenditure directed towards education. On this basis, it was inferred that elementary education was not universal and publicly accessible throughout the country. The identification of these problems in the education sector and the inability of previous policies such as the National Education Policy of 1968 and 1986 and the National Programme of Action of 1992 to deal with the problems of elementary public-school education despite strenuous efforts by the Centre as well as states to bring about an improvement in educational indicators necessitated the need for a special legislation directed towards achieving the goal of universal elementary education.

Agenda Setting: The addition of right to education to the policy agenda was motivated by a number of factors. Article 45 of the Indian Constitution directs the state to endeavour to provide free and compulsory education for all children until they complete the age of 14 years by 10 years of the commencement of the Constitution. Article 41 under Part III of the Constitution directs the state to ensure to the people within the limit of its economic capacity and development, right to work, right to education and right to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of underserved want.^[1] After these constitutional goals were not actualized even 50 years after the adoption of these provisions, there was a need felt for an explicit provision in the Fundamental Rights under Part IV of the Constitution ensuring the right to free and

compulsory education to children within the ages of 6-14. With this aim gaining momentum after the National Education Policy of 1986, the Constitution (86th Amendment) Bill, 1997 was introduced to insert a new article, Article 21A conferring on all children in the age group of 6 to 14 years the right to free and compulsory education. The bill was scrutinized by the Parliamentary Standing Committee on Human Resource Development and was dealt with in the 16th Report of the Law Commission of India. Based on these recommendations, various amendments were proposed in Part III, IV and IV-A of the Constitution which included the following:

- a) to provide for free and compulsory education to children in the age group of 6 to 14 years and for this purpose, a legislation would be introduced in Parliament after the Constitution (Ninety-third Amendment) Bill (2001) was enacted;
- b) to provide in Article 45 of the Constitution that the State shall endeavour to provide early childhood care and education to children below the age of six years;
- c) amendment of Article 51A to obligate parents to provide educational opportunities to their children.

The enactment of the 86th Amendment Act paved the way for the drafting of a separate education bill for its implementation. The RTE Act, 2009 was a milestone as it took more than 63 years post-independence for the right to education as a fundamental right to become an enacted legislation despite the constitutional mandate that elementary education be universalized within 10 years after the adoption of the Constitution. There were various international legal standards which led to the right to elementary education becoming an important part of the policy goals. The Universal Declaration of Human Rights states that “everyone has the right to education which shall be free, at least in the elementary and fundamental stages”.^[2] The International Covenant on Economic, Social and Cultural Rights in Article 13 and 14 emphasise the significance of right to education by highlighting that primary education needed to be compulsory and available freely to all and that education should contribute to the full development of human personality.^[3] Articles 28 and 29 of the Convention of the Right of the Child (CRC) deal with the rights of the child to access education and stipulate that the education of the child shall be directed towards the development of the personality, talents, mental and physical abilities to the fullest potential. The UNESCO Convention against Discrimination in Education also contains provisions introducing measures to be adopted by states to promote equality of opportunity and treatment and in particular to make primary education free and compulsory. The United Nations Declaration of the Rights of the Child, 1959 also provided principles stressing on the rights of children to receive education. As India was a signatory to this Declaration, a National Policy on Children was adopted in 1974 affirming the constitutional provisions for provision of adequate educational services to children. India also became a signatory to the World Declaration on the Survival, Protection and Development of Children in 1990 which led to the initiation of a National Plan of Action for Children prioritizing health, nutrition, education, water, sanitation etc. by the Department of Women and Child Development under the Ministry of Human Resource Development. The UN Millenium Declaration

adopted in September 2000 and the Millenium Development Goals were also initiatives taken by the international community motivating changes in national policies pertaining to education. These international declarations exerted tremendous influence on national policies and legislations regarding the right to education.

Policy Formulation: The RTE Act based on the premise of education as a basic fundamental right had jurisdiction over all states and Union Territories except Jammu and Kashmir. All government, private and government aided schools were covered by the Act. Certain salient provisions of this Act must be examined. The Act provided a justifiable and legal framework entitling all children between the ages 6-14 to an education of reasonable quality based on principles of equity and non-discrimination. It contains provisions for ensuring the right of children to an education free from stress and anxiety and aims to ensure their compulsory admission, attendance, and completion in elementary level schooling. This Act aimed to realise the vision of a “warm, welcoming and encouraging approach for children to learn” as envisaged by the National Education Policy of 1986. The most crucial provision of the Act is that the right to free and compulsory admission, attendance and completion of elementary education in a neighbourhood school is the right of every child in the age group of 6-14. ‘Free’ implies that there should be removal of all financial barriers preventing a child from completing eight years of elementary schooling and ‘compulsory’ implies that the state has to ensure no child is excluded from accessing elementary education. Moreover, it is also the parental duty to send children to schools. The Act provides that no child shall be failed or expelled from school up to the eighth standard (in correspondence with ages 6-14). Additionally, dropout or out-of-school children could be readmitted to an age-appropriate class after undergoing a transitory period of special training. As per RTE provisions, the onus is on teachers and school heads for protecting and ensuring the right to children to education. The Act also banned corporal punishment and detention policies; it emphasised on making schools and classrooms inclusive, introducing comprehensive evaluation techniques and a curriculum to provide quality education to children. Various infrastructural and learning norms and standards were set applicable to all schools which included a Teacher-Pupil Ratio of 1:30 for Classes I-V and 1:35 for Classes VI to VIII and a 45-hour work week for teachers and provisions of nationally set qualifications for teachers. Community Participation and involvement of parents in their children’s education was ensured through School Management Committees comprising parents, teachers and elected representatives which would proactively monitor the delivery of entitlements to elementary education. As such, the Act entails provisions covering various stakeholders such as ‘the appropriate government’ - centre, state governments or local bodies, teachers, parents and children.

Policy Legitimation: The process of policy legitimation in case of the RTE Act began with the preparation of the first draft of the Bill being initiated in 2005. It encountered criticism due to its mandatory provision to include 25% reservation for children belonging to disadvantaged backgrounds in private schools with the view to promote a democratic and egalitarian society. Prior to that, the Free and Compulsory Education for Children Bill had

been proposed in 2003 and 2004. In 2006, the Central legislation was discarded and states were asked to formulate their own legislation. During 2008-09, the central legislation was revived and the Right of Children to Free and Compulsory Education Bill, 2008 was introduced. The Bill received approval from the Cabinet on July 2, 2009. Subsequently, it was passed in the Lok Sabha on August 4, 2009 and in the Rajya Sabha on September 3, 2009 as The Children's Right to Free and Compulsory Education Act. Eight months after receiving presidential assent, the Act became enforceable all over of India except the state of Jammu and Kashmir on April 1, 2010

Policy Implementation: Varied and elaborate monitoring and implementation mechanisms were also specified in the Act including the National and State Commissions for Protection of Child Rights (NCPCR and SCPCRs), SMCs, financial review by the Institute of Public Auditors of India etc. The financial responsibilities for the implementation of the Act were to be shared between the Central and State governments. To develop a sound monitoring system, on March 29, 2010, a National Advisory Council was constituted which provided various grievance redressal mechanisms and empowered the NCPCR and SCPCRs to protect the right to education. In addition, 42 independent agencies were engaged on a two-year basis to monitor the implementation of the RTE and Sarva Shiksha Abhiyaan Programme; these monitoring institutions were expected to submit reports on a bi-annual basis to central authorities. After the enforcement of RTE, various measures were taken at the central and state level to adopt and enforce RTE provisions. There were progressive indicators relating to the physical, financial and quality-oriented aspects of elementary education in India due to the effective implementation of the RTE Act. There was an increase in allocation of budgetary funds to the States and Union Territories for the implementation of the revised SSA scheme in accordance with the provisions of RTE. For example, according to Ministry of Human Resource Development data, Delhi received Rs. 355.2 million in 2010-11 and Rs. 378.3 million in 2011-12. ^[4] Moreover, there were also increases in the educational budget in 2011-12 directed towards the achievement of inclusive education. There was also a substantial increase in the enrolment ratio in government schools at the elementary level particularly in the years following RTE. The country also witnessed an increase in the number of primary and upper primary schools after 2009-10. The number of female teachers and the enrolment ratio for girls also saw a positive rise though the enrolment ratio of female students remained lesser than boys.

Policy Evaluation: Evaluation of the policy by third party agencies in many states and social auditing by the NCPCR in various states have highlighted that despite positive impacts produced by RTE, various gaps remain in implementation which are reflected in a dismal pupil- teacher ratio, continued lack of proper infrastructural facilities such as drinking water and toilets, tendency of drop-out rates to be higher than enrolment rates, poor learning outcomes, high absenteeism, lack of productivity, unaccountability in teachers, lack of schools within walking distance of homes of children particularly in remote and hilly areas, closure of government schools under the guise of rationalization in several states etc. These negative effects hinder the effective achievement of all policy

targets set by the RTE and are often linked to structural shortcomings in the implementation structure including corrupt practices, bureaucratic rigidity and delays and lack of political will.

Conclusion: In conclusion, it can be said that the RTE is an important legislation which defines educational policy in India and aims to provide quality and inclusive education on a universal level in India. There is a need for better evaluation of the lags in the implementation machinery and suggestion of reforms so as to ensure the smooth functioning of the Act and further expansion of the Act to other age groups below 6 and beyond 14. This will achieve the vision of making the universalization of elementary education a lived reality in India.

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