

India

Joint Report on India - Submission by National Coalition for Education and World Vision India

For Universal Periodic Review, 13th session, 2012

The Right to Education

The Right to Education in India

The Indian constitution has provisions to ensure that the state provides education to all its citizens. The Indian constitution in its original enactment defined education as state subject. Under Article 42 of the constitution, an amendment was added in 1976 and education became a *concurrent list* subject which enables the central government to legislate it in the manner suited to it. Besides India is signatory to a number of international covenants i.e. Jomtien declaration, UNCRC, MDG goals, Dakar declaration SAARC SDG charter for children which is binding on its commitment for making education a reality for all children.

Nearly eight years after the Constitution was amended to make education a fundamental right, the government of India from 1st April 2010 implemented the law to provide free and compulsory education to all children in age group of 6-14 years.

The 86th Constitutional amendment making education a fundamental right was passed by Parliament in 2002. The Right of Children to Free and Compulsory Education Act, a law to enable the implementation of the fundamental right, was passed by Parliament last year. Both the Constitutional amendment and the new law came into force from 1st April 2010.

The new law makes it obligatory on part of the state governments and local bodies to ensure that every child gets education in a school in the neighbourhood.

The Constitution (Eighty-sixth) Amendment Act has now inserted Article 21A in the Constitution which makes education a Fundamental Right for Children in the age group of 6- 14 years by providing that;

“the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine”.

This act is being enforced from 1st April 2010 to provide free and compulsory education to all children between the ages of six to fourteen years is in place.

- The 86th Amendment of the Constitution in December 2002 and its enactment since 1st April 2010 has makes free and compulsory education for all children in the 6–14 age groups a justifiable fundamental right.
- The Act makes it a right of every child to get education. The Act makes it obligatory for the appropriate governments to ensure that every child gets free elementary education.
- The Act mandates that even private educational institutions have to reserve 25 per cent seats for children from weaker sections.

As per the government's estimate, there will be a requirement of Rs 1.71 lakh crore in the next five years for implementation of the Act.

- The Act says no school can deny admission to a student and all schools need to have trained teachers. In case of schools not having trained teachers, they will have to comply with the provision within three years.
- As per the new law, the schools need to have certain minimum facilities like adequate teachers, playground and infrastructure. The government will evolve some mechanism to help marginalised schools comply with the provisions of the Act.
- The government has already prepared model rules which have been circulated to the states for preparing their own rules for implementation of the Act. The Centre has also prepared separate rules for the Union Territories which will be notified by the Law Ministry next week.
- However, the reservation for weaker section will not be implemented from this year as the admission season is almost over. It will be implemented from 2011-12.
- The state government and local authorities will establish primary schools within walking distance of one km of the neighbourhood. In case of children for Class VI to VIII, the school should be within a walking distance of three km of the neighbourhood.

Now that the RTE Act has been enacted from 1st of April 2010 there is a mixed response from all those who have been aspirants of this act.

1. Government has already shown its inability to provide adequate funds of 1.71 lakh Crores as it does not have sufficient resources and is keen to involve private sector in the name of Public Private Partnership (PPP) which will be diluting the rights based concept of elementary education.
2. There is no reliable statistics regarding out of school children in India, who have been excluded from the mainstream education for decades.
3. The RTE Act does not include its regulatory mechanism to private un-aided schools.
4. Government is keen to open "Model Schools" rather than introducing "Common School system" and hence promoting a multi layered education system to device rich and poor children.
5. The quality in education is still an unanswered issue in the RTE Act 2009.
6. The Act covers children between 6 and 14 and does not cover above 14 till 18 and below 6 years.
7. The Indian Child Labour Act (The child labor prevention and regulation Act-1986) and the article in the constitution (Article 24) on child labour draw line between hazardous and non hazardous child labour and non hazardous child labour is allowed below 14 years. As per the RTE Act and Article 21 A of the Indian constitution Education up to 14 years is a fundamental right and it should be free and compulsory. Necessary amendment need to be made to declare that all forms of Child labour is hazardous and should be banned.
8. 10The RTE Act covers children between 6 and 14 years whereas the Art 45 of the constitution envisaged all children below 14 years to be covered within 10 years to come under free and compulsory education. Also it is in contradiction to the definition of children as per international covenants (CRC 1990)

The issue of India's performance of school education:

Once again the EFA Global Monitoring Report 2010' (UNESCO has been published and India's rank is still 105 among 128 countries. And it continues to figure, along with most of African and one or two Asian countries, such as Pakistan and Bangladesh, which are placed in the group of countries with a low educational development index (EDI). In 2007 India was behind several Latin American, African and Asian developing countries. These countries, which are economically poorer than India, include Zambia, Kenya, Ghana, Bhutan, Maldives and Cambodia. Only a score of countries such as Madagascar, Laos, Malawi, Burundi, Bangladesh, Nepal, Pakistan and Niger are behind India.

Only 66 per cent of the children enrolled in Grade I survive to Grade V in India, that is, as much as 34 per cent of the children enrolled in Grade I drop out before reaching Grade V. In all probability they drop out without acquiring any level of progress with respect to the basic literacy skills, contributing to the numbers of out-of-school children, to child labour and to the mass of the illiterate population. The survival rate is above 0.9 in most countries with medium and high EDI. For India 90 to 95 per cent net enrolment ratio will have no meaning if there is also a 34 per cent dropout rate. Rapid progress in net enrolment ratio may be possible, but a more important challenge is to ensure that the children enrolled in schools progress through the system to complete the given cycle of schooling and even beyond.

How well equipped are our primary schools? According to Flash Statistics and Analytical Reports on Elementary Education in India (District Information System for Education, published by the NUEPA in 2009-10), on an average there are only three classrooms per primary school in India, and there are only three teachers per school. About 14 per cent of the schools have a single classroom each, and single-teacher schools constitute a similar proportion. While the national norm is one teacher for every 40 students in primary schools, 30 per cent of the schools have a ratio above this norm. In some States like Bihar the ratio at the State level is 1:59, where there are 92 students on average per classroom. Only 85 per cent of the schools in the country have drinking water facilities; 37 per cent do not have toilets; only 44 per cent have separate toilet facilities for girls. Hardly one-fourth have electricity connection; only 5.7 per cent have a computer. Hardly half the schools have any first aid or medical facilities. About 32 per cent of the primary schools require major or minor repairs to buildings and so on. Many of these figures are aggregated at national averages. The actual disaggregated picture at regions and by social and economic groups of population — could be more disturbing.

The picture is indeed disturbing as much progress is claimed in the recent years. For example, after the launch in 2002 of the Sarva Shiksha Abhiyan (SSA) by the Government of India, which is flagship programme of govt of India for elementary education under the World Bank-funded project of the DPEP (District Primary Education Project) for about a decade, it is often reported that impressive progress has been made in elementary education in India. This progress is in terms of enrolments, buildings constructed, teachers appointed, amount of grant released/utilised, and so on. However in terms of actual outcome indicators the progress at ground level is still far from desired level.

Budgetary Provision:

The UPA government promise reiterating the Kothari Commission recommendation of 1966 still remains unfulfilled even after 44 years in 2010. Education spending as a share of GDP (2009-10) at **3.23 %** is nowhere near the promised 6 %. And during entire 11th five year plan the spending against budget heads were 76% on SSA, 65% on Mid day meal, 36% on teachers training and just 12 % on *Rashtriya Madhyamik Shiksha Abhiyan* . This is more than frustrating experience. When 2010-11 budget was presented there was a great hope that present budget will make enough budgetary provisions for implementation of RTE 2009 . However the enhancement in the present budget was just 14.5% increase over last year budget. This raises serious doubts on the implementation of the RTE Act.

However, in what seems to be a clear dangerous signal of the government being in favour of the neoliberal policy framework, the proposal to ease Foreign Direct Investment (FDI) restrictions in the higher education sector is a move towards pushing for greater privatization in education.

The Public Private Partnership: Privatization of Education in the name of PPP

Ministry of Human Resource Development has floated a concept of inviting private sector in the name of ‘Public Private Partnership’. This move is based on certain assumptions; one Ministry of HRD is encouraged by a World Bank Research study”. Public Private Secondary Education for Developed countries – a

comparative study” The study presents inferences on cost and achievement of performance in public and private schools in five developing countries i.e. Columbia, Dominican Republic, Philippines, Tanzania and Thailand. The study concludes that;

1. Students in private schools outperformed students in public schools on a variety of achievements.
2. Unit costs of private schools were lower than those of public schools and
3. Private schools had greater authority for decision making at the school level and better emphasis on enhancing student achievement.

On the basis of these findings the government of India is encouraged to take it as a solution of budget crises in India and an effective measure for universalization of elementary education for all. Government is keen to invite public private partnership in three areas i.e. (1) Infrastructural development (2) Support services and (3) Educational service.

Enforcement mechanism through NCPCR:

The RTE Act will be implemented through National Commission for Protection of Child Rights (NCPCR) and in the states through State Commission for protection of child rights(SCPCR) Tomorrow on 1st April this act will be enforced and in as much as 32 states of India there is no SCPCR for enforcing this act. Even if this will be formed soon this body does not have judicial powers of implementation or redressal of grievances.

Also the NCPCR/SCPCR falls under the ministry of Women and Child development whereas the RTE act 2009 and free and compulsory education is a subject matter of Ministry of Human Resource development. We fail to understand how this body will be redressing the grievances of children and teachers without judicial powers.

Also the body is set for taking care of children either "in need of care and protection" or "children with conflict of law". This body does not have pedagogical expertise to deal with educational matters.

The question of teachers:

A substantial number of teachers' positions are lying vacant and as much as roughly 25% seats of elementary school teachers is filled by para teachers (without fixed qualification and training. These teachers are ill paid and almost untrained in teachers training.

There is no monitorable indicators set for measuring the quality of child performance in the schools. Hence recent help of World Bank to augment the quality in schools is still a doubtful initiative if there are no measurable indicators of quality.

Voucher System

Government of India in its 11th five year plan document has intended to introduce voucher system in education. This is being intended on the basis of experiences of some countries whose socio economic conditions are not at par with Indian situation. We have serious doubts about introduction of vouchers system. If introduced it will deprive the poor children more from the mainstream education . Also this will encourage multilayered education system and will be in contravention with the principles of common education /schooling system.

Model schools

Government of India is keen to open 6000 model schools with the partnership of private sector. We fail to understand why we need these 6000 model schools if right to education is being enforced for every child in India between the ages 6-14 years. This will create a multi layered education system contrary to common school system

We think the implementation of RTE Act will require a multi pronged approach by educating and empowering the Panchayats, School Management Committees, and civil society organisations. Government will require to appoint more than one million teachers. Para teachers are not the real solution for quality education. Also state governments will be required to make laws in their states and implement the laws at the earliest.

The role of local bodies to enumerate the out of school children is more uphill task. This will require a more systematic enumeration of out of school children and assessment of actual requirement of neighbourhood schools.

The adequate resources will be required for implementation of RTE act. The centre should fulfil its promise of provisioning 6% of GDP for education either by imposing more education "Cess" or by other sources. However it should not be made open for private sector for investment in education.

We thus make our recommendations as under:

1. It should be made mandatory in real terms to make all the deaths, births and marriages registered and monitored by the state. Unfortunately not all the births and deaths are registered in our country. The registrar general of India may be directed to ensure inclusion of all the births death and migration as well as marriages registered for monitoring their well being and school enrolment.
2. 6 percent of GDP or 20 percent of Government expenditure should be provisioned for education, and half of this public spending on education needs to be targeted towards elementary education.
3. To ensure quality of education, regular and trained teachers should be recruited in place of untrained and Para teachers. Para teachers recruited so far should be trained and regularized.
4. The existing laws for protection of child rights should be enforced suitably and implemented strictly for total eradication of the menace of child labour, child servitude and child trafficking, and all the children of age group 0-18 years are enrolled in schools.
5. Provisions should be made in the said legislation for quality education system with measurable indicators so that parents and community can monitor the quality of education.
6. All efforts should be geared to ensure the common schooling system for all the children irrespective of their parent's socio-economic status.
7. All forms of privatizations including the Public Private Partnership or franchise to corporate bodies that leads to profiteering, commoditization and weakening the public education system should be dropped.

References:

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World Vision India is a relief development and advocacy organization dedicated to working with children, families and their communities to reach their full potential by tackling the causes of poverty and injustice.

National Coalition for education- A coalition of Teachers Unions and NGOs in India which act as a country counter part of GCE (Global Coalition for Education) which stands for the Right to Education.

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