

## **CHAPTER FOUR**

# **A CRITICAL ASSESSMENT OF THE KEY COMPONENTS OF THE ADMINISTRATIVE FRAMEWORK OF THE RTE ACT 2009 IN GUJARAT**

### **4.1 INTRODUCTION**

According to the social contract theory, the state is created in order to protect the natural rights of the people- right to life, liberty and property theory (Boucher & Kelly, 1994). As discussed in chapters two and three, education is necessary for leading a dignified life and is deemed as

a value that plays a vital role in protecting people's right to life with dignity (Mohini Jain case; 1992 AIR 1858; 1992 SCC (3) 666; 1992 SCR (3) 658). Therefore, several international conventions proclaim it a human right (United Nations, 1949; UNESCO, 1960). Hence, the signatory state parties are morally obligated to make it available and accessible to children.

Subsequently, the Indian government inserted Article 21-A into the constitution in 2002 and passed the Right to Free and Compulsory Education Act (RTE Act 2009) in August 2009, which came into effect in April 2010. The Act guaranteed children between 6 and 14 years a fundamental right to free and compulsory elementary education.

Further, since the 42nd Amendment Act of 1976 has made education part of the concurrent list in India, both the central and state governments have the authority to enact laws regarding it. Hence, after the RTE Act was enacted in 2009, each state formulated its own model rules to implement it in accordance with the central law's provisions. Subsequently, in 2012, Gujarat also approved the Right to Education Act and formulated the state's model rules for implementing the Right to Education. Further, Gujarat has also introduced various schemes like "PRAGNA," "Vidya Deep Yojna," "Vidya Lakshmi Yojna," "SAMARTH," and "Gyan Kunj" to implement various sections of the RTE Act 2009.

From the administrative and policy viewpoint, this can be seen as the government's action to address the needs of people to live a dignified life, taking the form of laws and policy objectives. Since public policy is what a government chooses to do or even not to do (Dye, 2016), any declaration of intent on the part of the government constitutes public policy. In a broad sense, a policy can be viewed as an action plan that fits into the overall picture established by the analytical or theoretical framework (Meehan, 1985).

Putting this plan into action requires collective action and cooperative efforts of all the stakeholders, which includes the state actors, civil society members, citizens, and beneficiaries. Cooperative action has been tied to public administration, particularly public policy, since the beginning to improve the group's well-being. In Gujarat, the government has created a complex structure which involves the State Education Department at the apex, which provides the overall direction. At the same time, the implementation is undertaken by various offices like the Directorate of Primary Education (DPE), Samagra Shiksha Abhiyan (SSA), Mid-Day Meal Commissionerate, Gujarat Council of Educational Research and Training, District Education

Officer, District Primary Education Officer, Block Resource Coordinator, Cluster Resource Coordinator, School Management Committee, designated with specific aspects to oversee the education system of the state. Hence, in Gujarat, any education-related legislation, policy or scheme, as a declaration of intent, is not only at the heart of the political process but also an integral aspect of the administrative process, which resides within the executive department of government (Bain, 1992). Therefore, Gujarat state RTE model rules are a part of the political and public administration processes that determine the effectiveness and appropriateness of government action.

As a public policy, this process entails adopting and utilizing mechanisms that facilitate the provision of the realization of the RTE Act 2009. It is further made possible by a set of administrative duties that must be performed by the state, which involves implementing decisions that the government deems to be in the public's best interest. Considerations of what should be in the public's best interest depend on the government's perception of the values, interests, wants, fears, and needs of society or groups of society (Hanekom & Bain, 1990). Hence, enacting laws and formulating policies and schemes is equivalent to reaching the halfway point. However, implementing them effectively to fulfil the policy document's objectives is the actual test.

Moreover, for the Gujarat model rules and other schemes to be implemented, the state must adopt effective good governance practices. It is particularly essential because the implementation process involves many actors. It becomes contentious as the government initiates public policy through acts, regulations, ordinances, by-laws, and proclamations. Then, it gets formulated and implemented by a different set of actors.

In this light, the primary focus of this chapter is the analysis of the administrative structure and framework legislated for the implementation of the Right to Education Act 2009 (RTE Act) in the state. Additionally, the chapter covers the roles of the several actors and agencies involved in the process. The chapter contains discussions on the theoretical aspects associated with public policy implementation models and the framework for good governance. Further, it provides an analysis of Gujarat's administrative structure in the context of good governance.

## **4.2 MODELS OF PUBLIC POLICY IMPLEMENTATION: THEORETICAL BACKDROP**

The administrative structure of the RTE Act 2009 in Gujarat is the focus of this chapter, so it is crucial to look at the widely accepted theories in the policy discourse to comprehend the intricate interactions between the various players and agencies and to evaluate each one's contribution to the implementation process. In this light, this chapter discusses the top-down, bottom-up, hybrid, and good governance models frequently used as theoretical underpinnings for implementing public policies.

The Policy Cycle, also known as the Policy Process, comprises several phases, some of which are the establishment of an agenda, formulating policy, implementing policy, and evaluating policy. The stage of policy implementation follows after the stage of policy formulation in the policy cycle. This stage is an integral component of the policy cycle. Implementation is defined by Pressman and Wildavsky (1973, 1984) as "the link between the setting of objectives and the execution of methods designed to achieve them". Policy implementation refers to "those behaviours by public and private people (or groups) that are aimed at fulfilling goals specified by earlier policy decisions," as stated by Van Meter & Van Horn (1975). As a distinct area of research, it sprang to prominence in the 1970s in the United States as a reaction to rising questions about the efficacy of broad-based reform programmes. In other words, it was a "response to mounting doubts over the efficacy of broad-based reform projects" (Püzl & Treib, 2007, pp89-107). As a result of the ground-breaking research they conducted in the field of implementation studies, the American academics Jeffrey Pressman and Aaron Wildavsky are regarded as the field's founding fathers. Prior to that, it was a frequently held belief that the policies were carried out in accordance with the intentions of the legislature (Hill & Hupe, 2002). However, as it became clear that there was a difference between the two, the focus shifted to looking at policy implementation as its unique area of research. The debate surrounding administrative and policy issues gave rise to several studies and models, each of which reflected a unique point of view regarding the most effective strategy for putting public policies into action. In the following paragraphs, will have discussion on the top-down and bottom-up models of policy implementation, which are the two prominent models in the field.

The top-down paradigm of policy implementation is supported by scholars such as Pressman and Wildavsky (1973), Van Meter and Van Horn (1975), Eugene Bardach (1977), Nakamura and Smallwood (1980), Daniel Mazmanian and Paul Sabatier (1980), Hogwood & Peters (1982), and Lewis Gunn (1978). According to this approach, the implementation process is a

procedure in which the policy objectives are formulated centrally in the form of decisions made by the central government, and the implementation is carried out hierarchically. It is what is known as a "prescriptive approach," and it considers policy to be an "input," while implementation is seen to be an "output." The "ability of decision makers to identify explicit policy objectives and control the implementation phase" is the primary focal point of this technique (Hill & Hupe, 2002). Furthermore, by viewing the process of policy implementation as a linear process that reflects a direct relationship between policy objectives and their consequences, this model maintains that there is a "direct causal link" between policies, which is independent of the implementers involved in the process and asserts that there does exist such a link. As a result, the primary focus of this model was on putting in place a hierarchical structure to carry out policy implementation. This structure included bureaucratic processes, clearly defined roles and responsibilities for each individual, control and monitoring, and sufficient resources for accomplishing the policy's goals.

The review of the policies, on the other hand, revealed that the outcomes of the policies did not necessarily correspond with the intentions of the policies. Researching this potential causal connection between processes on the ground level and at the receiver level and various other variables was necessary. In addition to this, the top-down paradigm was criticized because of its centralized nature. DeLeon & DeLeon (2002) referred to it as the "ruling elite phenomenon" since it ignores other players' part in the process. The bottom-up paradigm emerged during the policy implementation discussion in the late 1970s and early 1980s as a criticism of the top-down method. Lipsky (1980), Ingram (1977), Elmore (1985), and Hjern and Hull (1982) are examples of prominent scholars who have contributed to the development of this theory. Criticizing the prescriptive, centralized, and linear top-down approach to policy implementation, the bottom-up paradigm contends that the involvement of all actors involved in the process cannot be ignored. Because of this, the technique frequently starts at the bottom of the process and looks for networks of grassroots players who participate in policy implementation. The bottom-up approach rejects the notion that policy objectives defined at the central level must be strictly adhered to. Instead, it argues that local bureaucrats involved in the execution of the policy at the grassroots level should be granted discretion to adopt local strategies to address problems that arise during the process. It contrasts the top-down approach, which adheres strictly to the policy objectives defined at the central level. Local bureaucrats, also known as "street-level bureaucrats" (Lipsky, 1980, pp. 381-385), are significantly closer to the local problems and can successfully fix them with their regulations. It contrasts the top-

down model, in which the policies are set centrally by people entirely unaware of the local community's challenges. These strategies for resolving issues, which front-line bureaucrats utilize, affect policy outcomes.

This conceptual gap between these two models was addressed by hybrid theories that evolved in the works of Elmore (1985), Sabatier (1987), Goggin et al. (1990), Scharpf & Mohr (1994), Windhoff-Héritier (2019), Franklin & Ripley (1984) and Winter (2012). Hybrid theories attempt to address the deficiencies unique to both approaches by utilizing the strengths gained from merging their most essential components. For example, Elmore (1985) proposed that to implement policies successfully; policymakers should first perform an analysis of the policy instruments and available resources (which he referred to as "forward mapping") and then determine the incentive structure of the implementers and the target groups (which he termed "backward mapping"). The "advocacy coalition framework" (Sabatier, 1987, pp. 649-692) is another standard model of the hybrid theory. This model focuses on redrawing the strategies of essential actors to meet the policy challenge.

### **4.3 SIGNIFICANCE OF EXAMINING ADMINISTRATIVE STRUCTURE AND PROCESSES**

For analyzing and evaluating the implementation process of any public policy, it is imperative to examine its existing administrative structure and the role of various actors and agencies involved in the process. All these factors play a significant role in influencing the implementation process and determining the policy outcomes. In the context of the education sector, this analysis is crucial since education comes under the concurrent list of the Indian constitution.<sup>1</sup> The central and the state governments can legislate on matters related to it. It is also reflected in the case of the Right to Education Act 2009. Hence, while the Central Government enacted the Act, the respective State governments were empowered to frame model rules for its implementation. For example, Gujarat is implementing the RTE Act of 2009 through RTE Rules 2012 and other government resolutions. However, this dual process has also created some "conflict and ambiguity between federal and state level actors - its intent as envisioned at the national level versus how it is implemented and practised at the local level"

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<sup>1</sup> In the original constitution, education was on the State list. However, with section 57 of the 42<sup>nd</sup> Constitutional Amendment Act of 1976, entry 11 of List II (state list) was deleted and transferred to List III (concurrent list).

(Govinda, 2016; Mehendale et al., 2015; RTE Report, 2015; Sarin & Gupta, 2014; Velaskar, 2010).

In the context of implementation, this diverse nature of the education system creates discrepancies at all levels. One can find different varieties of educational institutions operating in the country, like fully government-operated schools (running more in rural areas), state-funded grant-in-aid schools, schools run by religious organizations and private schools. Within private schools also, there is disparity. Some elite private schools cater to the wealthy and upper middle class, whereas low-fee private schools cater to the middle and lower middle classes. This overall varied conglomeration of the school system has led to "hierarchies of access" (Ramachandra, 2009, pp. 669-683) and established "highly stratified and deeply segregated social, political, and economic institutions" (Nambissan, 2009; Ramachandran, 2009; Sarin et al., 2017) in the Indian education system, involving multiple stakeholders at all levels. Without examining the role of these multiple stakeholders, it will not be possible to evaluate the status of the implementation of the Act in the state.

Moreover, it is also vital to examine various social, economic, political, and cultural factors which influence the policy process at all levels- the way a policy gets "formulated, imported, adapted, and localized" (Pritchett, 2009, pp. 130-73; Vavrus & Bartlett, 2009, p. 13). In the case of the education sector, these factors result in "policy prescriptions that have the potential to influence education policy, curriculum, and practice at the local as well as national and international levels" (ibid). The link between these factors and their impact on the implementation process can be understood by studying the administrative structure and different actors involved.

#### **4.4 OVERVIEW OF THE EDUCATION SECTOR IN GUJARAT**

In Gujarat, there are 54,444 schools, of which 42,130 are located in rural areas, whereas 12,314 are in urban areas. Within Gujarat, these schools are spread across different regions of Gujarat, in the Saurashtra-Kutch region, which comprises districts of Amreli, Bhavnagar, Botad, DevBhumi Dwarka, Gir Somnath, Jamnagar, and Junagadh. Kutch, Morbi Porbandar, Rajkot and Surendranagar, there are 16,564 schools. In the North Gujarat region, there are 11,096 schools spread across different districts of Aravalli, Banaskantha, Gandhinagar, Mahesana, Patan and Sabarkantha. Further, in the South Gujarat region, there are 9798 schools in the

districts of Bharuch, Narmada, Navsari, Surat Tapi, The Dangs and Valsad. Central Gujarat has 16,985 schools in Ahmedabad, Kheda, Anand, Panchmahals, Vadodara, Dahod, Chhotaudepur and Mahisagar (Government of India, 2020-21). The researcher has classified the number of schools across different regions and districts of Gujarat in the following tables. The school education system in Gujarat is divided into four stages- Primary (Class I to IV), Upper Primary (Class V to VII), Secondary (Class VIII to X) and Higher Secondary (Class XI and XII). The third standard introduces the English language from the second semester onwards. In Gujarat, the Schools can be categorized into three broad categories – Government-run, Grant-in-aid and Private. Government-run schools are established, managed, and financed by the central and state governments. It also includes schools run by local body institutions like municipal committees/ corporations/Zilla Parishads/ Panchayat Samitis/ Cantonment Board. Under the grant-in-aid model, the schools are established by private individuals/trusts but receive grant-in-aid from central and state governments. They receive funding to pay the salaries of teachers and administrative staff, but they remain under private management. These schools are subject to central and state laws and regulations and must admit all eligible students irrespective of religion, caste, language, or ability.

The third category is Private unaided schools run by private individuals or trusts. They manage their finances through the school fees and funds they collect and raise themselves. These schools enjoy considerable autonomy compared to the government and grant-in-aid schools concerning the medium of instruction, curriculum, tuition fees, type of students admitted, and pupil-teacher ratio.

After the advent of the Panchayati Raj in Gujarat, local bodies mainly administered the primary education system. In the rural areas, primary education comes under the purview of Zilla Shikshan Samiti, and the District Primary Education Office (DPEO) issues administrative control, management, education guidance and directions. The state government funds the salaries of teaching and non-teaching staff by providing 100% grants. In 2020-21, the total no. of schools run by Zilla Panchayat Shikshan Samiti and Nagar Prathmik Shikshan Samiti was 32,309. The total number of students enrolled in these schools was 49,17,667, and no. of teachers was 1,81,292.

In urban areas, primary education comes under the control of an authorized corporation governed by Nagar Prathmik Shikshan Samiti, which is primarily responsible for the overall

management of primary education in areas under its jurisdiction. Areas other than Municipal Corporations which fall under Municipalities, as decided, they have to contribute their share to the Taluka Panchayat. Under the guidance of the Directorate of Primary Education, the district primary education officer (DPEO) heads the Zilla Panchayat Shikshan Samiti. However, there is no uniformity in this structure. In Ahmedabad and Surat Mahanagar Palika, the Shikshan Samiti appoints its own governing officer. In the other 18 authorized Nagar Palika and Gandhinagar City, the education department officers perform administrative functions of primary education. For assisting DPEOs, in planning and management, in every district, there is one post of Dy. District Primary Education Officer. For the inspection of primary education, there are 625 Education Inspectors' posts sanctioned. At the Taluka level, 225 primary education officers are sanctioned; however, accordingly to the DPE website, the Education Inspectors are given the charge to perform the functions of primary education officers.

The Secondary and Higher Secondary Schools in the State are managed by the Commissionerate of Schools, which is under the administrative control of the Education Department of the State Government. Its main goal is to universalize Secondary and Higher Secondary Education for all students without discrimination. The office of the Commissionerate of School supervises the development and management of Secondary and Higher Secondary Education in the State.

Its head office is in Gandhinagar. It performs crucial functions like controlling all District Education Offices, providing grants to the Government and Grant in Aid Secondary and Higher Secondary schools, including special institutes, and regularly monitoring schools through inspections. Besides these functions, the Commissionerate of Schools is also assigned the responsibility of implementing important Secondary and Higher Secondary Educational Schemes like Vidyalaxmi Bond for Girls, Karma yogi Training for teachers, Vidhyadeep, Computer Aided Learning, Scholarships for brilliant and scholar students and Special Grants provision for the development of Secondary and Higher Secondary Schools of the tribal area. Since the state has assigned the task of providing education at each level to a distinct department or agency, it has created a complex institutional framework comprising several offices. Although education is one function, the providers of this single function are many, which has made it a highly complex process. In this light, the subsequent sub-sections will discuss the main offices, agencies and actors involved in the education sector and describe their role in implementing the RTE Act 2009, rules 2012.

#### **4.4.1 STATE EDUCATION DEPARTMENT**

At the apex of this structure lies the state Education Department, established in 1960 under the name 'Education and Labour Department'. It included social welfare, labour, prohibition, excise and employment within its ambit. It was in 1976 that a separate Education department was formed which the responsibility of imparting primary education, continuous education, literacy education, secondary education, higher education, technical education, and pharmacy education. The primary function of the Education Department is to formulate policies aiming at the universalization of primary education for children aged 6 to 14 years.

Further, it is also responsible for supervising the implementation of these policies and giving directions by issuing guidelines and orders. Thus, the Department looks after all matters concerning education, provides overall direction and administrative support, and initiates development-related activities in the state. It is headed by the Minister of Education, followed by the Minister of State, who oversees primary, secondary and adult education. There are two secretaries as heads of the Education Department; one is the Principal Secretary (Education), and another is Secretary (Primary Education). In addition, there are seven Deputy Secretaries, eight Under Secretaries, and various branches dealing with various subjects. In addition, there are 18 section officers (Gazetted class 2). They are heads of the branches. There are 8 Heads of Departments and one statutory board under the administrative control of the education department. The implementation task of the activities is assigned to various offices designated with specific functions of the state's education system.

##### **4.4.1.1 ROLE AND RESPONSIBILITY UNDER RTE ACT 2009, RULES 2012**

As per the interview conducted with a senior state education department official on the department's role in implementing the RTE Act 2009, the researcher was informed that being an apex body, the state education department mainly performs legislative functions. Hence, all the decisions related to education or RTE Act 2009 in particular, are taken by the education department, which has to be implemented by the Directorate of Primary Education Office (DPE), along with other agencies like Samagra Shiksha Abhiyan (SSA) and Gujarat Council of Educational Research and Training (GCERT). Hence, the passing of the Gujarat RTE model rules 2012 and all the related Government Resolutions (GRs) related to various aspects of the

Acts are formulated by the state's education department. Further, according to Samagra Shiksha Abhiyan (SSA) Report 2020-21, the education department also implements clauses 18 and 19 under Chapter 4, which deal with norms related to teachers acquiring minimum qualifications and salary and allowances of vidyasahayaks and teachers.

#### **4.4.2 PRIMARY EDUCATION: DIRECTORATE OF PRIMARY EDUCATION (DPE)**

According to the Bombay Primary Education Act 1949, the powers, functions, and administration of financial matters come under the jurisdiction of the office of the Directorate of Primary Education. The Gujarat Government established the Office of the Directorate of Primary Education (DPE) in 1986 to provide primary education in the state. The Directorate's main functions include providing primary education in the state. For this purpose, in the urban areas, schools are managed by Nagar Prathmik Shikshan Samiti and private institutions. In the rural areas, the District Panchayat Shikshan Samiti and private institutions provide primary education. DPE issues standard guidelines and provides directions for proper implementation of the policies set out by the Education Department.

The Directorate of Primary Education (DPE) main functions and responsibilities are to prepare set-up register of Districts / Taluka level schools; make payment of salaries of primary teachers, and other allowances and remunerations; approval of long leaves to teachers; development of online applications and activities related to its implementation for transfer of primary teachers & HTAT; approve transfers related to medical reasons and exceptional cases; handle complaints, primary inquiries and vigilance cases; manage matters related to increase in pensions; approve cases related to orders of reappointments and suspensions from duties and various types of medical bills; development of primary education and its expansions; advance support to the family in case of death during service; resolving issues related to administration of Zilla and Nagar Shikshan Samiti; celebration of different festival and programmes; approve and issues certificates for CBSE affiliations and minority institutions in case of non-granted private schools; issuing duplicate service book; addressing court matters and RTI matters; handle admission related issues under RTE Act for non-granted private primary schools; supervise work related to already planned schemes; organize Kanya Kelvani Rath Yatra and Shala Praveshotsav; Shikshak Kalayan Rashtriya Niti and Aadhar Card.

##### **4.4.2.1 ROLE AND RESPONSIBILITY UNDER RTE ACT 2009, RULES 2012**

As per the interview conducted with one of the officials of DPE, it was found that DPE is primarily an implementing agency which focuses on implementing various provisions of the Act and matters related to teaching staff. In implementing the RTE Act 2009, Rules 2012, DPE is engaged in several activities as an implementing agency of various provisions of the RTE Act 2009, Rules 2012. According to the SSA Report 2020-21, the DPE is the implementing agency for the provision related to the maintenance of the records of the children, within its jurisdiction by the local authority, under Chapter 3, clause 7.

Further, the DPE is also the implementing authority for the 25% reservation provision for children belonging to weaker and disadvantaged sections under clause 12 (c) of the RTE Act 2009, which was introduced in the state vide the government resolution khpsh-102012-727646-ch, dated 23/05/2013. Furthermore, under Chapter 3, clause 8.2, the Act prohibits payment of any donation, capitation fees or conducting any screening test of children or parents. The DPE implements this clause. Another crucial area where DPE is entrusted as implementing agency is related to the recognition of private unaided schools and the withdrawal of the recognition. The norms related to the same are listed in Chapter 4, clause 13 and 14 of the Act. In continuation with the norms laid out under RTE Act 2009, the state government vide resolution pre-142010-242076-K, dated 03/06/2010, mandated adherence to the Pupil-Teacher Ratio (PRT) in schools as per the RTE Act 2009, and the DPE is the implementing agency of this clause. Furthermore, the DPE is also engaged in implementing clause 20 of the RTE rules 2012, also specified vide resolution PRE-121-2014-40796-K, dated 07/02/2014, which outlines the duties of teachers and vidyasahayaks and clause 30 of chapter 5, which mandates the award of the certificate of completion if elementary education.

#### **4.4.3 SAMARGRA SHIKSHA ABHIYAN (SSA)**

One of the most landmark schemes of the government of India to achieve the goal of universalization of education and Education for All is the Samagra Shiksha Abhiyan (SSA) (earlier called Sarva Shiksha Abhiyan). Its objectives include bridging the gender and social gaps at the elementary education level. Moreover, SSA is also performing other functions like the opening of new schools, providing alternate schooling facilities, construction-related activities in the school like building additional classrooms and toilets, facilitating various provisions like providing drinking water, provisioning for teachers, regular teacher in-service

training and academic resource support, free textbooks and uniforms and support for improving learning achievement levels/outcome.

After the advent of the Right to Education Act 2009, it is also entrusted with implementing several provisions of the Act. Launched in 2002, this scheme has played an essential role in shaping India's education policy. It is financed by the Government of India and three external Development Partners- the World Bank's International Development Association (IDA), The Department for International Development of the United Kingdom and the European Union.

#### **4.4.3.1 ROLE AND RESPONSIBILITIES UNDER RTE 2009, RULES 2012**

As per the interview with a senior State Education Department official, SSA can also be considered an implementing agency, but its purview differs from the DPE. SSA mainly investigates the implementation aspects of providing infrastructure support like constructing schools, additional classrooms, hostels, toilets, computer labs, and drinking water facilities and is one of the critical implementing agencies. However, the SSA Annual Report for the year 2020-21 mentions that SSA is also acting as an implementing agency along with GCERT concerning Chapter 5, clauses 25 and 26, which refers to establishing mechanisms for periodic training and regular assessment of the performance of BRCs and CRCs, and periodic external evaluation of in-service teacher training programmes. Further, SSA is also involved in implementing clause 4 in Chapter 2, which relates to providing special training, using context-specific strategies and appropriate learning material, and never enrolling or dropping out children to facilitate their learning process and further their admission in an age-appropriate class.

#### **4.4.4 GUJARAT COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING**

Gujarat Council of Educational Research and Training (GCERT) is one of the important institutions in the field of education in the state. It was established in 1962 as the State Institution of Education (SIE) and gained autonomous status in 1998. There are various departments in GCERT like Teacher Training (TT), Curriculum and Evaluation (C&E), Research and Innovation (R&I), Planning and Management (P&M), Publication and Library (P&L), State Teachers' Training Institute (STTI). It is under the control of a Governing Body and Executive Council formed by the government.

It performs several vital functions in the primary education and secondary education sector. One of the most significant functions of GCERT is to improve the quality of education in primary and secondary schools. Hence, for its enhancement, GCERT regularly conducts teacher training in the state. It develops innovative educational content and practices for improving the quality of primary and secondary education. It proposes and organizes innovative programs for sharing the latest trends and approaches in education. It also provides academic and research support and guidance to educational institutions and other stakeholders. The second important function of GCERT is to assist and advise the Department of Education, Government of Gujarat, to effectively implement its policies and programmes. The third important function of GCERT is to provide leadership and academic guidance to other offices in the state like District Institute of Education and Training (DIET), Council for Teacher Education (CTE), Institute of Advanced Study in Education (IASE), Block Resource Coordinator (BRC), Cluster Resource Coordinator (CRC), Sarvangin Vikas Sanstha (SVS). GCERT also monitors and supervises these offices.

#### **4.4.4.1 ROLE AND RESPONSIBILITIES UNDER RTE ACT 2009, RULES 2012**

The RTE Act 2009, Rules 2012, recognizes GCERT as the academic authority for prescribing the curriculum and evaluation procedures in the state under clause 23, chapter 5 of the Act. According to RTE 2012 rules, GCERT primarily engages in educational and research activities. According to the Act, its primary role is to define each grade's learning outcomes, approve learning materials and teachers' training materials, and issue guidelines for continuous comprehensive evaluation of children and special training programs for children and in-service teacher training programmes. Furthermore, the SSA Annual Report for the year 2020-21 states that GCERT, in collaboration with SSA, acts as an implementing agency concerning clauses 25 and 26 of Chapter 5, which refers to establishing mechanisms for periodic training and regular assessment of the performance of BRCs and CRCs, and periodic external evaluation of in-service teacher training programmes.

#### **4.4.5 STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS**

The Gujarat State Commission for Protection of Child (GSCPCR) was established in 2012 under the aegis of The Commission for Protection of Child Rights Act, 2005. Its primary function is to ensure that laws enacted for the protection and security of children are not violated. For this purpose, the commission inquires into matters related to the protection of rights and security of children under any law; examines factors that obstruct the rights of children affected by natural disasters, violence, terrorism, trafficking, prostitution, and HIV/AIDS; protection of rights of children under RTE Act 2009 and Protection of Children from Sexual Offences Act-2012P; examining several policies and program regarding safeguarding child rights and making recommendation for its effective implementation and remedial measures; promoting awareness about the rights of the children. In the cases of violation and infringement of child rights, the Commission is also empowered to recommend the authorities concerned to take effective action and initiate an inquiry on receipt of complaints of violation of child rights and to take Suo Moto note.

#### **4.4.5.1 ROLE AND RESPONSIBILITIES UNDER RTE ACT 2009**

The SCPCR is primarily envisioned in the framework of the RTE Act 2009 as a monitoring agency that will supervise the execution of the children's right to education. It is a part of the grievance redressal mechanism in the state, as per GOG resolution PRE-112- GOI-29-K, dated 30/04/2013, in that it is an appellate authority to whom an aggrieved individual can appeal against the decision of a local authority.

According to the interview with a senior state education department official regarding the role of SCPCR, the researcher was informed that the Commission investigates matters related to the violation of child's rights under RTE 2009 and takes suo-motu cognizance of complaints and also communicates to the government if required.

#### **4.4.6 LOCAL AUTHORITY**

According to RTE Act 2009, the local authority includes the organs of the third tier of government. It is further defined as Municipal Corporation, Municipal Council, Zila Parishad, Nagar Panchayat, Panchayat, or any other authority or body having administrative control over the school or empowered by or under any law to function as the local authority.

#### **4.4.6.1 ROLE AND RESPONSIBILITIES UNDER RTE ACT 2009, RULES 2012**

The role and responsibilities of the local authority can be found in Chapter 3, clauses 6 and 7, and GOG circular vide PRE-1112- GOI-29-K, dated 01/20/2013. The local authority is primarily responsible for making education available to children regarding school mapping, identifying children in rural locations, children with disabilities, and children from disadvantaged and disadvantaged segments of society. In addition, the local authority is responsible for ensuring that no child in the school is subject to any form of discrimination based on caste, class, religion, or gender.

Similarly, the local government must ensure that no child from a disadvantaged group is separated or discriminated against in the classroom, during meals, on the playground, or while accessing essential facilities such as toilets or drinking water. In addition, local authorities are expected to maintain records on children within their jurisdiction and to ensure that the names of all children enrolled in schools within their jurisdiction are prominently displayed in such schools. In addition, the aforementioned government GR has expanded the scope of local authority responsibilities to include monitoring each child's enrollment, attendance, and completion of primary education, as well as providing a quality elementary education in accordance with the Act's indicators for maintaining PTR, school buildings, and working days. The local authorities must also ensure a timely curricular framework, conduct teacher training, and create an academic schedule. Finally, the local authority is required to take care of the school.

#### **4.4.7 STATE ADVISORY COUNCIL: ROLE AND RESPONSIBILITIES UNDER RTE ACT 2009, RULES 2012**

Chapter 6, clause 33 of the 2012 RTE rules stipulates the formation and responsibilities of the state Advisory Committee. In addition, the government GR dated 21/03/2013 refers to forming the state's Advisory Council (SAC). It will consist of no more than 14 members, including the Minister(s) of Education, Secretaries or Principal Secretaries of the departments of finance, tribal, social justice and empowerment, primary department, State Project Director (SSA), Director of GCERT, and Director of Primary Education. In addition to government members, the State Advisory Council would also include non-government members. Seven such members will be comprised of experts with knowledge and experience in elementary education and child development. Four of these members must be from schedule caste, schedule tribe and minority communities; one member must have specialized knowledge in the field of education for children with special needs, one member must have specialized knowledge in the field of pre-primary education, two members must have specialized knowledge and practical experience in the field of teacher education, and overall, fifty per cent of these members must be women. In accordance with the duties of the state Advisory Council, it is obligated to provide advice regarding elementary education in the state. The Act further stipulates that no member shall hold office for more than two terms and may be removed for proven misbehaviour or incapacity by the state government's order. As per the interview with the state government official to inquire about the role and selection procedure of SAC members, it was found that there are no specific criteria laid out by the Government for the selection of non-government members; therefore, it is sometimes done based on ministerial or senior bureaucrat pressure or based on a recommendation.

#### **4.4.8 DEO & DPEO: ROLE AND RESPONSIBILITIES UNDER RTE ACT 2009, RULES 2012**

The District Primary Education Officer (DPEO) and District Education Officer (DEO) are Class 1 government positions. While the DPEO is solely responsible for primary education, the DEO is responsible for secondary and higher secondary education. These offices are crucial to the administrative system as they are intermediate between top-level government officials, lower-level officers, and other actors involved in implementing the Act. As stated earlier, numerous offices and agencies in Gujarat are responsible for implementing the Right to Education Act in the state. The State Education Department, mainly a rulemaking body, stands at the apex. Other departments, such as the Directorate of Primary Education (DPE), the Samagra Shiksha Abhiyan (SSA), and the Gujarat Council of Educational Research and

Training (GCERT), are primarily responsible for implementing the Act's provisions. Senior bureaucrats occupy the apex positions in each of these offices. The DEO and DPEO rank second in the administrative structure's hierarchy, followed by the Taluka Primary Education Officer (TPEO), the Block Resource Coordinator (BRC), the Cluster Resource Coordinator (CRC), school principals, and teachers.

The DEO and DPEO are crucial to the entire implementation since they are the first to interpret and disseminate the rules established at the highest level and other information related to the implementation of the Act. All information in government and private unaided schools is also routed through them. In addition, the DEO and DPEO must ensure that the state government's rules and regulations are effectively implemented at the grassroots by the TPEO, BRC, CRC, and school principals and teachers. In terms of authority, the offices of the DEO and DPEO have sweeping powers that even allow them to control the business of private unaided schools. Furthermore, clause 12 (C) of the RTE Act, which refers to the 25% reservation for socioeconomically disadvantaged children coming from the weaker segment of society, is also primarily implemented through the office of the DEO. This section of the Act mandates that the reservation be made through the office of the DEO. The DEO office handles everything from admissions to school tuition reimbursement for children admitted under the 25% reservation system.

#### **4.4.9 SCHOOL PRINCIPAL and TEACHERS: ROLE AND RESPONSIBILITIES UNDER RTE ACT 2009, RULES 2012**

According to the RTE Act, rules 2012 and resolution no. PRE/12/2014/40796/K, dated 07/02/2014, the school principal is responsible for the entire admission process of a child in the school. Accordingly, the principal must conduct a census of all children eligible for compulsory education in the school's vicinity, process their admission, and ensure that every child is allowed admission due to lack of age proof. Further, in terms of implementing the provisions of RTE, the school principal is to ensure that no child faces any discrimination in the school on the grounds of social, economic, religious or cultural factors, arrange regular SMC meetings, supervise Mid-Day Meals, create awareness about RTE Act 2009, no child is subject to mental harassment or corporal punishment, take appropriate action in case of absence of a child from school for more than ten days, hold national festivals and other extra-curricular activities in the school, provide free distribution of uniform and books to children, and promote

good values and discipline in the school. In the context of school teachers, the RTE Act 2009, rules 2012, requires school teachers to conduct regular meetings with parents and guardians to keep them informed about attendance, learning competence, progress and ancillary matters related to their children. Further, teachers are required to assist the school principal in performing administrative duties related to the school and SMC.

The school principal and teachers are essential actors in the implementation process of the RTE Act 2009, rules 2012, in Gujarat. The role of the school principal is of particular significance since he is responsible for executing the Act at the grassroots level. Out of all the actors involved in the implementation process, the school principal and teachers are in regular contact with the beneficiaries of the RTE Act 2009, i.e., the children. Hence, studying how they perceive the Act and execute it further is of utmost importance. As per the survey conducted by the researcher on school principals in schools in Gujarat, 80% of the respondents were in North Gujarat, 89% of respondents were in South Gujarat, 87% of respondents were in Central Gujarat, and 82% of respondents in Saurashtra-Kutch regions have received training regarding RTE Act 2009. Since the study found that a few respondents have yet to receive training, it is a matter of concern. Regular training creates awareness about the different provisions of the RTE Act. Also, the sharing of knowledge takes place through the exchange of ideas among people, which could be highly beneficial to the overall implementation of the Act.

#### **4.4.10 SCHOOL MANAGEMENT COMMITTEE: ROLE AND RESPONSIBILITIES UNDER RTE ACT 2009, RULES 2012**

The School Management Committee (SMC) is a crucial component of the school administrative structure. Under the RTE Act 2009, rules 2012, chapter IV, clause 16 and vide resolution no. PRE-1295-2425-K, dated 22/03/2011, the norms related to the formations and functions of the SMC are laid out. The SMC is entrusted with performing varied functions related to the implementation of the Act like creating awareness about the RTE Act and ensuring that no child is missing school for more than ten days, monitoring the Mid-Day Meals scheme, preparing annual school budget, and annual report, school development plan, organize special training for children, arrange transport facility for child, and ensure that any violation of the right of children is reported to the local authority. The membership of the SMC is also based on the idea of enhancing the participation of all the stakeholders in implementing the Act. It consists of the elected representatives of the local authority, parents or guardians of

children admitted in such school. It also requires proportionate representation of parents and guardians in SMC based on socio-economic factors and gender.

#### **4.5 Good Governance: Origin and Meaning**

In the current era, with the paradigm shift in the discipline of public administration, the scope of public administration has altered and expanded in terms of the market paradigm. As a result, the government is reinvented as governance, which acts as an interface between the state, market, and civil society. Theoretical roots of governance stem from economic theories, especially the 'New Right' ideology. Throughout the 1980s, due to economic changes and especially globalization, the term governance became popular due to its emphasis on the process and style of governing concerning sustainable development. The concept of governance refers broadly to how power is exercised through a country's economic, social, and political institutions to use the country's resources for socio-economic development. The governance process encompasses life's political, social and economic aspects, which impact each individual, household, village, region or nation. Governance involves the state, which creates a political, legal and economic environment conducive to building individual capabilities and encouraging private initiative. It further includes civil society, which facilitates the mobilization of public opinion and people's participation in economic, social and political activities. Lastly, it includes the market, which is expected to create opportunities for people. In its 1997 report "Governance for Sustainable Human Development," the UNDP defines governance from political, economic, and administrative perspectives and links them to public policy. Economic governance encompasses the decision-making process that impacts a nation's economic operations. Political governance forms a policy through decision-making, whereas administrative governance assures policy implementation (IFAD, 1999, p.5).

Further, the term good governance was added to this concept of governance. The IMF and World Bank are credited with creating the concept, defining it, and ensuring its implementation. The World Bank, in its 1992 report titled "Governance & Development" (IFAD, 1999), defined good governance as the process by which power and authority are used to manage a nation's economic and social responsibility for its development. Further, the 1997 World Development Report titled 'The State in a Changing World' highlighted and praised the state's role in promoting growth and development. Both reports emphasized the need to change the state's role in the neoliberal framework. Instead, the state was envisaged as a catalyst,

growth partner, and facilitator (World Bank, 2004, p.23). In light of this altered perspective of the state, good governance became a central idea connecting the government, civil society, and market- where it aims to support the cooperation of all three in eradicating socio-economic inequalities and laying the foundation for long-term progress.

Further, in a 1997 UNDP policy document titled "Governance for Sustainable Human Development," the UNDP outlined its definition of good governance as "the existence of effective mechanisms, processes, and institutions through which citizens and groups articulate their interests, exercise their legal rights, fulfil their obligations, and mediate their differences". Participatory, transparent, accountable, effective, and equitable are just a few characteristics of good governance and its promotion of the rule of law. It makes sure that political, social, and economic agendas are founded on widespread social agreement and that the views of the most vulnerable and impoverished people are heard when decisions are being made on how to allocate resources for development. The UNDP further highlighted the crucial parameters of good governance: participation, the rule of law, transparency, responsiveness, consensus orientation, equity, efficiency and effectiveness, accountability, and strategic vision.

#### **4.5.1 RIGHT TO FREE AND COMPULSORY EDUCATION ACT 2009 (RTE ACT) AND GOOD GOVERNANCE**

Good governance has emerged as a critical idea in recent international development discussions. The argument that effective governance practises is essential for carrying out the policies and programmes from the fund has attracted much attention from donor countries and organizations. Good governance in the realm of education refers to structures and connections between citizens, public servants, and providers of educational services that can raise the standard of instruction provided in classrooms. While constitutional and legal frameworks, such as the Right to Free and Compulsory Education Act of 2009, can aid nations in achieving the goal of universal primary education, the adoption of effective good governance can have an impact on both the availability of primary education and the standard of instruction provided in schools. Additionally, the quality of outcomes in the education sector can be improved by including members of civil society, which is one of the critical components of good governance. In this light, this sub-section includes a normative analysis of the state model rule for implementing the RTE Act 2009 in the context of good governance parameters.

#### **4.5.1.1. PARTICIPATION**

The idea of participation entails the right to participate in decision-making should be guaranteed to all men and women, whether directly or through reputable intermediary institutions that represent their interests. Such widespread participation is based on the ability to contribute productively and freedom of association and speech.

Under the RTE Act 2009, several state and non-state actors and agencies are sought for its effective implementation, like the School Management Committee, State Commission for the Protection of Childs Rights, and State Advisory Committee, which comprises members from the civil society and affected target population. The researcher will not go into great length on the concept of participation here because it will be covered in more detail in the subsequent chapter.

#### **4.5.1.2 RULE OF LAW**

It implies that the legislation pertaining to human rights should be fairly applied and implemented. It reflects the rules, regulations, principles and processes that are fair and applied equally to everyone. In the context of the RTE Act 2009, the Act itself embodies the idea of the rule of law. The legislation itself has constitutional and statutory backing and enjoys safeguards as part of the list of fundamental rights of the Indian constitution. Further, within the Act, several provisions lay down the rules and regulations that must be followed while implementing the Act. At the outset, the Act mandates providing free and compulsory elementary education to all children aged 6 to 14 years without any discrimination. The local authority has the legal obligation to ensure that no child is deprived of this right due to any social, economic, cultural or any other discriminatory reasons.

Further, the rule of law can only be applied in the presence of legitimate authority. Chapter One of the Act clearly defines the competent authority entrusted with the legal obligation to implement various provisions of the Act. Furthermore, the second chapter, clause 3 of the Act, establishes the rules for providing admission to the children in the school by specifying the age criteria and the required set of documents. Earlier, the age requirement for getting admission in standard 1 was five years, which is now extended to six years.

Further, chapter three of the Act defines the duties of the local and state governments in implementing the Act. According to this, the local authority has a legal obligation to ensure that all the children studying in government and government-aided schools have access to free education and textbooks without any discrimination in the school at any level. In addition, school mapping for the identification of neighbourhood schools and maintenance of records of children is also defined as a duty of the local authority under the Act.

However, contravention of the idea of the rule of law can be found in section 12 of chapter four of the Act, which mandates legal punishment in case of violation of any provision (found in section 13, clause 1 of the Act) related to the norms to be followed by schools which are not established, owned, and controlled by the state government or local authority. However, the state-run schools are given an exemption here, which violates the principle of the rule of law to be universally applied to everyone.

#### **4.5.1.3 TRANSPARENCY**

The idea of transparency refers to an open exchange of knowledge. It implies that the affected people should have direct access to processes, institutions, and information and be given enough information to make it possible to comprehend and monitor it. It further implies that all the stakeholders impacted by administrative choices should be informed about the process that led to those decisions, have open access to all the information and require the government officials to act in such a manner that the public is aware of the decisions they are making. Important elements of transparent governance include the availability of information on government policies and acts, a clear understanding of organizational accountability, and the certainty that governments are effectively run and devoid of systemic corruption.

Further, the idea of transparency also entails making decisions and carrying them out in a way that complies with laws and regulations. Additionally, the transparency provision ensures that adequate information is available and that it is presented in formats that are simple to comprehend.

In this light, the RTE Act 2009 and its important circulars are in the public domain. They are accessible to the public. Under Chapter II, part 7 of the Act, the local authority must identify the neighbourhood schools where children can be admitted. This information will be public for

"each habitation within its jurisdiction". Further, chapter III, section 7, clause 5 of the Act also requires the local authority to publicly display the names of all children under its jurisdiction in school. Finally, chapter IV, part 13.1 clauses f, g and h, establishes norms of transparency in schools by subjecting them to inspections by government officials, demanding submission of reports and information as deemed by the government and the schools to create and maintain a website and providing District Information System for Education (DISE) data correctly and regularly.

Moreover, the declaration made by the existing schools regarding their compliance with the RTE Act norms and the applications received for the new schools is required to be placed in the public domain by the competent authority within 15 days of its receipt. To ensure compliance with the RTE Act norms in the school, a committee has to be formed for on-site inspection, which shall submit its inspection report, and the competent authority is required to place that report in the public domain. Furthermore, chapter IV, section 16, clause 9, which deals with the functions of the School Management Committee (SMC), requires the SMC to prepare an annual report containing the details of the activities of the SMC during the year and place the report before the Gram Sabha.

#### **4.5.1.4 RESPONSIVENESS**

According to the concept of responsiveness, all institutions and processes should benefit all stakeholders, and it requires the government to act quickly and effectively in response to public needs. It necessitates a resolve on the part of the government to carefully consider regional differences and ambitions while firmly establishing policies, strategies, plans, activities, and resources to the public's expectations. In the context of the RTE Act 2009, several provisions are established to benefit the children and other stakeholders. At the outset, chapter two, section 2 of the Act relaxes the norms of required documentation for the admission process. It states that in case of the non-availability birth certificate under the Births, Deaths and Marriages Certification Act, 1886, any other document like a hospital/ auxiliary nurse & midwife (ANM) register record, or the Anganwadi record, or the declaration through an affidavit of the age of the child by the parent or guardian, shall be deemed to be proof of age of the child for admission in schools. It is a crucial step since there are multiple reports of cases where children were denied admission to schools due to the lack of birth certificates. Many orphans, abandoned children, and children from poor and weaker sections of society cannot secure admission to

school because of their inability to produce proper documents. Not only did this affect the enrollment rate and pose a significant challenge to the goal of universal primary education, but it also deprived children of their rights and opportunities to grow.

Further, in the same chapter, according to clause 3.3, the school admission period is extended six months from the commencement date. Any child admitted after the extension period shall receive special training to help him complete his studies. In the same light, clause 4 states that after induction in an age-appropriate class, the child will receive special attention from the teachers for facilitating his successful integration with the class. Moreover, clause 5 of the same chapter refers to opening new elementary schools. In this context, the Act mandates that schools be established within walking distance of the neighbourhood. Moreover, in difficult geographical terrains, the government has to establish schools to mitigate the dangers of natural disasters.

Further, clause 5.6 also mandates the establishment of more than one neighbourhood school in areas with high population density. Moreover, the Act also mandates that during the process of admission, no child would be subject to any interview or required to pay any capitation fees. All these clauses benefit the students and the stakeholders in their quest to attain the right to education.

#### **4.5.1.5 CONSENSUS ORIENTATION**

The idea of consensus orientation refers to obtaining comprehensive agreement on the group's best interests and, whenever possible, on rules and procedures. It further requires the governance processes to moderate divergent interests and mediate between diverse social groups' various needs, viewpoints, and expectations. Decisions must be made thoroughly aware of the community's historical, cultural, and social background and should involve maximum group engagement. This method will be beneficial in ensuring broader participation and efficient and effective outcomes with compliant shared solutions. Moreover, it creates a sense of belongingness among members by making them feel a part of the group, and this collaboration facilitates the process of making informed choices, which is suitable for effectiveness. In the context of the RTE Act 2009, three committees – the School Management Committee (SMC), the State Commission for the Protection of Child Rights (SCPCR), and the State Advisory Council (SAC) reflect the idea of consensus orientation. Chapter 4, clause 16

mandates forming the School Management Committee (SMC) in government-run and government-aided schools. The SMC is entrusted with varied functions related to implementing the RTE Act 2009. It represents all the stakeholders, like the teachers, principals, officials from the local authority, and guardians/parents. The decisions taken by the SMC reflect the idea of consensus orientation between state officials and community members in the process of implementing the provisions of the RTE Act 2009.

Further, chapter 6, clauses 31 and 32, deals with the formation and functions of the State Commission for the Protection of Child Rights (SCPCR). The SCPCR is mainly concerned with redressing grievances related to violating children's rights under the RTE Act 2009. The formation of SCPCR has ensured more participation by involving members from diverse backgrounds like judicial authorities and women in education, child health care, child development, juvenile care, and child psychology.

Similarly, the formation of the State Advisory Council (SAC) in the same chapter, under clause 33, refers to the formation and functions of the SAC, which is required to play an advisory role in implementing the Act. The SAC comprises members from various segments like the government, SC, ST and minority, women, experts in the field of pre-primary and primary education and practical experience of education of children with special needs. Therefore, the decisions taken by all three bodies reflect the consensus of various stakeholders in society in the process of implementation.

#### **4.5.1.6 EQUITY**

In the theoretical discourse, the concept of equity is related to justice and fairness. It alludes to the notion that people do not originate from similar backgrounds, which does not create a fair playing field. Consequently, while providing equal opportunity for people to develop their capacities regardless of social, cultural, or economic considerations is essential, it is also essential to account for their uneven societal position. In the policy discourse, this concept has influenced the formulation of social policies by making them more responsive and considering the concept of positive discrimination as a means to close the gap between people resulting from their unequal social position. In the context of education, the idea of equity implies that no individual should be prevented from attaining their educational potential due to their gender,

race, caste, class, religion, ethnicity, or language and that everyone should attain at least a basic level of proficiency (OECD, 2012).

The RTE legislation, in this light, has enhanced equal opportunities for all children, irrespective of their social background, to participate constructively in the process. Chapter Two, clause 3 of the Act relaxes the requisite documentation criterion for admission to the school. Before RTE Act 2009, there was a stringent rule under the 'Birth, Deaths and Marriages Certification Act of 1886' regarding the documents required for admission to the school. It made access to school very difficult for children from nomadic families, refugees, migrants, or anyone who did not possess the documents. Further, in the same clause, the period of admission is also extended for another 6 months, and there is also a provision for special training for children admitted after this extension period to aid them in their studies.

Further, in the same chapter, clause 5.8 explicitly mandates that the state government/local authority must ensure that no child's access to school is hindered due to any socio-cultural factors. The idea of equity is further reflected in clause 6 of chapter 3, which mandates the local authority to ensure that no child belonging to a weaker section or disadvantaged group is either segregated or discriminated against in the classroom, playground, mid-day meals or the use of common facilities like a toilet or drinking water. Although the original Act did not mention the clause of 25% reservation for children belonging to the weaker section of society, with a subsequent resolution in the year 2013, the Gujarat government introduced 25% reservation for children belonging to the weaker and socially, economically disadvantaged section of society in the private unaided schools. This clause has ushered a distinct dimension to children's education rights by incorporating affordability. The conventional model of education seeks to ensure the 4 A's of education: availability, accessibility, acceptability, and adaptability.

However, another significant aspect is the concept of "affordability" of education, which is crucial in modern times. The fact that India does not have a common public school system has created a structural hierarchy in the education system due to unequal access to education arising from various socio-economic and cultural factors. In this light, the 25% reservation can play an essential role in bridging the gap between affluent and poor children by offering children from disadvantaged and weaker sections of society equal access to education.

Further, Clause 11 of Chapter 4 defines children from weaker and disadvantaged groups and further provides for conducting special training to ensure their smooth integration with other

children in the unaided schools. Clause 11.4 mandates that these children should not be discriminated against regarding their access to infrastructure, participation in extra-curricular activities or behaviour from school.

#### **4.5.1.7 EFFICIENCY AND EFFECTIVENESS**

The concept of efficiency and effectiveness necessitates that institutions and procedures provide outcomes that meet requirements while maximizing the use of available finances. Therefore, it is evaluated more based on actual procedures and outcomes. On a normative level, the RTE Act establishes procedures designed to create efficiency and effectiveness in the implementation of its provisions. In light of this, chapter 2, clause 2 of the Act has expanded the scope of documents required for admission without a birth certificate, strengthening the child's access to school. Under the same chapter's succeeding clauses, the Act has also prolonged the time of admission to school by an additional six months and stipulated that children admitted to school after the extension period will receive special training. This provision of specific training can positively impact the children's learning outcomes and boost their academic advancement effectively and efficiently.

In addition, chapter 3, clause 7 requires the local government to retain a record of children that would allow them to guarantee the child receives age-appropriate schooling and provide special/residential facilities in the event of family migration. Clause 9 of the same chapter requires the state government, in conjunction with experts in the field, to identify the competent authority with the requisite education and research for preparing curriculum and evaluation procedures for pre-school children. The clause also specifies the assessment criteria for cognitive, moral, emotional, creative, and physical-motor skills, significantly improving learning outcomes' efficiency. Similarly, the following clause mandates the establishment of a structure for periodic training and periodic performance evaluation of pre-school instructors to improve output efficiency.

In addition, chapter 4, clause 13 of the Act stipulates criteria for school inspections by authorized officers and requires schools to submit reports in a prescribed format. Schools must comply with the norms and regulations outlined in the Act to guarantee the right of children to elementary education, as well as defend the rights of children in education, which means that it must be not only accessible but also acceptable and adaptable. The Act is also based on the

rule of law and, as a result, has a set of criminal penalties for those who violate the RTE Act. Ensuring that the mechanism responsible for implementing the law is effective and efficient is necessary. In light of this, chapter 4, clause 12 adds punitive measures against unaided schools that do not comply with the RTE Act 2009 standards. Furthermore, for effective utilization of resources, the GoG has provision for the merger of primary schools in the state with fewer students for optimal utilization of human and financial resources, vide government resolution no. PRE-11-2011-230849-K, dated 09/05/2011.

#### **4.5.1.8 ACCOUNTABILITY**

The concept of accountability implies that government, business, and civil society organizations should hold decision-makers accountable to institutional and general stakeholders. It refers to the obligation of public authorities to disclose, defend, or justify their decisions and actions, which holds them accountable to the public and relevant stakeholders. Several provisions of the RTE Act of 2009 establish accountability standards. Chapter 3 of the Act specifies the responsibilities of the state government and local authority to offer free and compulsory education to children ages 6 to 14. In addition to free education, pupils receive free textbooks in state-run schools. In addition, the state government and the local authority must preserve records on children and ensure that no child is subjected to discrimination in obtaining and gaining access to school. Therefore, this chapter has established the duty of the state government and the local authority to implement the RTE Act of 2009, which is the first step in establishing accountability.

Similarly, chapter 4 of the Act outlines the obligations of teachers and schools. This chapter's clause 11 emphasizes the responsibilities of the school administration and instructors in unaided schools to ensure that children from socially and economically disadvantaged backgrounds are not discriminated against and get specialized training to facilitate their school integration. According to clause 12, any breach may result in the withdrawal of the school's recognition. The RTE Act of 2009 outlines the responsibility of school management and teachers in independent schools to provide children with a free and equitable education.

Establishing a transparent governance framework that ensures the disclosure of information in the public realm is one of the most critical parts of the principle of accountability. In this context, the RTE Act of 2009 has various measures, such as Chapter 2, clause 5.7, which

requires the local authority to identify neighbourhood schools that admit children and to make this information public. While this clause initially raises awareness, it holds the local government accountable for sharing relevant data and information with the public. Similarly, chapter 3, clause 7.5 requires the local government to publicly disclose the names of all students registered in its schools.

Furthermore, in Chapter 4, clause 13.5, the competent body must make the inspection report of schools available to the public within 30 days following the inspection. This section establishes the accountability of the inspection committee and the responsible authority under the 2009 RTE Act requirements for recognizing schools. In addition, clause 16.9 of the same chapter requires the School Management Committee (SMC), which is charged with various administrative and financial responsibilities, to make an annual report to the Cluster Resource Center and Gram Sabha. In addition, committees such as the SMC and SAC include members from the stakeholders and civil society, enhancing the accountability aspect of the implementation process.

#### **4.5.1.9 STRATEGIC VISION**

The concept of strategic vision refers to a comprehensive and long-term perspective on good governance and human development, as well as an awareness of what is necessary for such growth, which leaders and the general public should possess. It also requires comprehending the historical, cultural, and social complexities upon which this worldview is founded. In this light, the RTE Act 2009 has involved several members from the community, stakeholders, and civil society in the School Management Committee (SMC) and State Advisory Council (SAC). The School Management Committee (SMC) and State Advisory Council (SAC) are vital in implementing the RTE Act 2009. In addition, parents/guardians and community members can provide valuable insights regarding the diverse socio-cultural realities that can present immediate and long-term obstacles to implementing the Act. Thus, their participation in the process represents the strategic vision to ensure the Act's effective and efficient implementation by adopting good governance norms and practices.

#### **4.6 THE RTE ACTs OF KERALA, TAMIL NADU AND PUNJAB: A COMPARATIVE ANALYSIS WITH GUJARAT RTE ACT**

The Performance Grading Index (PGI) for States and Union Territories is introduced by the Department of School Education and Literacy (DoSEL). It is a tool that provides insights into the school education systems of the various Indian states and union territories based on a detailed assessment of multiple parameters. It aids the States/UTs in identifying gaps and prioritising intervention areas so that the school education system is robust at all levels. It utilizes information from the Unified District Information System for Education (UDISE), the National Achievement Survey (NAS) of NCERT, the Mid Day Meal website, the Public Finance Management System (PFMS), and information provided by the States and UTs to the Shagun portal of DoSEL. Access, infrastructure, facilities, equality, and governance process are some of the areas within the categories. These are the primary areas of evaluation. Punjab, Tamil Nadu, and Kerala possess the highest rating of A++ in school education, according to the PGI data issued by the Ministry of Education (MoE) for the year 2020-21. Gujarat and a few other states are in the A+ category. In light of this, this sub-section will offer a concise discussion of the primary aspects of the RTE Act of the states of Kerala, Tamil Nadu, and Punjab to gain an understanding of their respective success stories. While Gujarat came out with its model rules of implementation of the RTE Act 2009 in 2012, the states of Kerala, Tamil Nadu and Punjab published their respective model rules in 2011, a year before Gujarat.

#### **4.6.1 KERALA**

Kerala has one of the best education systems in the country, with 16240 schools, of which 30.8% are government-run, 44.2% are government-aided, 19.5% are private unaided, and 5.4% are other. There are roughly 268473 teachers and 6423120 students employed in Kerala. The Kerala RTE Act is a comprehensive and exhaustive legislation that uses lucid language, which is rare in policy documents. It employs a highly adaptable model for education and is expressed lucidly. All aspects of the Kerala RTE Act are well specified. Its notable features include an emphasis on the mother language, quality education, and the use of ICT provisions for students with disabilities. In addition to explicitly defining the roles and obligations of all parties, the Act also establishes accountability at all levels.

Clause 3 of the notification introduced the authorities and outlined their tasks in the execution of the Act. Here, a more significant number of authorities and offices are named, such as "Block Resource Centre," "Deputy Director of Education," "Director of Public Instruction," and "Head Teacher," in comparison to the Gujarat Act.

In addition, clause 3 of the Act addresses the composition and activities of the School Management Committee (SMC), defining their roles, obligations, and conduct procedures. The Act stipulates that if a member's child has left or completed his studies at a particular school, the member will be replaced for the remainder of that term. Under the same provision, no member, except the ex-officio member convenor, joint Convenor, and ward member of the local authority, may serve on the committee for more than two terms. To examine several areas of child development, the Convenor is also entitled under clause 10 to engage specialists from many fields to provide advice on specific topics such as child protection, health and nutrition, child psychology, and matters relating to SMC construction operations. In addition, the Act specifies the composition of the SMC based on the number of students in the school, so presenting the SMC as a professional, representative group. The Act also contains measures for empowering SMC members and ensuring their effective participation and functioning through SMC-specific capacity-building training courses (sections 11 and 12). In addition, article 13 stipulates that the SMC meeting minutes must be posted on the school's noticeboard, which is a crucial measure to guarantee process transparency. Such detail is conspicuously absent from the Gujarat Act.

To enhance the quality of education in the state through special training, the law allows local authorities to appoint instructors of the Multi-Grade Learning Centre, qualified service-minded residents, or retired teachers to provide special training. The Gujarat Act does not specify any alternatives for school teachers to offer special training. In addition, the Act has expanded its scope of inclusiveness and made education more available, accessible, and adaptable by including the provision of additional assistance to disabled children in the form of home-based instruction, vocational training for such children, and provision of health care facilities for them at the school level, as well as the right to special learning materials and assistive devices. On the other hand, the Gujarat Act lacks inclusive provisions for disabled children. Following the instructions set by the Supreme Court of India, the Act also specifies the grievance redressal channels for sexual harassment of female instructors and staff members.

#### **4.6.2 TAMIL NADU**

One of the most critical aspects of the Tamil Nadu RTE Act is the inclusion of provisions for disabled children, which make education accessible and adaptable for them. Children with

disabilities are entitled to free special learning and support materials under section 3.5.1 of the Act. This provision is absent from the Gujarat RTE Act. In addition, chapter 4 of the Act, which addresses the responsibilities of schools and teachers, allows for the expansion of limits or areas, with the prior approval of the state government, to fill the 25% of seats reserved for children from disadvantaged and weaker sections. It ensures educational equity by making private education accessible and affordable for poor children. While the 25% reservation clause was added to Gujarat's original Act via a government resolution, the Tamil Nadu Act goes a step further by requiring private schools to fill the 25% reserved seats and even increasing the limits for this purpose. Clause 9.2 of the same chapter establishes a transparent and accountable governance procedure for the reimbursement of per-child expenditures by the state government. According to this clause, if a child is absent from school for more than 30 days during the academic year, the local authority must be notified, and money must be claimed accordingly. Similarly, the regulation of the fee structure in Chapter 4, clause 7 (a) establishes greater accountability and equity by requiring every applicant to declare that he will collect fees only as per the fees established by the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009.

In addition, similar to the Kerala Act, chapter 5, clause 14 of the Tamil Nadu Act stipulates that no committee member, excluding ex-officio members, may serve for more than two terms. This provision prevents the abuse of power in office and establishes a transparent and effective process for implementing the RTE Act of 2009. The Act also establishes transparency and accountability procedures by mandating the public availability of meeting minutes. It is also made more participatory and efficient by empowering the meeting's convener to invite experts to advise on specific child protection, health and nutrition, and child psychology issues. One of the most significant aspects of the Act is the provision that parents must choose one-third of the SMC members from among local educators or schoolchildren. It is an essential step in the RTE implementation process, as it involves the direct beneficiaries of the Act in the decision-making process pertaining to them, which can play a significant role in realizing the children's educational rights. Such provisions are absent from Gujarat's RTE Act.

Another important aspect of the Tamil Nadu RTE Act is that each provision is followed by a clear explanation that clarifies and specifies the authority designated to carry out that task. However, despite these provisions, the Tamil Nadu Act places less emphasis on quality education than the Kerala Act. There is no mention of the SAC, SCPCR, or grievance redress mechanism.

### **4.6.3 PUNJAB**

The provisions of the Act regarding special education for children are comparable to those of Kerala and Tamil Nadu. In addition, chapter 3, clause 7 of the Punjab RTE Act requires the local authority to provide appropriate and safe transportation for disabled children. In addition, clause 6 of the same chapter of the Act requires the local authority to maintain children's records from birth until they reach the age of 14 and specifies that these records must be kept open and in the public domain. It contributes to increased openness and transparency throughout the process.

The Punjab RTE Act has several distinctive features. One of them is the extension of the 25% reservation clause for socially disadvantaged and weaker sections of society to minority education institutions, as stipulated in clause 3 of Chapter 4 of the Constitution. However, this provision is not binding on minority institutions, as they are free to admit only members of their minority group. In addition, the school will handle the admissions process under the 25% reservation clause, unlike in Gujarat, where the initial application process is handled by the District Education Office (DEO). Second, the Act stipulates the regular admission process for the remaining 75% of seats reserved for children from sections of society other than the weak and disadvantaged based on randomization and lotteries. The Gujarat RTE Act does not stipulate such admission requirements for private schools.

Moreover, unlike the Gujarat RTE Act, the Punjab RTE Act clearly defines the grievance redressal mechanism for teachers and requires the state government to establish a state tribunal at the state level as the second appellate authority for the grievance redressal of teachers under Chapter 6, clause 20.