

PROPOSITION

DISCLAIMER

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PROBLEM

Republic of Indiana, also known as Barathi, is a country in South Asia. It was a poor country when it attained the independence from the colonial rule. It is the second-most populous country, the seventh-largest country by land area and the most populous democracy with largest youth population in the world today. It is a Union of 28 states and 8 union territories.

The highly contrasted country has enjoyed growth rates of up to 10% per annum over many years and is one of the largest economies in the world, with a Gross Domestic Product (GDP) of 1,644 Billion US Dollars. However, only a small percentage of the Republic of Indiana population has benefited from this impressive economic boom so far, as majority of people in Republic of Indiana are still living in abject poverty, across the country. The country is a home to one-third of the world's poverty.

Two-thirds of people in Republic of Indiana live in poverty, wherein 68.8% of the Republic of Indiana population lives on less than \$2 a day and over 30% of them have less than \$1.25 per day available and are considered extremely poor. This makes the Republic of Indiana subcontinent one of the poorest countries in the world with her women and children, the weakest members of society, suffering the most.

Such poverty leaves Republic of Indiana with huge literacy and education problems to solve. Though Republic of Indiana's literacy rate has increased six-fold since the end of the colonial

rule in 1947, namely from 12% to 74% today, yet it has the world's largest population of illiterate people with a quarter of the population not possessing basic reading and writing skills and where 10% of them are aged between 6 to 14, with high rates of dropping out from school, especially from elementary level of education.

The Constitution of Republic of India guarantees right to primary education as a fundamental right under Article 21A and also impose a fundamental duty on the parents or guardians to provide compulsory primary education to their wards. The Government has also established various schools to impart free and compulsory primary education to the children. Further, the Government of Republic of India, in order to reduce the dropping out from school rates and the illiteracy rates passed the Right to Education Act, 2009 (RTEA).

The RTEA contained a 'no-detention' provision which stipulated that no child could be held back in elementary school (Classes I-VIII). This provision was celebrated in the country. The 'no-detention policy', also popularly known as the 'no-fail' provision, was based on the widely tested proposition that children tend to learn better without the pressure of a pass-fail type of testing regime and that there is a direct correlation between students detained and students dropping out of school after Class VIII.

Importantly, the 'no-detention' policy was part of a policy approach that put the child at the centre of education planning. It was premised on child friendly learning environments with teachers making continuous assessments of every child's progress and following through with the necessary interventions to help each child along to grow. In short, it was contingent on schools that were closely linked to the communities they served. These were supposed to be well-funded schools with easy access to academic resources, small class sizes with highly educated, well-trained and empathetic teachers, a functioning teacher support system and special needs' educators for students with disabilities. But in reality, except for a few select private schools, none of the aforesaid conditions exist or are being complied with in the schools of Republic of India, public or private. There has been no serious and committed efforts by the state or private sector to initiate such changes that will eventually lead to such schools being the norm in the country.

On 03.01.2019, the Republic of India Parliament voted to amend the 'no-detention' provision in the RTEA, permitting schools to detain children in Class V and Class VIII if

they fail an annual exam twice. The Government justified this amendment on the grounds that the 'no-detention' policy weakens the education system and results in poor outcomes amongst the children and also lamenting that teachers teach lethargically and children don't show interest and zeal in learning when they know that they will be promoted. On 05.02.2019, the Amendment Bill was passed by both the houses of the Republic of India Parliament and it received the assent of the President, w.e.f. 01.04.2019.

The state of Andhra Pradesh was one amongst the first to revoke the 'no detention' policy from its framework and to conduct Board exams for students of classes V and VIII. The few voices supporting the common examination system feel detaining a student for a year will help her / him work and improve on her / his weak areas, yielding a better outcome and student. However, the said Amendment was largely criticised throughout the country.

In the month of September, 2020, the dropout rates of children aged between 6 and 14 increased due to the effect of this Amendment. The parents, guardians, teachers and many NGOs fighting for educational rights felt that this move will only add unnecessary pressure on the children and encourage them to drop out from school. In wake of the criticisms and constitutionally guaranteed rights of the children to compulsory primary education, etc., a Non-Profit Trust, namely Law Addicts moved the Supreme Court of Republic of India, challenging the legal validity of the Amendment on the grounds that it violates the fundamental rights of the children to compulsory primary education and promotes dropout rates.

The Constitution Bench of the Apex Court led by Justice D.K Sinha admitted the Writ Petition and heard the final arguments of both the Senior Counsels on 19.11.2019 and is set to deliver its verdict on 17.12.2020.

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