

# **Status of Implementation of the Right of Children to Free and Compulsory Education Act, 2009: Year Three (2012-13)**

A Draft Report by RTE Forum

Contributors: Action Aid (Alex George, Amit Mitra, Resmi Bhaskaran), Oxfam (Anjela Taneja), Sampark (Venkatesh Malur), CSEI (Annie Namala), Save The Children (Sanjeev Rai), Voluntary Forum for Education, Bihar (Vinay Kant), Jamia Millia Islamia (Janaki Rajan), CARE (Suman Sachdeva & Seema Rajput), Shukla Basu and Balwant Mehta with inputs from the RTE Forum.

This publication is copy left. This document may be used freely provided the source is acknowledged and is not for sale.

Year of Publication: April 2013

## About RTE Forum

Right to Education (RTE) Forum is a collective of national education networks, teachers' organizations and educationists with a collective strength of about 10,000 organizations working in the field of education with the intent of bringing systemic reform in education. Our effort is to create a platform to bring equitable and quality education for all children, starting with the realization of the Right of Children to Free and Compulsory Education Act, 2009 in its true letter and spirit. The Act entitles each child aged 6 to 14 years to free and compulsory elementary education as the fundamental right. The law that is in force in the country from April 1, 2010 is derived from the 86<sup>th</sup> Constitutional Amendment Act, 2002 and is a product of a hundred years of struggle. While a historic step, the Act does have some serious lacunae. For instance, it does not include children under 6 and over 14 years of age. The norms and standards provided are inadequate for a national system of public education with an assurance of universal quality, let alone constituting a Common School System, as promised in successive educational policies of 1968 and 1986. This calls for another campaign to be started off by the civil society. Despite its limitations, its enactment opened new possibilities for improving the quality of school education in the country. Consequently, several initiatives were taken at the national and state levels by individuals, groups, networks and alliances. These were sought to be woven together into a single framework, which came to call itself Right to Education (RTE) Forum.

Given the federal nature of India, RTE Forum has State Chapters that work in collaboration with National Forum to fulfill the common mission. These are currently in place in twelve states including Delhi, Rajasthan, Uttarakhand, Uttar Pradesh, West Bengal, Bihar, Jharkhand, Andhra Pradesh, Tamil Nadu and Pondichery, Karnataka, Odisha and Chattisgarh. The Forum is in process of expansion into other States including Maharashtra, Gujarat, Haryana, Himachal Pradesh and Assam for deepening the advocacy and mass mobilization for the implementation of the Act. The state chapters in turn are also collective alliances of organizations and networks working for the child rights and for bringing in equitable and quality education at the State level.

A Collective of Education Networks and Civil Society Organizations including, but not limited to, CAEL, CRY, NAFRE, NCE, Oxfam India, PCCSS, Plan-India, Save the Children, UNICEF, Voluntary Forum for Education, SCORE-UP, Uttarakhand RTE Forum, Jharkhand RTE Forum, Delhi RTE Forum, Odisha RTE Forum, West Bengal RTE Forum, RTE Forum-AP, Rajasthan State Consortium, TN & Pondicherry RTE Forum, Karnataka RTE Forum, UNESCO, AKF, World Vision, Wada Na Todo Abhiyan, Room to Read, AIF, Welthungerhilfe, Action Aid India, NEG FIRE, CCF, CARE, Christian Aid, VSO, Water Aid, Skill share International, Sampark as members. RTE Forum is closely working in collaboration with Council for Social Development that also offers administrative and operations support. RTE Forum office is also located in the premises of CSD.

RTE Forum has brought together the education networks, teachers' unions/associations, agencies and organizations working in the field of education both at State and National level together to strengthen the mass movement and to undertake focused right based advocacy to achieve the aim of equitable and quality education for all children. The emphasis has been on the implementation of the RTE Act throughout the country by means of critical engagement with government in order to put education on the political agenda and to build synergy among various state level organizations, for inclusion with community mobilization and awareness. The present report is an attempt to highlight the collective efforts to deepen the roots of the movement and to strengthen implementation and advocacy at both National and State levels through various events and activities followed by set of recommendations, policy briefs and plan of action.

With a perspective to bring teachers into the movement as catalyst for change, a Joint meeting was conducted with teachers unions, civil society activists and educationists with a presence in 24 states came together in Bhubaneswar on December 19-20, 2012 under the banner of the RTE Forum (Right to Education Forum) and AIPTF (All India Primary Teachers' Federation) to outline work towards strengthening the education system across the country. A joint resolution- the "Bhubaneswar Declaration 2012"- was adopted at the conclusion of the meeting that would act as the basis for a joint campaign by all networks, agencies and organizations, teachers unions and mass movements for taking education to the political agenda, strengthening formal education school system through the implementation of the Right to Education Act, teachers' representation in educational policy making, teachers' recruitment and training, opposing privatization and commercialization of education. Mr. S. Eswaran, Vice President, EI and General Secretary AIPTF, Mr. Rampal Singh, President, AIPTF, Mr. Ambarish Rai, Convener, RTE Forum, Mr. Dhir Jingaran, RTE Focal person, NCPCR, Dr. Janki Rajan, Jamia Millia University, State President/Secretary AIPTF from 24 states and State conveners of RTE Forum participated.

## ACKNOWLEDGEMENTS

The present stock taking and the resultant report is a result of a year's worth of action of the RTE Forum and broad civil society on the Right to Education Act. Almost all the major education organizations have been part of or at times interfaced with the process. Consequently, it is impossible to really do justice to acknowledging individually the roles of everyone who has contributed- beyond the role played by the National Forum and State Chapters. This report has been made possible through the efforts of hundreds of field investigators belonging to various civil society organizations, NGO partners and coordinated by the Regional/State Offices of ActionAid, Save the Children, Oxfam India, CARE and Aide et Action in addition to the State chapters of the RTE Forum. We are thankful to NCPCR for their extensive support in this process.

However, it would be essential to specially mention the contribution made by Action Aid (Alex George, Amit Mitra), Oxfam India (Anjela Taneja), Sampark (Venkatesh Malur), CSEI (Annie Namala), Save The Children (Sanjeev Rai), Voluntary Forum for Education, Bihar (Vinay Kant), Jamia Millia Islamia (Janaki Rajan), CARE (Suman Sachdeva & Seema Rajput), Resmi Bhaskaran, Shukla Basu and Balwant Mehta. This report and the larger process would not have happened without the support of the RTE Forum State Chapters - both in terms of formal submissions to the report and their own reports. The state convenors and their efforts are paramount in bringing forward this publication and their untiring efforts are a constant motivator for all of us. We also acknowledge the contribution made by the supportive process of the groups working on the rights of children with disability that has also fed into the present report. As stated earlier - however, this list remains incomplete and any omissions in this list are not deliberate!

Ambarish Rai, Convenor, RTE Forum

## Table of Contents

1. Executive Summary.....	7
2. Introduction & Background .....	9
3. The RTE Study Across States .....	13
3.1 Setting the objective, preparation of questionnaire and selection of schools:.....	13
3.2 Limitations.....	13
3.3 Access to Elementary Education .....	14
3.4 Quality of Infrastructure .....	15
3.5 Teachers and RTE .....	18
3.6 Community Participation in Ensuring Right to Education.....	20
3.7 Social Exclusion in Education .....	21
3.8 Implementation of 25 % reservation for economically weaker and disadvantaged sections in private unaided schools .....	22
4. The RTE Policy Review.....	23
4.1 Systemic Readiness for RTE Implementation .....	23
4.2 Access & Availability of School as per RTE Norm:.....	27
4.3 Community Participation & School Management Committees: .....	27
4.4 Quality:.....	29
4.5 Inclusion:.....	30
4.6 Privatisation in the Education Arena: .....	35
4.7 Teachers .....	38
5. Key Recommendations .....	41
5.1 Systemic Preparedness for RTE.....	41
5.2 Teachers .....	41
5.3 Grievance Redressal.....	42
5.4 Regulation Framework for Private Schools.....	42
5.5 Community Participation .....	42
5.6 Quality Improvement.....	42
5.7 Social Inclusion.....	43
5.8 Key Enablers for Accelerating RTE Implementation .....	43

## 1. Executive Summary

On 1<sup>st</sup> April, 2013, India completes three years of enactment of the Right of Children to Free and Compulsory Education Act, 2009. This legislation, laid down a time bound agenda to address some of the long pending gaps in the educational system. It lays down a timeframe of three years to meet all the norms except for the target of teacher training to be achieved by 31<sup>st</sup> March 2013. On the completion of the deadline of three years of the notification of this Act, it's time to take stock of the progress that has been made under the Act. The National RTE Forum argues that progress on several implementation fronts has been slow and needs to be urgently prioritized by both the central and the state governments to achieve equitable and quality education for all children in the country. There are still around 8 million children out of school. These dropout and never enrolled children tend to be the most marginalised and most disadvantaged such as child labourers, street children, migrant children, children in conflict affected areas and the disabled and need more focused efforts. Meeting this target would require huge efforts from the state to accelerate implementation of the existing provisions under the Right to Education Act and eventually provide equitable and quality education.

While its undeniable that additional government resources have been allotted, more teacher posts and infrastructure sanctioned and administrative changes brought about, these efforts have been sporadic and the required quality and rigour. The sheer fact that less than 10% schools are RTE compliant in terms of infrastructure and teacher availability is reflective of the reality of poor performance on the ground. The tough issues of adequate financing, regulation of private providers, setting up of transparency and redressal mechanisms have not been addressed on the ground. India's commitment to the education of its millions of children has been stagnated between the centre and the states. A crisis, however, is also an opportunity. There is a nationwide call for action to ensure that the hopes of India's millions of children are not betrayed. The RTE Forum calls for the following actions to be taken to ensure the Right's timely implementation.

The stocktaking report of 2013 is based on these six thematic areas:

- Systematic readiness and redressal mechanism,
- Community participation,
- Teachers,
- Private sector,
- Social inclusion
- Quality.

After considering broad issues of quality, the report draws out some recommendations for action. Simultaneously a study has been undertaken by the RTE forum and its constituent members across 17 states in which around 500 field workers visited 2200 schools and observed the compliance of RTE and came up with primary findings. This report is thus created using the primary findings in part and based on secondary information from various states, particularly from civil society organisations on the ground. The executive summary gives a general overview of the report and draws out some key highlights.

Issues where action has been slow are the tough issues of adequate financing, regulation of private providers, teacher's recruitment, improving quality of teacher's training institutes, setting up of transparency systems and redressal mechanisms. Most issues pertaining to teachers remain unaddressed such as the end of the practice of hiring para-teachers. The process of tracking of

attendance, mapping of exclusion, and setting up of adequate number of bridge courses not been put into place.

Key recommendations for this year are as follows:

- An urgent meeting convened of the National Development Council (NDC) by the Prime Minister and bringing the Chief Ministers of the States to plan for the implementation of the Act's provisions.
- The development of a national roadmap and regular review by the NDC in the form of a white paper whereby all schools meet all the norms of the Right to Education Act as per the roadmap.
- A commensurate enhancement of the budget for elementary education in order to deliver on the commitments made.
- A systematic pan-national mechanism of concurrent review of the status of implementation that is commensurate with the urgency of the matter.
- Centre should initiate process urgently through Centre-State consultative mechanisms for ownership by states as education is a concurrent list subject.
- Special training for out-of-school children needs to be provided in numbers commensurate to the actual numbers of out-of-school children.
- Need for a review of the curriculum and textbooks in the schools to ensure they are of a level commensurate with the actual learning levels of the students.
- Awareness building about the spirit of the Act with department officials that are tasked with its implementation is still needed. Community awareness on the Act likewise needs to be deepened further.
- Recognize the rich diversity of religion, culture, leadership and contribution of Adivasi, Muslim and Dalit communities in school curriculum and create sensitivity and respect for them among all children and teachers.
- Stronger regulatory frame for private schools is required. Ensure transparency and accountability measures are put into place.

This review is an attempt to highlight the issues of concern at the ground level while at the same time providing a platform for stakeholders and civil society organisations from various States to come together and hold the Government - both Centre and State- accountable for its implementation. Different states stand at different levels in terms of elementary education, and there are State-specific issues which need to be addressed. Faced with great diversity in the prevailing situation, the absence of an open consolidated information source on the status of implementation of the Act across the country has been a major hindrance in this review process.

Furthermore, the present process is not envisaged so much as a stocktaking, but as an opportunity to initiate dialogue with the strands of civil society willing and able to engage with the government and the people, seeking to implement RTE and at the same time work jointly to create a transparent and accountable mechanism for an equitable and quality education.



## 2. Introduction & Background

The Right of Children to Free and Compulsory Education Act (RTE), 2009 came into force on 1 April 2010. It laid down a number of deadlines for implementation that come to an end on 31<sup>st</sup> March 2013. While it is undeniable that efforts have been made over the last three years, the reality on the ground is that a radical transformation of the ground reality has not happened and India's schools remain far from attaining even the minimum norms laid down by the Act, let alone fulfilling the radical vision of equitable quality education for all of India's young citizens. This is unfortunate, especially considering that we are barely two years away from the second round of deadlines- that of all a universal professionally trained teachers' force that is to be achieved by March 2015.

It is undeniable that different states stand at different levels in terms of elementary education and that there are State-specific barriers. However, what cuts across the entire country is the silent crisis in the education system- no State can be said to reach the commitments of the Act in totality. Having said so, examples of positive action exist that can be emulated by others. There have also been made positive pan-national policy actions over the last three years that have the potential for changing the face of the educational system. There are also rays of bright light that show the direction for the future.

*Sarva Siksha Abhiyan (SSA)* one of the flagship programmes of the present Government is being used as the carrier to implement the RTE Act ensuring the basic infrastructure and other requirements. As a result, the enrolment rate has gone up and in some states it has reached near universal access. But the concern remains regarding (1) quality of education, (2) retention of the enrolled children, (3) infrastructure for education, (4) inclusiveness in accessing education, (5) education within the neighbourhood with essential support, (6) grievance redress in case of denial of rights, (7) roles and responsibilities of local authorities etc. In order to ensure access to education to all children in the age group of 6-14 years, the RTE Act offers the following provisions.

- Right of children to free and compulsory education till completion of elementary education in a neighbourhood school. According to the Act 'compulsory education' means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the 6-14 age group.
- Local authority should identify out of school children (OoS) with the help of teachers, school management committees (SMCs) and enrol them in age appropriate classes. The Act also provisions for special training to OoS children admitted to age appropriate classes.
- No child should be denied admission due to the lack of birth certificate.
- Child should get transfer certificate at any time of the academic year on request and also should be admitted during any time of the academic year in the age appropriate class.
- No fee should be collected from any child.
- It specifies the duties and responsibilities of appropriate Governments and local authorities. in providing free and compulsory education, and sharing of financial and other responsibilities between the Central and State Governments.
- It provides for adequate deployment of teachers by ensuring that the specified pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban-rural imbalance in teacher postings. It also provides for prohibition of deployment of teachers for non-educational work, other than the decennial census, elections to local authority, state legislatures and parliament, and disaster relief.

- It provides for appointment of appropriately trained teachers, i.e. teachers with the requisite academic qualifications.
- School should be CWSN friendly with special teachers, learning and transportation support.
- It prohibits (a) physical punishment and mental harassment; (b) screening procedures for admission of children; (c) capitation fee; (d) private tuition by teachers and (e) running of schools without recognition,
- It provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building on the child's knowledge, potential and talent and making the child free of fear, trauma and anxiety through a system of child friendly and child centred learning.
- It provisions 25 % reservations in private schools for children from the disadvantaged and economically weaker sections (EWS).
- It has provisions which envisage social inclusion and gender equity in the school management committee (SMC).

### **Key efforts for the implementation of the RTE Act**

One of the unique features of the RTE Act is that it has very clearly put down a deadline for its implementation. It specifies that within three years from the date of enactment, all the provisions except for qualified teachers should be met and that the latter should be fulfilled by 2015. Towards this end, government has taken the following steps:

- ❖ Revised the SSA Framework in 2011,
- ❖ brought out the National Curriculum Framework for Teacher Education (NCFTE) in 2009,
- ❖ established the monitoring arm of RTE implementation by strengthening the RTE division of National Commission for Protection of Child Rights (NCPCR),
- ❖ mandated the Central Advisory Board I for Education (CABE) to review the status of implementation periodically and
- ❖ more importantly ensured that all States notified RTE State rules.

### **Government's current strategic thinking on education**

In India, the Five Year plans are mandated to provide the strategy and roadmap of sectoral progress that are expected to be achieved during the plan period. The focuses of the Twelfth Plan with regard to education are: (1) ***reduce the number of out of school children and reduce the dropout rate,*** (2) ***improve the school infrastructure status,*** and (3) ***improve the learning outcomes for all children.***

The plan however introduces certain coinages such as '**residual access**' '**equity gaps**<sup>1</sup>' etc to give the impression that access to education has been achieved barring some residues and certain gaps in equity. This is far from the reality. Though enrolment rates have improved at the entry level in the lower primary section, dropout rates even as per the DISE data is huge. This is even higher with regard to the SCs, STs and Minorities. In addition various dimensions of exclusion still exist within the school system and in its relational space; therefore the issue of equity and inclusion is not just that of a gap. Social exclusion is part and parcel of India's very social system which is rooted in caste and patriarchy.

A major thrust of the Twelfth Plan is on improving learning outcomes, which is welcome, but this should accompany an acceptance of the continuing issues of access to education by broad basing its availability, ensuring the functionality of schools in rural areas and urban poor habitats and addressing the issues of inclusion which is socially implicit in the very social organization of India.

---

<sup>1</sup> Planning Commission of India, Twelfth Five Year Plan 2012-2017, Vol.III Social Sectors

Though the *Economic Survey 2012-13*, another strategy document of the Government, deliberated on some of these matters gave a feeling that there would be sufficient budget allocations to achieve the Twelfth Plan targets, unfortunately there is hardly any significant improvement in the allocation for education in the 2013-14 Union Budget. For SSA the union budget 2013-14 it has allocated only Rs. 27258 crores for SSA, which is just a 6.6 % hike from last year. It would barely make good for the inflation and is therefore no real increase given the huge requirements of RTE implementation. The total allocation for school education and literacy however indicate some improvement as it has gone up from Rs. 45542 cores in 2012-13 budget to Rs. 52401 crores in 2013-14 budget indicating a 15 % growth. Total allocation for education to Gross Domestic Product (GDP) still revolves around 3.3 % against the target of 6% set by Kothari commission in the 1960s. In fact, the Ministry of Human Resource Development had requested an amount to the tune of Rs.1.84 lakh crore for SSA during the Twelfth Five Year Plan period. The present allocation indicate that though the plan strategy document has set up certain targets in view of various commitments, the inadequate fund allocation itself will weaken the entire process of RTE Act implementation very badly. With the widening gap between the demand for fund and targets to be achieved, it is unlikely that SSA will be able to provide the required financial support and the consequent technical and other resources to the states and for our children.

The budgets allotted for education is very little especially when the Twelfth Five Year Plan document points out that only 4.8 % of the school in the country achieved RTE compliance in all the nine indicators.<sup>2</sup> The improvement is not impressive and also indicates the need of a mission mode intervention to achieve the minimum targets. Interestingly, the lapses are various across the States and as a result though some States indicate better achievement rate, failure of others result in pulling down the average. The percentage of schools that achieve RTE compliance is still around 10 % for all nine indicators.

In this context of poor achievement of RTE Act norms and more importantly the glaring shortcomings in achieving the educational rights of children even beyond the Act, the RTE Forum felt the imminent need to deepen the debate on educational rights of children in India with the help of more field level data. The RTE Stock Taking Report 2013 is envisaged to provide an empirical as well as policy critique to substantiate the advocacy activities of RTE Forum at National and State Levels in the year of RTE compliance viz, 2013 as the deadline for implementing most of the norms of the RTE Act expires on 31<sup>st</sup> March 2013.

RTE Stock Taking Report 2013, would be critically reviewing the following aspects of RTE implementation through primary and secondary data. The report focuses on:

1. Critically examining the elementary education policy of India based on secondary literature
2. What is the status of children who are out of school and in school?
3. Whether the schools have been able to improve its infrastructure and entitlements in line with RTE norms.
4. What is the status with regard to teacher availability and qualifications of teachers etc. with regard to RTE norms?
5. Whether community plays any role in school management, preparation of school development plans and in the monitoring the school and its grants?
6. Is social inclusion with regard to Dalits, Adivasis, Muslims, Girls, CWSN achieved in schools

---

<sup>2</sup> Twelfth Five Year Plan, Vol.III, Social Sectors

7. Are private schools implementing the norms for reservation of children of disadvantaged and economically weaker sections?
8. Developing policy recommendations based on primary data and the secondary data based policy review.

### **Methodology**

The present report uses both primary and secondary data. The secondary data is mainly the available studies, reports, government orders and notifications, newspaper reports, etc. It covers both national and state level RTE related details. The primary data is the core of RTE Stock Taking Report 2013. It is collected from around 2200 schools in 17 States. Since RTE forum focuses on campaigning for the implementation of the RTE Act across the country, the methodology followed to collect data is also in line with its core objectives. The states covered in the study include those from all geographical zones of India viz Andhra Pradesh, Karnataka and Tamil Nadu in the South, Maharashtra and Gujarat in the West, Orissa, Bihar, Jharkhand and West Bengal in the East, Assam and Manipur in the North East, Uttar Pradesh, Madhya Pradesh, Rajasthan, Haryana, Uttrakhand and Himachal Pradesh in the North/Central zones.

The entire process of primary data collection and its analysis has been conducted under the umbrella of RTE forum which has Action Aid, Save the Children, UNICEF, Oxfam India, CARE, Aid et Action and several other NGOs as its constituents. The Forum has included all the possible agencies and organisations in the states where the study has been conducted. Designing the study, conducting Regional ToTs and state level trainings, conducting data entry was done with the participation of various organisations. Since it has been conducted in a participative manner, following a certain campaign agenda and activities at the grassroot level; it is essential to delineate the entire process in detail.

### 3. The RTE Study Across States

#### 3.1 Setting the objective, preparation of questionnaire and selection of schools:

The empirical study used a quantitative survey questionnaire which was developed collectively. The questionnaire is an integrated tool aimed at collecting information on sample schools from various stakeholders such as Head Teachers, Teachers, SMC Members, PRI members, Community, Children and from school records. Data collection process was a step by step participation process started with a major consultation in Delhi in August 2012 attended by representatives from various NGOs from a number of states who took the lead in the data collection process in the respective states. In this consultation, the objective and approach of the study, key indicators to be analysed, the sampling methodology and the number of schools to be covered, draft questionnaire etc was discussed in detail.

The sampling was decided using the DISE data of the states for government, aided and unaided schools . The presence and strength of RTE Forum constituents at the state levels have been considered while selecting the states. The total sample we have achieved with the state wise break ups as well as bifurcations by the types of schools are presented below. We have a total sample of 2191 schools spread out in 17 states of India from all its geo-cultural zones.

<b>Sample : State wise</b>				
State	Govt. schools	Govt. aided (Pvt) schools	Unaided (Pvt) schools	Total
AP	168	12	38	218
Assam	126	16	13	155
Bihar	135	2	24	161
Gujarat	80	13	12	105
Haryana	88	3	4	95
HP	20	0	0	20
Jharkhand	87	5	8	100
Karnataka	98	19	15	132
Maharashtra	115	22	11	148
Manipur	19	10	3	32
MP	103	0	24	127
Odisha	138	4	9	151
Rajasthan	89	0	11	100
TN	101	15	19	135
UP	248	25	45	318
Uttarakhand	25	1	5	31
WB	8	140	15	163
<b>Total</b>	<b>1648 (75.2)</b>	<b>287 (13.1)</b>	<b>256 (11.7)</b>	<b>2191 (100)</b>

#### 3.2 Limitations

The sample of 2191 schools would present a reasonable picture of educational rights at the national level. When the sample is broken down to the states it would not be adequate to speak about the state

level situation though. State data is therefore presented with this caveat; in order to still have an idea about the performance of states. As an independent survey conducted by civil society organisations, which are not part of the education department the study presents a different perspective.

### 3.3 Access to Elementary Education

Two major access issues are considered, child mapping and the number of days a schools functioned in the previous academic year for both of which the study has yielded data.

#### Child Mapping

Child Mapping has been undertaken in 61% of the schools leaving out the 256 private schools. The source of information in this case was primarily the teachers followed by the SMC members. The somewhat high figures of child mapping mentioned above when enquired further resulted in about 40% of the schools having a record/register of child mapping. Teachers continue to play a dominant role in the child mapping process and the panchayats and school management committees have a marginal role. Teachers have conducted child mapping in 31 % primary schools and 13 % of upper primary schools. Panchayats and SMCs together have done child mapping in only 6.5 % primary schools and 4 % upper primary schools. That the three should work together to actualise the provisions of the RTE is saying the obvious with regard to Panchayats involving/ conducting child mapping with SMCs but how to implement it remains an open question. The Panchayats can play a critical role but more often than not the teachers and the Panchayat functionaries stand by each other.

The study reveals that migrant children remain the nowhere kids: nearly 41 % schools do not include them in the mapping process. The nomadic children's plight is worse than that of migrant children. Just 3.7 % schools include them in child mapping. The RTE norms specify that there should be special facilities, including residential, to educate migrant and nomadic children. However, the survey showed that in just 17 schools (0.8 %) did such facilities exist. Children with disabilities seem to fare better as 24.7 % schools include them in the mapping exercise.

However, inclusion in the mapping process does not necessarily transfer into better schooling outcomes for any category of children. Be that as it may, what is relevant is that such large numbers of children who are disadvantaged are left out of the educational processes. That children are nobody's priority is borne out by the fact that in 25 % schools tracking is not done for the students. We do not however have information on the quality of retention monitoring in the 75 % schools which report that they are doing it.

#### School Functioning

According to the RTE norms, primary schools are supposed to function at least 200 days a year and all other kinds of schools a minimum of 220 days annually. The Study showed that 89 primary schools functioned less than 200 days a year and 228 upper primary schools worked less than 220 days. Thus 317 or nearly 15 % of the schools surveyed worked less than the stipulated norms. It is important to note here that it is among the upper primary schools that there are more schools which do not function for the stipulated number of days. This data on number of working days in schools brings us also to the question of what is meant by 'functionality' of the school. Does merely opening and closing the school amount to functionality? This practice was reportedly followed by some schools in order to record a high number of 'functional' days for schools as required under the RTE norm.

### 3.4 Quality of Infrastructure

Availability, access and quality of essential infrastructure play a critical role in influencing the learning of children. Many studies have proved it with empirical evidence<sup>3</sup>. In India, one of the major reasons for poor education and learning outcome is the lack of sufficient school infrastructure in many parts of the country. A good number of the schools still function in single or two room buildings with one teacher, along with the lack of other basic teaching infrastructure including teaching material. School infrastructure deprivation is very high in the less developed states when compared to Southern States. The geographical terrain, access to road and other critical services also further affect the infrastructure status of the school. It is essential that school infrastructure should be safe and child friendly as well as accessible for all children. Many field level studies and reports very clearly mention also that access to drinking water and toilet facilities increase attendance rate.

Realizing all these factors, the RTE Act 2009 has specified the infrastructure norms in the Schedule of the ACT that are mandatory for all schools. They are:

- All weather building of at least one classroom for every teacher and an office cum store cum head teacher room
- CWSN friendly access
- Separate toilets for girls and boys
- Drinking water facility for all children
- A kitchen where mid day meal is cooked
- Play ground
- Arrangement for secured school building with boundary wall or fencing
- Teaching learning material provided to each class as required
- Library to provide newspapers, magazines, books and all subject books including story books
- Play material, sports/ games material to all classes as required

While setting up these norms, the Act also provided a time bound approach making government to fill the infrastructure gap within three years as per RTE norms that is by 31st March 2013. From its inception to today, there has been some effort to address the infrastructure gap across the country. However, it is insufficient and far below the required level. Here it is imperative to note that RTE Act entitles every child a right to elementary education of satisfactory and equitable quality in a formal school satisfying certain essential norms and standards. The JRM 2013 of SSA also points out that many of indicators and the targets are not fully met or need further action. Interestingly, the JRM cities that enrolment overshoot the target, indicating the additional inputs needed in infrastructure as per the increased number of children in school<sup>4</sup>.

Based on the data collected from 2191 schools on various indicators related to school infrastructure, the present study attempts to highlight where the big gaps remain, where there is significant progress and whether it is in line with other findings or tells something different.

#### **Schools in accessible reach of the community**

The National Model Rules on Right to Education lays down that there should be one primary school within one Kilometre reach and one Upper Primary school within three kilometres<sup>5</sup>. The present study highlights that 77 % of the schools comply with the neighbourhood norms as per the RTE Act norms

---

<sup>3</sup> <http://www.iadb.org/en/news/webstories/2011-10-18/school-infrastructure-and-educational-in-latin-america,9615.html>

<sup>4</sup> Seventeenth Joint Review Mission 14<sup>th</sup> -28th Jan 2013, Aide Memoire

<sup>5</sup> Almost all State Rules also are in agreement with the Model Rules , with only marginal changes in the case of few states.

mentioned above and are therefore within the reach of the community<sup>6</sup>. More than 90 % of the primary and upper primary schools in Karnataka, Gujarat, Haryana, Himachal Pradesh and Madhya Pradesh and more than 80 % of schools in West Bengal, Uttar Pradesh, Orissa, Tamil Nadu and Andhra Pradesh meet the neighbourhood norms. States that need more effort to establish schools as per neighbourhood norms are the North Eastern States (Assam and Manipur) and states like Rajasthan.

### **Safe school building**

School buildings should be safe and secure for all children. All weather buildings can be defined as buildings, which are pucca or nearly pucca. All schools in Haryana are all weather ones. In Gujarat, Uttarakhand and Madhya Pradesh, more than 90 % of schools have achieved this norm. In Rajasthan and Manipur one third of schools do not function in all weather buildings and are therefore poor achievers in this aspect<sup>7</sup>. On the whole nationally 79 % of the schools have all weather buildings.

The present data shows that only 50 % of the schools reported to have boundary wall or some kind of fencing<sup>8</sup>. This could be mainly because this survey took place largely in the marginalized regions and areas close to it. It is essential to create awareness among local implementers and state policy makers as to why a school needs boundary wall to keep children secure. As rural hamlets hardly have any boundary wall this concept would not be easy to convey. However fencing with locally available material could be done.

### **Adequate Classrooms**

Number of classrooms and how the children are distributed into different classes plays a major role in determining child participation, learning levels and learning outcomes. Single classroom schools are still not a forgotten story in our country, particularly in the rural areas. Around 5 % of the schools in the sample are run in single classrooms. However, more than two third schools have only three or more classrooms and more than 58 % schools have four or more classrooms. More than one third of the schools have seven or more classrooms. Considering the increasing number of the newly enrolled children attending schools, the number of classrooms needs also to be improved in schools where there is a lacuna for it.

### **Common Room for Teachers**

Only in one third of the schools mentioned there was common room for teachers. The implication of this is that teachers did not have space to prepare teaching materials and for sharing and learning etc. This, not only affects the teaching quality but also the assessments.

### **Access to essential teaching material (TLM)**

The study indicates that nearly 80 % of the schools got TLM. If we assume that all those schools who have TLM would be using, it could be very encouraging information. The states that need to improve in this regard are Rajasthan, Manipur and Uttar Pradesh<sup>9</sup>. Black board is an essential part of the school learning and it is critical TLM for a school. The image of the teacher is always associated with blackboard for the children. According to the present study even after three years of implementation of the RTE Act 2009 around 7 % of the schools still do not have functional black boards. The problem is severe in Bihar and Uttar Pradesh.

---

<sup>6</sup> Data on compliance to neighbourhood norms for primary and upper primary as per the state rules was collected for each of the schools surveyed. Data in this regard apply to both primary and upper primary norms in the case of schools having both.

<sup>7</sup> As per the DISE 2011-12 data, nationally about 70 % of the schools have pucca or nearly pucca buildings.

<sup>8</sup> DISE 2011-12 mention that 58% of schools have boundary wall or fencing.

<sup>9</sup> According to DISE 2011-12, nearly 67 % schools got grant for TLM and nearly 95 % of those who got TLM, used it.



### **Play ground and materials**

Co-curricular activities have a major role in education. Physical and socio-cultural development of children is shaped by the participation of children in games. They form their ability to work in teams and help in physical development. In the present study, nearly 58 % of the schools reported to have play grounds<sup>10</sup> and 55 % have some kind of play materials. Nearly 82 % of schools in Tamil Nadu have play grounds, while Bihar, Jharkhand, Rajasthan and West Bengal has to provide play grounds in 44 % to 60 % of their schools. At present nearly 40 % schools on an average do not have play grounds.

### **Library**

With regard to library facility in schools, the present study also indicates that 55 % schools reported having libraries; though this study is not covering all the states and union territories. As per the data, it is reported that wherever library is available, it is accessible to children. However, it is still a question how good these libraries and whether teachers are helping students to use the library effectively. The states that have to improve in the provisioning of libraries are Assam, Manipur, Madhya Pradesh, Bihar and West Bengal.

### **Drinking water**

Safe and adequate drinking water is important in attracting children to school and ensuring their retention. The present study shows a low figure of 77.8 % with regard to availability of safe drinking water. Performance of states such as Andhra Pradesh (19.4), Assam (25.2), Bihar (19.3), Haryana (23.2), Manipur (28.1) and West Bengal (20.2) where almost a quarter or slightly more schools do not have drinking water facility<sup>11</sup> needs focused attention.

### **Midday meal**

Midday meal to school going children is one of the flagship programmes of the government. This aims to improve attendance, reduce dropout for child labour and moreover to provide minimum food and nutrition support to children to sustain themselves in the classes. Field level observation have revealed that children of poor families often came to school without having any food in the morning and for them midday meal is a basic requirement to help them attend classes and learn.

**Kitchen as specified in RTE Act is available only in 68.8 % of the schools.** Schools in South India ranging from Karnataka (73.5%), Andhra Pradesh (79%) and Tamil Nadu (82%) indicate better performance in this regard. States such as Bihar (36%), Haryana (38.9%), Jharkhand (35%), Maharashtra (39.2%), Manipur (31.2%), MP (41.7%), Rajasthan (31%) UP (28.9%), West Bengal (28.8%) where more than a quarter and above schools do not have kitchens for cooking midday meals need to invest more on building kitchen shed in the schools and make them functional<sup>12</sup>. This field enquiry in schools showed that nearly 60 percent schools in AP, Assam and Bihar to 80 % in Gujarat, 86.5 % in Maharashtra and 88 % in Odisha followed the menu they had made public. Noncompliance in this regard is reportedly high in AP (23.4%), Assam (28.4%), Manipur (37.%), MP (16.5%), Tamil Nadu (25.2), UP (18.9%) and West Bengal (17.2%).

### **Provision of Separate Toilets for Girls in schools**

More than 75% of the schools in the states of Karnataka, Gujarat and Tamil Nadu are reported to have separate functional toilets for girls. However, there is a lot to be done to improve the scenario in many

<sup>10</sup> As per DISE statistics 2011-12 show that, only 56 % of the schools had play grounds.

<sup>11</sup> In the case of drinking water almost all the schools in the country as per DISE 2011-12 has access to it, i.e. 94 %.

<sup>12</sup> DISE State Report Cards 2011-12 indicate that only 41.1 % schools had kitchen sheds in schools.

states like, Orissa (14%) Andhra Pradesh (46.3), Bihar (46), Jharkhand (45) Uttar Pradesh (59.4), Madhya Pradesh (41.7), Rajasthan (32) and West Bengal (44.8) where only a smaller percentage of schools have separate toilets for girls.

### **Infrastructure that ensures inclusion of CWSN**

The findings of the study shows that it is only 9.2 % of the schools have CWSN friendly toilets available to children for use, another 3.7 % schools have the facility but it is not accessible to children. When it came to the availability of ramps with handrail, nearly 40 % of schools reported to have this facility. Andhra Pradesh and Uttarakhand have apparently almost achieved this target while Bihar, HP, Jharkhand and Tamil Nadu also report 80 % to 90 % in this regard.

## **3.5 Teachers and RTE**

The present chapter is an attempt to analyse the various aspects related to the implementation of teacher related provisions of the Act with the help of primary data. In this connection it can be noted that of the 2191 schools in the sample, nearly 47 % are primary schools, 35.2 % are primary to upper primary, 7.3 % are primary to secondary and 4.3 % are primary to higher secondary.

### **Recruited teachers versus para teachers and teachers and 'sub contract' / 'proxy' teachers**

We note that a significant number of teachers in some states are para teachers. They are recruited due to the lack of trained teachers. In Bihar 50 % of schools have para teachers. In AP it is 44 % and in Jharkhand 37 %. States like Karnataka (28%), Uttar Pradesh (23%), and West Bengal (21%) also have a large percentage of para teachers. The present study also found that , one out of ten 'teachers' are those who teach on behalf of government appointed teachers and have not come through the selection process nor have their qualifications been verified by the state education authorities. These 'sub contract' or 'proxy' teachers constitute a substantial part of teachers in Himachal Pradesh (15%), Jharkhand (12%), Manipur (9.4%), Tamil Nadu (9.6%) Karnataka (7.6%) and Maharashtra (6%).

### **Implementation of PTR Norms**

The RTE Act prescribed the PTR ratio at 30:1 in primary classes and 35:1 in upper primary classes. In the present study 56.6 % schools in the primary and upper primary schools follow the respective RTE norms. 36 % did not follow while 7 % did not respond to this question. The state wise analysis shows that almost all schools in Uttarakhand follow PTR norms and the other states with an impressive PTR adherence are Andhra Pradesh with 82.6 %, and Gujarat, Maharashtra, Madhya Pradesh, and Tamil Nadu where 75 % of the schools have achieved it. 66 % schools in Himachal Pradesh, Karnataka, and Odisha also do so. States like Assam (43.9%), Bihar (57.8%), Jharkhand (49%), Manipur (59.4%) and Uttar Pradesh (56.3%) need to take more efforts to implement PTR norms in the school as around half of the schools in these states are not following the PTR norms.

### **Status of separate subject and language teachers**

RTE Act has emphasised the need to have separate subject teachers and language teachers in the schools in classes VI to VIII. In the present study, nearly 33 % of the schools have separate teachers for science (34.3%), mathematics (32%) and languages (33.1%). When it comes to social sciences, 27% of the schools have separate teachers. The state wise analysis shows that Odisha, Gujarat, Manipur and Tamil Nadu have made impressive efforts to appoint separate subject and language teachers. Around 60 % to 85 % posts of subject and language teachers have been filled in these categories in these states. On the contrary states like Bihar, Jharkhand, Uttar Pradesh and West Bengal need to take adequate measures to meet the RTE norms with regard to subject and language teachers as the appointments of subject and language teachers vary between 20% to 60 % for different categories. Briefly, the analysis

shows that the need to have separate teachers for subjects and languages in six to eight classes should be highlighted as a major policy implementation need to the state level policy makers. This should be followed by strengthening the subject and language teaching at the college level and then at teaching education level. Overall, the data indicates that there is a major gap in subject teachers and language teachers in the country with the norms in this regard being met by only by a maximum around 35 % of schools nationally.

#### **Special educators/ counsellors for CWSN children**

The present study notes that 66 % of the schools do not have special educators or counsellors. However in Gujarat 14 % of the schools reported having special educators, while in Odisha nearly 52.4 % and in Maharashtra 21.6 % of schools provide counselling support to CWSN children. In most other states these facilities are provided only marginally.

#### **Non educational activities allotted to Teachers**

The Section 27 of the Act provisioned that “no teacher shall be deployed for any non-educational purpose other than the decennial population census, disaster relief duties or duties relating to election to the local authority or the State Legislatures or Parliament, as the case may be”. The present study shows that 47 % of the teachers were involved in activities other than prescribed ones. More than 41 % of them engaged in one or two such activities. The practice of posting teachers for non educational work, often beyond the geographical areas of the schools where they are posted is followed in many states.

#### **Distance Travelled by teachers to reach schools**

The presence of teacher in the school is influenced by whether the teacher lives in the village or travel long distances to the village every day. In the case of teachers who travel, the distance that teacher travels plays a role in the regularity and punctuality of the teacher in the school. Thus 40 % teachers do not have to travel more than 10 kilometres, while 76 % have to commute only within 20 kilometres, which is not a long distance. However about 25 % of teachers travel longer distances.

To cover the distances large chunk of them use their own vehicles, i.e. 45 % while 25 % travel by bus and around 7 % use shared autos. Bus is the main mode of transportation for teachers in Himachal Pradesh and Karnataka, while in Maharashtra, Haryana, UP and MP majority of teachers use their own vehicles. In Jharkhand 36 % of teachers walk to reach school. This could be also due to the poor transport facilities in the state.

#### **In-service training**

In the present study during the immediately previous year three fourth of the teachers have received some form of training. On an average taking all states together one to five teachers have got training in 57 % of schools. But in states like Bihar nearly 69 % of the schools did not respond to the query in this regard. The case was similar with regard to one third of schools in Andhra Pradesh, Karnataka, Madhya Pradesh, and Uttar Pradesh with high levels of no responses ranging from 20 to 36 %. We cannot infer directly from these no responses that no teacher from this many schools received any training. However, that could be the case with some of these schools as no response sometimes is an indirect way of saying no.

The training support that was provided was carried out mainly by Government (62.4 %). NGOs were used in training by 20 % schools in Odisha and 8.4 % in Assam. No in service training was provided by

NGOs in Madhya Pradesh and Himachal Pradesh. NGOs on the whole were utilised only marginally in teacher training. Use of private sector for training is also very marginal but this trend is emerging.

### **3.6 Community Participation in Ensuring Right to Education**

#### **Schools with SMCs, Adherence to Democratic and social composition norms**

The present study reveals that after three years of implementation of the Act, SMCs have been constituted only in 79 % of the schools<sup>13</sup>. Though our figures from a sample study of schools from 17 states registers probably an increase in the percentage of schools with SMCs constituted our enquiry into the democratic nature of SMC formation and the quality of its functioning leaves a lot that is expected of them. This failure to meet expectations in functioning however is more due to the failure of the educational system in adopting the right processes for constituting SMCs and providing them handholding.

The study finds that SMCs were constituted through an election process in only half (49.8 %) of the schools. This is in line with the qualitative information which we have received from various geographic zones of the country as part of this study that many SMC members did not even know that they were members. This meant that they were in fact nominated without their knowledge. The provisions regarding the constitution of SMCs mentioned in section 21 (1) above were observed only in the case of 54 % of schools. This brings with it the concerns of gender equity and representation of disadvantaged and weaker sections which is provisioned in the Act, but appears not to be implemented seriously in the constitution of SMCs.

#### **Functions Performed by SMC and involvement of PRIs/ ULBs**

Only 54 % of SMC members could prepare the school development plans. It could as well be that they were not included as part of the plan preparation process. A higher percentage of schools had SMC members involved in monitoring their functioning (66.3%) and the in motoring the utilization of school grants (61.2%).

It is reported that the Panchayat Raj Institutions and Urban Local Bodies were involved in the management of the schools in 59 % of them. More details regarding their involvement have not been reported. Given the fact that basic aspects of community participation such as the election processes were not followed in half the schools and gender and social constitution norms of SMCs were not followed in SMC formation in half the schools it is not possible that there would be any serious involvement by PRIs and ULBs either. It could be that being elected representatives the PRI members and ULB members are included in the SMC as per the RTE Act norms and this nominal membership in the SMC is taken as involvement by those who responded to the questionnaire.

#### **Status of Community Participation in the states**

States where most of the schools have constituted SMCs are Rajasthan (96%), Haryana, Odisha and (93%), Maharashtra (91%), Jharkhand (88%) and Gujarat (86%). We have not considered Himachal Pradesh, Manipur and Uttrakhand in this case as their sample sizes are too small to draw an inference, though useful to be included in presenting a national picture. The states of Assam (39%) and Bihar (60%) present a picture very low formation of SMCs which needs to be attended to.

---

<sup>13</sup>The disaggregated break up of SMCs constituted in all states of India presented by DISE state that only 70 % schools in rural areas and 55 % in urban areas had constituted SMCs. An aggregated figure presented in DISE –State Report cArds indicate that 68.3 % of all schools (rural and urban areas) had SMCs. *Elementary Education in Rural India, DISE 2011-12, Table 2.19, Elementary Education in Urban India, DISE 2011-12, Table 2.19 and DISE State Reports Cards 2001-12.*

As regards following the election process in the formation of SMCs is concerned Madhya Pradesh (92%), Rajasthan (82%) and Maharashtra (85%) and Jharkhand (81%) present the bright side as per the data. However states of Assam (15%), Gujarat (27%), Bihar (42%), Tamil Nadu (27%) and West Bengal (34%) where SMCs were formed through elections only in a small percentage of schools as mentioned above needs to improve on this account. In terms of constitution of SMCs as per RTE norms ensuring the gender and social group representation the states of Gujarat (82%), Jharkhand (75%), Maharashtra (83%), Manipur (84%), Madhya Pradesh (88%), Rajasthan (85%) appear to be the better performers. States of Assam (26%), Bihar (33%), Karnataka (35%) and Tamil Nadu (30%) seem to lag behind in forming SMCs through elections.

In Maharashtra (80%), Rajasthan (80%), Gujarat (77%), Haryana (91%), the SMC members appear to have received training to support them in performing the functions. Training was available only in 2 % schools in Bihar, 18.2 % in UP and 36 % schools in West Bengal, which are states which need to take adequate measures to equip the SMC members. School development plans were reportedly prepared by the SMC members in around 80 % of schools in Assam and Rajasthan as well as in 75 % schools in Maharashtra. At the same time in only in 30 % of schools in Andhra Pradesh, 26 % in Tamil Nadu and 38 % in Odisha and 45 % schools in UP were the SDPs prepared by SMCs. These states need to take extra efforts to train and involve the SMC members in preparing the SDPs.

The states where more SMCs were involved in monitoring the functioning of schools were from Assam (81%), Maharashtra (85%), Manipur (96%), Odisha (82%), Rajasthan (79%). States where SMCs measures need to be taken to involve more SMCs in monitoring the functioning of schools are Andhra Pradesh (38%) and Tamil Nadu (47%). A similar pattern with more involvement of SMCs in monitoring the utilization of school grants is found with states such as Assam (91%) Manipur (90%), Maharashtra (79%) showing higher percentage of SMC involvement with the states of Andhra Pradesh and Tamil Nadu showing a low level of involvement by SMCs in 35 % of the schools in both the states. A probable explanation could be that due to increasing spread of privatization in these states which are economically developed, there is a lack of interest in Government and Government aided schools about which this study primarily deals with.

### **3.7 Social Exclusion in Education**

The study revealed that in 31 schools across the country, admission had been denied. While this may be dismissed as a very low percentage (1.4 % of the sample of 2191 schools) the fact remains that the future of many children who would have attended those schools were affected. Age appropriate education was offered in just 13.6 % of the schools surveyed.

#### **Overt Discrimination and Exclusion**

The most predominant kind of discrimination, which is reported in the present study was not being given or allowed to sit on benches, which varied for Dalits (9.4%), Adivasi (5%), Muslim (7.3%), and for CWSN (7.7%). The other overt form of exclusion is not allowing children from these categories to take up leadership roles like that of class monitorship. Girls were denied class monitorships in 8 % of schools. Dalits were denied in 7 % of schools and Adivasis in 5 % of schools and Muslims in 6 % schools. CWSN were denied school monitorships in 6 % schools.

#### **Grievance redress mechanism**

From the responses received, 52.8 % schools have in place a redress mechanism for school children. Interestingly, approaching teachers is the predominant form of seeking redress: in 29.2 % schools the

teachers are the providers of justice. Approaching the SMC was mentioned by 2 %. What is more interesting is that in only 14 schools (just 0.6 % of the total) grievances were referred to the PRI/ULB as per the RTE Act.

#### **Provisions for CWSN**

In just 11.6 % of the schools surveyed there are assistive devices for CWSN. Only 3.3 % schools have provided transportation for CWSN. Perhaps these factors have led to CWSN dropping out in the last academic year from 46 schools.

### **3.8 Implementation of 25 % reservation for economically weaker and disadvantaged sections in private unaided schools**

Another interesting finding of the study is regarding the implementation of the 25 % quota for children of disadvantaged and economically weaker sections which is to be implemented by them as per the RTE Act 2009. There are 256 unaided private schools in the sample. Out of these only 89 (34.8 %) were found to be implementing the quota. The others were either not implementing it or information was not available about them. The fact that only one third of the private unaided schools had a clear response that they were implementing the 25 % reservation for economically weaker and disadvantaged sections despite RTE provision and a court order upholding it, is startling.

## 4. The RTE Policy Review

### 4.1 Systemic Readiness for RTE Implementation

#### Initiating the Process of Roll Out- State Rules, Guidelines and Government Orders

Only four states have defined out of school children and only three states have made provisions for grievance redress for non-teachers in the rules. It would appear that a large number of states have found it easier to omit clauses that are difficult to implement than work towards their implementation. In addition, MHRD (Centrally) and State Governments have issued orders on specific issues- largely pertaining to the issues tracked by the MHRD or causing the most controversy (ie. implementation of the 25% quota). Operational issues of the modalities of implementation (eg. modalities of the formation of SMCs and subsequent processes of supporting the) have often been ignored in these guidelines. This has left many of the operational issues upto interpretation of individual middle ranking officials within the administration. Of course, there has been considerable variation between states regarding the quality and depth of processes and the degree to which the processes of drafting have been consultative. It is regrettable that the government has taken the course of pronouncing that RTE in totality is not applicable on residential schools with a point of admission higher than grade 1.<sup>14</sup> There is no real reason why provisions like no detention, minimum infrastructure and teacher norms and ban of corporal punishment should not hold for residential schools.

#### Amendments to the RTE Act

One is the exemption of minority institutions from the RTE Act (discussed further under the section on regulation of private schools) and the other is the right to home schooling that has been introduced for children with disability. This provision was opposed by a large share of civil society<sup>15</sup> as ignoring the prevailing policy that sees home based education was initiated by the SSA as a “pathway to Inclusion” and takes the education department off the hook for ensuring their inclusion. Furthermore, to argue that any child cannot reach a school or participate in school life is putting the blame on the child. The amendments were, however, passed and subsequently served as ground for the proposal to introduce a right to homeschooling and non formal schooling for all children that the MHRD initially endorsed<sup>16</sup>, only to withdraw its affidavit as being incorrect and violating the law<sup>17</sup>. This original affidavit violated both the provisions for minimum norms of schools and the right of every child to eight years of compulsory schooling<sup>18</sup>

#### Plans for the Act’s Extension Upwards and Downwards.

In June 2011, the Central Advisory Board of Education (CABE) constituted a sub-committee to examine the feasibility of bringing pre-school and secondary education under the RTE and prepare draft legislation for the same. Two independent drafting panels of were then constituted under the leadership of the education ministers of Madhya Pradesh and Haryana for pre-school and secondary education, respectively. While discussions on these issues have continued, the stumbling block for implementation appears to be once again the question of budgetary allocation to move onto a universal frame.

#### Financing the Act’s implementation<sup>19</sup>

<sup>14</sup> [http://mhrd.gov.in/sites/upload\\_files/mhrd/files/RTE%20act%202012.pdf](http://mhrd.gov.in/sites/upload_files/mhrd/files/RTE%20act%202012.pdf)

<sup>15</sup> <http://m.indianexpress.com/news/activists-question-rte-clause-on-disabled/942917/>

<sup>16</sup> <http://www.indianexpress.com/news/rte-not-against-home-schooling-and-alternate-education-mhrd/976880>

<sup>17</sup> <http://www.deccanherald.com/content/286674/home-schooling-affidavit-incorrect.html>

<sup>18</sup> [http://www.epw.in/system/files/pdf/2012\\_47/41/Right\\_to\\_Homeschooling\\_vs\\_Right\\_to\\_Education.pdf](http://www.epw.in/system/files/pdf/2012_47/41/Right_to_Homeschooling_vs_Right_to_Education.pdf)

<sup>19</sup> [http://cbgindia.org/files/recent\\_publications/Response%20to%20Union%20Budget-2013-14.pdf](http://cbgindia.org/files/recent_publications/Response%20to%20Union%20Budget-2013-14.pdf)

The notification of the Act has thus, ironically, coincided with decreased thrust in allocations for its implementation. Furthermore, the major chunk of government financing of elementary and secondary education had been through education cess. While this began as a measure to inject additional amounts to *supplement* government's own support, it grew to be more of a *substitute*. 60.35% of the elementary education expenditure for 2013-14 (BE) is anticipated to come from the cess. The funds allotted for RTE's implementation have been less than what was committed by the State at the time of the Act's drafting. In this regard, the Department Related Parliamentary Standing Committee Report on Human Resource Development observes that 2012-13 (the 1<sup>st</sup> year of the 12<sup>th</sup> Plan) saw a shortfall of Rs.15,000 crore in terms of what was allocated (Rs.25,555 crore) to what was demanded by the Department (Rs.40,000 crore). In this year's budget Sarva Shiksha Abhiyan (SSA) and the RTE got an allocation of Rs27,258 crore for 2013-14 as compared to last fiscal's Rs21,328 crore revised estimate. Furthermore, there has also been a decline in the rate of spending. According to the PAISA 2012 Study, in 2011-12, India spent only 62% of the SSA budget, compared to 70% in the previous year. There has also been no major improvement in the timeliness of receipt of grants.<sup>20</sup>

Equity of funding remains another issue of concern. There are huge obvious variations in the funding provided by the government to KVs and to its other schools. Additionally, there are also considerable geographical variations. Per-Child SSA allocations vary from Rs. 3,049 in Karnataka to 7,111 in Chattisgarh<sup>21</sup>.

### **The question of Governance: Transparency and accountability Systems.**

Transparency is a critical prerequisite for ensuring effective delivery. Some efforts during the last three years have been indeed taken- ranging from the gradual improvement of the state SSA and Education department websites. Mechanisms for monitoring of SSA furthermore also exist (41 independent agencies of National repute) and their six monthly reports are available online on the SSA website. Institute of Public Auditors of India (IPAI), which is an independent agency, has also been engaged for the concurrent financial review to cover all the States/UTs. It submits reports to MHRD annually, which are shared with the concerned States/UTs for taking necessary corrective action. In addition, SSA conducts third party evaluation through independent agencies for the civil works taken up in the States/UTs<sup>22</sup>. These processes could do with a greater element of civil society oversight and input from ordinary citizens. The last year furthermore saw moves to deepen the financial transparency norms for all private schools<sup>23</sup> and a move by the Central Information Commission<sup>24</sup> to open Government schools for inspection of infrastructure and records by ordinary citizens through creative reading of the RTI Act. Steps towards data transparency were also taken through further streamlining of the DISE that has moved towards the Unified District Information System for Education- the UDISE<sup>25</sup>.

### **Grievance Redressal.**

**States with SCPCR<sup>26</sup>**  
 (i) Assam, (ii) Bihar (iii) Chattisgarh (iv) Delhi  
 (v) Goa (vi) Haryana (vii) Jharkhand

<sup>20</sup> Do Schools Get their Money? PAISA 2012 by Accountability Initiative and ASER (2013)

<sup>21</sup> [http://www.accountabilityindia.in/sites/default/files/ssa\\_2013-14.pdf](http://www.accountabilityindia.in/sites/default/files/ssa_2013-14.pdf)

<sup>22</sup> Lok Sabha Unstarred Question No. 3280 answered on 14.12.2011

<sup>23</sup> <http://www.indianexpress.com/news/hrd-plans-school-transparency-norms/815613/1>

<sup>24</sup> <http://www.hindustantimes.com/India-news/NewDelhi/Grant-access-to-school-documents-CIC-to-govt/Article1-727897.aspx>

<sup>25</sup> [http://articles.timesofindia.indiatimes.com/2013-01-25/nagpur/36547468\\_1\\_salary-grants-aadhaar-card-database](http://articles.timesofindia.indiatimes.com/2013-01-25/nagpur/36547468_1_salary-grants-aadhaar-card-database)

<sup>26</sup> <http://pib.nic.in/newsite/erelease.aspx?relid=92409>



A clear gap that has emerged over the previous year is the absence of a clear grievance redressal system. The National and State Commissions for Protection of Child Rights have been tasked to take on the monitoring role. However, not all states have formed either an SCPCR or a REPA<sup>30</sup>. In places with REPAs, the appointment of full fledged SCPCRs took an inordinate time. Courts have had to intervene to pressure the States for the formation of the Commissions<sup>31 32</sup> or fill the full complement of members. Where they exist, they continue to lack the financial and human resource capacity commensurate with the scale of the problems. There have also been considerable periods where there are gaps in the membership with the old structures having left and the new Commission not being formed<sup>33</sup>

The Commissions remain distant structures- far removed from the ground. The continued failure of a majority of States to notify local authorities for the purpose of receiving grievances, the lack of capacity building for Local Authorities remains problematic. This creates a bottleneck between the site of grievance (the school) and redress (the State or National Capital). Furthermore, only a handful of states have formulated guidelines and procedures for redress including the modalities for appeal to the SCPCRs which is causing confusion.

All this translates into a limited number of complaints and an even lower rate of redress. Thus, according to an RTI application filed in 2013, the Delhi Commission received 557 complaints of violation of Right of Children To Free and Compulsory Education Act 2009 in last three years. Only 16 cases were solved- a 21% resolution rate. Interestingly, the application states that the Commission has no record of number of notices issued to government officers for violation of RTE. This raises the fundamental question of how the Commission could have solved these complaints without sending notice to the education officers or to schools.

The trend is similar for the NCPCR for whom the percentage of complaints closed has dropped from 57.6% (2010-2011) to 21.54% (2011-2012) and 19.21% (2012-2013). The total number of cases NCPCR dealt with last year — 687 — is less than half of what it was the previous year (1,768). The number of complaints registered has declined drastically in some states over the three years. In Andhra Pradesh, it fell from 780 in 2011-2012 to 39 in the last year; in Maharashtra, the number of cases was 132 in 2011-

(viii)Karnataka (ix) Madhya Pradesh (x) Maharashtra (xi) Punjab (xii) Odisha (xiii) Rajasthan (xiv) Sikkim (xv) Uttarakhand (xvi) Tamil Nadu (xvii) West Bengal.

**States with REPA**

(i) Arunachal Pradesh, (ii) Himachal Pradesh, (iii) Meghalaya, (v) Mizoram

**Lacking either SCPCR or REPA**

**States:** (i) Andhra Pradesh<sup>27</sup> (ii) Gujarat (ii) Kerala (iv) Manipur, (v) Nagaland (vi) Tripura, (vii) UP

**Union Territories:** i) Andaman and Nicobar Islands, (ii) Chandigarh,(iii) Dadra & Nagar Haveli, (iv) Daman & Diu, (v) Lakshadweep, (vii) Puducherry

RTE and CPCR Acts do not apply to J&K. List is updated based on updated press release<sup>28</sup>

Nagaland, Tripura, Uttar Pradesh and Lakshadweep have been advised to constitute such a body in their own States/UTs.<sup>29</sup>

<sup>27</sup> A GO has been issued for nomination and formation of the same. The actual SCPCR is not yet in place.

<sup>28</sup> <http://pib.nic.in/newsite/erelease.aspx?relid=93743>

<sup>29</sup> Unstarred Lok Sabha Question 1423 answered on 06.03.2013- <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=136065>

<sup>30</sup> MHRD 2 Yrs of RTE Report 2012

<sup>31</sup> [http://articles.timesofindia.indiatimes.com/2012-09-16/chennai/33879295\\_1\\_child-rights-scpcr-ncpcr-chairperson-shanta-sinha](http://articles.timesofindia.indiatimes.com/2012-09-16/chennai/33879295_1_child-rights-scpcr-ncpcr-chairperson-shanta-sinha)

<sup>32</sup> <http://www.indianexpress.com/news/hc-gives-ut-two-months-to-set-up-child-rights-body/1019026/0>

<sup>33</sup> <http://www.deccanherald.com/content/233730/complaints-gather-dust-children-rights.html>

2012 and 14 last year and the number of cases dropped from 771 (2010-2011) to just two in Rajasthan (2012-2013)<sup>34</sup>.

The National Advisory Council had formed a working group on the issue of development of guidelines for Grievance Redress that have been put up in the public domain and are anticipated to serve as basis for action by MHRD. There has also been some movement on the Draft Grievance Redress Bill that with all its multiple ambiguities, could potentially expedite redressal on the ground<sup>35</sup>. However, the exact modalities of its implementation and the interface that it would have with the Redress systems recommended by the NAC are still not clear. There has also been some action at the state level with Rajasthan, Uttarakhand, and Haryana have laid down fairly comprehensive Grievance Redress guidelines. Online reporting of complaints is being done in MP and Gujarat. AP, Odisha, Gujarat and Kerala have toll free helplines. In Delhi the help line is maintained by the SCPCR. The UP State rules also make a provision for a helpline, but it is yet to become operational.

### **The roll out of the 12<sup>th</sup> Five Year Plan**

On the positive side, it kept the Right to Education Act's implementation as core of education plan and reiterated its commitment to addressing some of the absolutely critical implementation bottlenecks such as access to quality education to poor and teachers' training. The plan also makes provision for much needed up scaling of secondary education and commits to the foundational investment into early childhood education (albeit with a somewhat un ambitious target). Both these steps, if implemented, are likely to improve the poor peoples' access to education. The intent to reposition anganwadi centres as child friendly centres and the extension of preschool education for children under six is overdue. Furthermore, the focus on Girl, SC, ST and Muslim children and disaggregated group specific strategy may play a critical role in promoting Inclusion. Interestingly, among the 25 core indicators listed in the plan document, the lone indicator that pertains to reducing gaps between social groups falls under education.

The plan fails to address the issues of systemic accountability in the elementary education sector- viz. disconnect in entitlement- planning-budgeting-grievance redress or go into the modalities of community ownership of schools. It appears to narrowly define accountability as accountability for ensuring learning outcomes, backed by a pan-national system of standardized testing. One would have preferred that the tax payer's money be invested in enhancing the school capacity to deliver quality since testing is not teaching. Such a strategy fundamentally conflicts with the Constructivist Approach of the National Curriculum Framework. While the document finally prioritizes the issues of teacher preparation and capacity building, it falls short of commenting on the long pending issues of working conditions of teachers (including the setting up of permanent cadres, rationalizing pay and above all freeing teachers from non teaching work). The plan appears to heavily emphasise private 'participation' in provision. This is unfortunate given the poor track of the private schools in ensuring equity or quality and the prevailing weak regulatory frameworks. Fundamentally, the government should show more faith in its' own schools and take a leaf from the RTE book and promote free secondary education as a right largely through its own schools. The heavy reliance on residential schools and setting up of a few schools offering pockets of excellence as measures for ensuring education for dalits and tribals needs further debate given the poor track record of quality and indeed safety of children in residential schools. The overriding consideration is, however about the budget. While a differential costing formula permitting

---

<sup>34</sup> <http://timesofindia.indiatimes.com/city/delhi/RTE-complaints-go-unaddressed/articleshow/19285551.cms>

<sup>35</sup> <http://www.thehindu.com/news/national/nod-for-bill-to-make-services-timebound/article4484265.ece>

for higher central share for the educationally lagging states has been inbuilt into the new document, no drastic increase in the elementary education budget is anticipated in the 12<sup>th</sup> Plan.<sup>36</sup>

## 4.2 Access & Availability of School as per RTE Norm:

### Availability of Schools.

Since the Right of Children to Free and Compulsory Education (RTE) Act, 2009 became operative in April, 2010, sanctions have been given under the SSA for the construction of 30,808 primary schools and 10,644 upper primary schools.<sup>37</sup> Andhra Pradesh, Delhi, Gujarat, Manipur, Mizoram and West Bengal have carried out geo-spatial mapping for determining habitations un-served by schools. Other States like Haryana, Jharkhand, Karnataka, Maharashtra, Rajasthan, Assam and Uttarakhand have also used such mapping to a limited extent<sup>38</sup>. The 17<sup>th</sup> JRM pointed out that 5% habitations lack either a Primary or Upper Primary School within a walking distance. This may look like a small figure as percentage, but is still fairly large in real terms. Thus, in Odisha 4,570 villages do not have primary schools within one kilometre radius<sup>39</sup>.

It is critical to note that 6% schools in the country were not approachable by an all weather road- a fairly large percentage of the total in actual terms. These are likely to precisely be the schools in remote areas which are anticipated to be reached out through payment of transportation allowances. Furthermore, there are regional disparities- only 6.5% schools in Lakshadweep were approachable by an all weather road. 5 States had over 20% schools without all weather access. A critical trend over the last few years has been the decline of the number of schools since the passage of RTE in a few states. The MHRD Standing Parliamentary Committee Report points out that 15 States saw a decline in the total number of schools between 2009-10 and 2010-11.

### Out-of-School, Dropout and Child Labour

Government estimates that only 2.7 million children (2010) remained out-of-school. This figure has been criticized on a number of grounds- including the lack of consistency in definition of the term enrollment and the perverse incentives that exist for retaining names on the rolls, irrespective of the actual attendance status. It has indeed been pointed out that the rates of growth. As per the District Information System for Education (DISE), the enrolment at primary level has declined in 2011-12 in Assam, Chhattisgarh, Jammu and Kashmir, Jharkhand, Madhya Pradesh, Maharashtra and Odisha, as compared to 2010-11. However, the States of Uttar Pradesh, Rajasthan and Uttarakhand have reported an increase in enrolment. Moreover, the total primary enrolment in the country has increased by 1.4 percent during this period<sup>40</sup>.

## 4.3 Community Participation & School Management Committees:

The intent behind formation of SMCs is to empower parents to take charge of their own children's schools and set the agenda for delivery. In 2011-12 68.3% schools had SMCs- ranging from 99.57 (Himachal Pradesh) and 18.50 in Delhi<sup>41</sup>. At this point of time, all States except Delhi<sup>42</sup> have an SMC

<sup>36</sup> [http://articles.economictimes.indiatimes.com/2012-09-21/news/34002278\\_1\\_higher-education-secondary-education-school-education](http://articles.economictimes.indiatimes.com/2012-09-21/news/34002278_1_higher-education-secondary-education-school-education)

<sup>37</sup> Rajya Sabha Question No 1321 answered on 08.03.2013

<sup>38</sup> Lok Sabha Question no. 05.12.2012 on <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=130829>

<sup>39</sup> <http://newindianexpress.com/states/odisha/article1492813.ece>

<sup>40</sup> Rajya Sabha Question No. 1647 Answered on 07.12.2012

<sup>41</sup> DISE Flash Statics

<sup>42</sup> Unstarred Lok Sabha Question 2555 answered on 13.03.2013 <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=136704>

(except the East MCD<sup>43</sup>), while Bihar has “ad hoc committees”. Delays in formation have also been noted in Goa, Assam and West Bengal. As can be noticed from the table overleaf, however, the majority of States report the SMCs being constituted in all schools. This 100% rate looks prima facie somewhat suspicious.

Furthermore, the State Rules have also frequently introduced some deviations from the Model Rules- thus, the term of the SMCs in Chattisgarh, Uttarakhand and Manipur are one year and Nagaland has decided to go with the existing structures under the Nagaland Communization Act, 2002<sup>44</sup>. Furthermore, a peculiar situation prevails in Delhi where the State Rules appoint the teacher as the President of the SMC that goes against the spirit of the provisions. This would leave teachers as the deciding authority on financial matters. In other states, turf issues have been created between pre-existing structures for community participation (eg. VECs and SMCs in Jharkhand have continued to co-exist in 87.5% schools<sup>45</sup>). Almost all states have seen confusion about the exact modalities to be adopted for formation due to inadequate or imprecise operational guidelines for SMC formation.<sup>46</sup> The level of capacity building of these new structures also leaves much to be desired, despite an enhancement of the norms laid down under the Revised SSA Framework.

In contrast, experience from the ground during the last years shows that SMC members are usually nominated (and not elected- often not even informed about their appointment) and decisions taken without consultation. Trainings are also rarely of the entire SMC, but rather of 3-4 member (nominated, not selected by the rest of the SMC) and are held at a distance from the general body of parents (CRC or BRC). This adds to the sense of alienation. The training imparted largely top down and highlights their responsibilities (and not their rights). Spaces for collectivization (building a sense of collective mission and friendly competition) have also been missed (albeit some efforts in this regard are being taken by civil society organizations<sup>47</sup>). All this effectively dooms the SMCs to failure from the start.

A considerable financial oversight role is anticipated from the SMCs. 72.45% SMCs had opened bank accounts in 2011-12- ranging from 98.58% in Tamil Nadu to 3.65% in Jharkhand (where the transfer of powers had not yet happened)<sup>48</sup>. In this regard, an even more critical role expected to be played by the SMC is the development of SDPs. Action in that regard has been initiated a majority of states having SMCs. However, large questions remain over the quality of the plans, the extent to which they are actually reflective of the will of the community and parents, especially in the absence of effective training of the members, and the extent to which these have led to proportionate budgetary allocations. In most States, the SDP is prepared either by the Head Teacher of the school or it is even prepared at the cluster level. Questions, furthermore, remain about the extent of aggregation of the SDPs and the extent to which these serve as the basis for allocations.

### **PRIs/Local Authorities**

While the focus has entirely gone on the SMCs, the existence and role of the Local Authorities especially the PRI structures under the 73<sup>rd</sup> and 74<sup>th</sup> Amendments has been relatively neglected. The special role given to the local structures in the 5<sup>th</sup> and 6<sup>th</sup> Schedule Areas has not received adequate attention in the course of implementation. Some moves towards devolution of power to the Panchayat have been

---

<sup>43</sup> <http://www.firstpost.com/delhi/rte-deadline-how-the-delhi-government-has-failed-parents-661770.html>

<sup>44</sup> Kaur & Taneja (2012)

<sup>45</sup> [http://www.telegraphindia.com/1130222/jsp/jharkhand/story\\_16591196.jsp#.UUXpuTfcC5g](http://www.telegraphindia.com/1130222/jsp/jharkhand/story_16591196.jsp#.UUXpuTfcC5g)

<sup>46</sup> <http://daily.bhaskar.com/article/GUJ-AHD-right-to-education-lack-of-guidance-creates-confusion-over-smc-selection-3180462.html>

<sup>47</sup> <http://www.rteforumindia.org/sites/default/files/1st-State-level-SMC-Convention-SCoRE.pdf>

<sup>48</sup> DISE Flash Statistics

made during the preceding year in Jharkhand.<sup>49</sup> This has, however, often been opposed by teachers as impinging on their professionalism. While PRIs have been tasked to hold special Gram Sabhas on RTE, it is unclear how this is expected to happen in the absence of any training of Sarpanches and other PRI members. The role and modalities of the implementation at higher levels of the PRI system and in bodies in the urban areas, especially in the metropolitan areas requires special attention.

## 4.4 Quality:

### Curriculum and Textbooks

According to the 13<sup>th</sup> JRM, only 14 States had revised their curriculum in line with the NCF 2005. Creation of textbooks which adhere to the principles of the NCF is a huge challenge. This should be a process steered by the government through its SCERTs. While some states like Gujarat and Kerala have developed the internal capacity to steer this process, many others either depend on outside resources or outright outsource the process. Many states have adopted the textbooks prepared by the NCERT despite the fact that teachers report difficulty in understanding and transacting these textbooks. Adoption of NCERT textbooks will not change the classroom culture, if teachers are not trained or oriented to be able to use them appropriately. Another recent move has been the introduction of an autonomous 'National Textbook Council' to monitor textbooks. It would provide ordinary citizens a forum to register complaints regarding textbooks to be followed up by an investigation by the Council<sup>50</sup>.

### No Detention & CCE:

The RTE Act prohibits the retention of students in the same class, anticipating a system of Continuous and Comprehensive Evaluation (CCE) would be put into place. CCE was envisaged to assess the progress taking place in a child over time in different subjects, to identify individual and special needs, accordingly plan teaching-learning situations to help the child and to provide evidence of children's progress to parents and community. 22 States/UTs have reported that they are implementing a system of CCE<sup>51</sup>. Most states have provided for no detention, but the experience of roll out of CCE in the government schools has been patchy and considerable gaps in understanding remain about what it actually entails.

### Multigrade - Multilevel Environment

Data from DISE points that more than half the schools in the country are **multi-grade**. More than 60 % primary and 50 % Upper Primary classes were multigrade in 2012. However, teacher training usually does not prepare teachers to cope with this prevailing reality.

### Language of Instruction:

A critical issue for adivasis, inter-state migrants and other minorities is that of **language of instruction**. Despite long standing government policy (The Three Language Formula) and new provisions under RTE Act mandating instruction in the mother tongue at the elementary levels, this is yet to be actualized in most instances. This places children at educational risk and discrimination. Again, teachers are unable to cope with this reality. Some experiments have been made for instruction in the tribal language in several states (eg Odisha). However, most of these have remained small scale and their impact is yet to be fully validated. A related issue is the rise of **English** as a medium of instruction

---

<sup>49</sup> [http://articles.timesofindia.indiatimes.com/2013-03-08/ranchi/37560441\\_1\\_primary-schools-powers-primary-education](http://articles.timesofindia.indiatimes.com/2013-03-08/ranchi/37560441_1_primary-schools-powers-primary-education)

<sup>50</sup> [http://www.business-standard.com/article/economy-policy/central-advisory-board-for-education-to-meet-on-april-2-113032900155\\_1.html](http://www.business-standard.com/article/economy-policy/central-advisory-board-for-education-to-meet-on-april-2-113032900155_1.html)

<sup>51</sup> Unstarred Lok Sabha Question 16012 answered on 06.03.2013 <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=136124>

## Corporal Punishment:

Corporal punishment is prohibited under Section 17 of RTE Act 2009. Notification to prohibit physical punishment and mental harassment had been issued by 27 State Governments until 2012. CBSE has also issued instructions to its affiliated schools not to resort to physical punishment of students<sup>52</sup> and appropriate guidelines have also been issued by the NCPCR. However, these notifications have not fully changed reality on the ground.

## 4.5 Inclusion:

### Education of Adivasi (Scheduled Tribe) Children:

Children from Scheduled Tribes (ST) communities constitute 8.2% of the children in the country, come from over 573 notified scheduled tribes and speak 218 languages. In numbers, 170.5 lakhs ST children were estimated to be in the age group 6 to 13 years.<sup>53</sup> The expanded provisions of schooling under the SSA have increased their enrolments. However, the high rate of dropout among ST children is alarming. Among all children, ST children have the highest dropout rates, both for boys and girls, whether it is from Classes 1-5, Classes 1-8, or Classes 1-10. About a third of all ST children who enrol in class 1 are found to drop out at grade V. Dropout in Classes 1-10 is 75.21%. SSA identified three critical reasons for the gaps in ST children not enjoying their right to education;

- i) pervasive discrimination against ST communities and exclusion by peers, schools and the system;
- ii) physical isolation in remote regions where physical access to schools becomes difficult;
- iii) and issues of linguistic and cultural differences between non-ST teachers and ST students lead to a sense of alienation of these children<sup>54</sup> *“studies show that the schooling experiences of tribal children are characterised by non-comprehension, pre-dominant experiences of failure, non-acceptance of one’s self and identity, recurrent feelings of diffidence and inadequacy of own culture and language’.*<sup>55</sup>

Furthermore, a large cross-section of the tribal population resides in the areas affected by conflict and therefore coincides with the issues of children in civil unrest areas. Another critical concern is that of the functioning of the tribal residential schools- the Tribal Ashrams that often do not meet the minimum norms of quality and indeed, several instances of gross abuse of girls residing in the same have been reported.

Within the Tribal populations, nomadic and De-notified communities and the children are among the most discriminated and deprived communities today and face particular disabilities and deprivations in the realm of education. Many of these communities continue to live nomadic lives and the rest have been ‘de-notified’ from the label of criminality, but continue to face the same social exclusion. Spread across various administrative schedules as SC, ST, OBC and even general community, they are not covered with adequate policy, administrative or budgetary provisions, and hence development opportunities are extremely limited. Except for the state of Maharashtra that has a specific Directorate to promote their development, other states include them in other categories. Their real numbers are not known, they are not mapped by local authority, community does not approach schools and schools do not recognise accountability towards these children. The Renke commission report on these

---

<sup>52</sup> Lok Sabha Unstarred Question Number 3440 answered on 14/12/11

<sup>53</sup> Provisional Statistics of School Education (2009-2010), Ministry of Human Resource Development, New Delhi, 2010

<sup>54</sup> MHRD, SSA Framework for Implementation in line with RtE Act, MHRD, New Delhi, 2011.

<sup>55</sup> Subgroup on elementary education for 12<sup>th</sup> Plan, Dept of School education and literacy, MHRD, Nov 2011

communities is yet to be tabled and discussed to explore the development options for these communities and children. The tabling of this report and strategy building is essential.

Several policy measures have been taken to address issues of exclusion including developing residential school complexes, seasonal hostels for migrating families along KGBV norms, orienting teachers/hostel staff/NGOs on tribal issues and inclusion as well as child rights and child protection issues, ashramshalas to be made RTE compliant, the use of multi-lingual/regional language, and personality development and confidence building for ST children etc. The 12<sup>th</sup> Plan further seeks to use Tribal Sub Plan (TSP) funds to meet the needs and overcome the constraints faced by ST children and promote better understanding of the ST children in schools.

### **Education of Dalit (Scheduled Caste) Children:**

The pervasive nature of caste mindset and practices and teacher neglect across educational institutions are reported at all levels of schooling. Discrimination against Dalits learners is perpetrated by peer groups, teachers, and dominant communities. Scheduled caste children also migrate in large numbers to urban areas, further facing education disabilities living in jhuggi jhompris, urban slums and worksites. Specific groups among scheduled caste children whose parents are engaged in cleaning and leather occupations face more severe discrimination. Gender disabilities impact girl children even more severely. A study on inclusion and exclusion of children in schools was commissioned by the Ministry of Human Resource Development in 6 States (Andhra Pradesh, Assam, Bihar, Madhya Pradesh, Odisha and Rajasthan) in 2011. The study revealed incidents of segregated seating arrangements in classrooms in Andhra Pradesh, Madhya Pradesh, Odisha and Rajasthan. Similarly, a study of practice of discrimination against Dalits in Karnataka pointed towards instances of discrimination in midday meals- around 114 families of 825 reported that their children have had to sit separately during lunch and were served in a separate set of plates. Furthermore, school authorities disallowed Dalit children from serving food or entering the kitchen. 72.8% of parents interviewed said their children have never been appointed class monitors, but 33% said their children have been given the task of cleaning classrooms on a “frequent” basis and “during school functions and festivals.”<sup>56</sup> Similarly, the last year continued to see media reports of Dalit villages being ostracized on a range of issues, including over issues like the appointment of Dalit cooks and Anganwadi Workers, and resultant demand for schools in Dalit hamlets to avoid the consequences of social boycott. Untouchability is also reported to be practiced against Dalit teachers both within schools<sup>57</sup> and in terms of issues like ensuring housing in the place of residence<sup>58</sup>.

Some concrete recommendations have been made in the 12<sup>th</sup> Plan<sup>59</sup> to ensure that scheduled caste children access a full cycle of schooling and guidelines. At the same time, MHRD issued a guideline recommending tracking discrimination and laying down norms for positive behaviour. In addition, convergence with the social welfare department and better use of the Scheduled Caste Sub Plan to address the specific needs of SC children are essential.

### **Education of Muslim Children**

Proportion of Muslim children in elementary schools is lower than their share in the population, unlike SC and ST children who are currently more than their population proportions. The share of Muslim boys’ enrolment is less at the upper primary level than the primary level, dropping out due to their poor socio-economic and occupational patterns. However, there is also improvement. Between 2007-08 and 2010-11, Muslim enrolment in classes I to V (primary) shot up by 25% and for classes VI to VIII (upper

---

<sup>56</sup> <http://www.thehindu.com/news/national/karnataka/study-reveals-discrimination-in-karnataka-schools/article4019883.ece>

<sup>57</sup> <http://daily.bhaskar.com/article/RAJ-JPR-caste-discrimination-at-school-headmaster-illtreats-dalit-teacher-woman-4078781-NOR.html>

<sup>58</sup> [http://articles.timesofindia.indiatimes.com/2012-12-14/ahmedabad/35819197\\_1\\_valmiki-community-high-court-untouchability](http://articles.timesofindia.indiatimes.com/2012-12-14/ahmedabad/35819197_1_valmiki-community-high-court-untouchability)

<sup>59</sup> Subgroup on elementary education for 12<sup>th</sup> Plan, Dept of School education and literacy, MHRD, Nov 2011

primary) by 50% across the country. For classes I to VIII as a whole, this marked a rise of 31%. In the same period, total enrolment in class I to V inched up by just 1% and for class VI to VIII by 12%. For class 1 to VIII, this marked a rise of 4%. Girls' enrolment has increased even faster than boys in the Muslim community. For primary sections, Muslim girls' enrolment increased by 26% compared to just 1% increase in all girls' enrolment. For upper primary sections, Muslim girls' enrolment increased 54% while for all girls it rose 15%. For Classes I to VIII, the enrolment was up 33% for Muslim girls against an overall average of 5%<sup>60</sup>. As of 30.9.2012, 544 KGBVs have been sanctioned in 71 Muslim concentration districts<sup>61</sup>.

However, some of the barriers experienced by Muslim children in accessing education include discrimination, stereotyping, unfriendly attitudes of peer groups and teachers and exclusion on the basis of religious identity, cultural domination based on their faith and cultural practices. The lack of adequate Urdu teachers leads Muslim children being herded into limited schools (with limited opportunities for upwards progression due to an even greater paucity of secondary schools), and unable to access other schools near their habitations. Girls are further disadvantaged owing to community hesitation to send them far, lack of transport facilities, lack of adequate infrastructure facilities, protection and security reasons. The poor socio-economic conditions of the community also oblige many children to seek work and technical skills to contribute to the family income. Madarsas and Maktabas located in their habitation have traditionally provided the mandated religious education to Muslim children. The 'Scheme for Providing Quality Education in Madarsas (SPQEM)' seeks to include Science, Mathematics, Environment Sciences etc in the Madarsa education. However this support is limited, is compounded by administrative delays and hurdles and is not accessed by many Madarsas. More critically, as of December 2012, a total of 20512 Primary Schools and 9918 Upper Primary Schools have been constructed in Minority Concentration Districts under the Sarva Shiksha Abhiyan (SSA)<sup>62</sup>. Furthermore, proactive efforts to open KGBVs in minority areas is being done in furtherance of the recommendations of the Sachar Committee Report.

The subgroup on elementary education for the 12<sup>th</sup> FYP<sup>63</sup> points towards the need for a safe and welcome environment to Muslim children in ALL schools. Making Urdu optional second language with adequate TLM/teacher trainings etc will facilitate spread of Muslim children across schools. This is particularly important given their current ghettoising into limited schools, denying their interface with children from other communities. Other measures that can promote education among Muslim children are recruitment of more Muslim teachers, making the unit for planning and monitoring the block for better targeting, provide larger number of schools in urban and densely populated areas, enhance their access to early childhood education. Promoting Muslim girls' education needs special attention through focused tracking, providing transport facilities and residential schools as KGBV more accessible to them. The SPQEM programme needs to be expanded and improved in consultation with the community so that children will be able to access mainstream subjects in Madarsas and Maktabas too. It is, however, too early to see the extent to which these recommendations are being implemented.

### **Education of Urban Deprived Children**

---

<sup>60</sup> <http://timesofindia.indiatimes.com/india/Muslim-girls-enrolment-in-primary-schools-up-33-against-average-of-5/articleshow/15564663.cms?intenttarget=no>

<sup>61</sup> <http://www.meriteducation.in/2012/12/opening-of-kgbvs-in-muslim-dominated-areas/>

<sup>62</sup> [http://twocircles.net/2013mar20/govt\\_has\\_opened\\_twentythousand\\_primary\\_schools\\_muslim\\_areas\\_tharoor.html](http://twocircles.net/2013mar20/govt_has_opened_twentythousand_primary_schools_muslim_areas_tharoor.html)

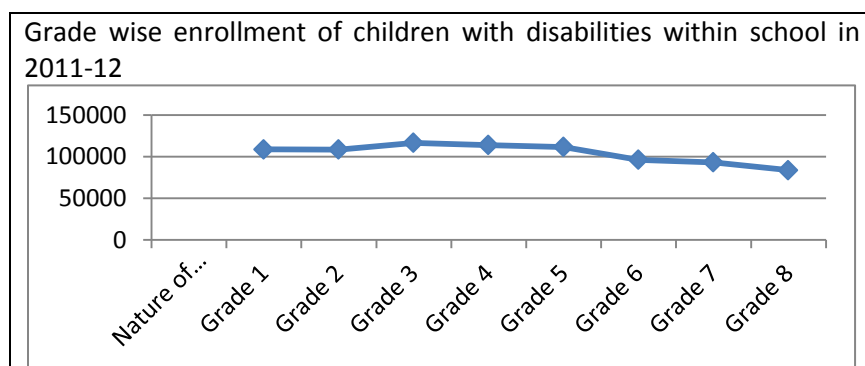
<sup>63</sup> Subgroup on elementary education for 12<sup>th</sup> Plan, Dept of School education and literacy, MHRD, Nov 2011



Growing urbanisation and the projected urban populations makes it important to better plan the education of urban deprived children (UDC). UDC exhibit high degree of heterogeneity and complexity with children living in extremely difficult circumstances, difficulty in enumerating them, living without adult care, availability of tempting activities and opportunities to earn money, slum demolition and constant threat of displacement, safety and security issues in accessing schools, to name a few. The high degree of inequalities in addition to increasing privatisation of schools also place particular challenges in providing education to the UDC. There are also critical gaps in the processes of urban planning with provision for education of the urban poor omitted when allotments for land use are made. Furthermore, the growth of privitization of schooling has been faster in urban than rural areas and consequently, the issues of regulation of private schools (including the imperative of recognition of the currently unrecognized schools and the implementation of the 25% quota) are even more critical for this section of the population.

The recommendations for the 12<sup>th</sup> Plan<sup>64</sup> include the need for comprehensive city/town level planning further subdivided into wards/local habitations including unregistered jhuggi/jhompris. Urban planning needs to make adequate provisions of land for schools including provisions for play grounds and infrastructure facilities and services. Given the high mobility of the population in urban poor areas, special focus on mapping children and bridging programmes are essential. Particular attention needs to be given to first generation learners that come primarily from the SC, ST and other marginalised categories. Given the heterogeneity multi-language teaching and teacher training to handle diversity becomes important. Residential schools are recommended for children without adult care. The 11<sup>th</sup> Plan proposal to set up an urban resource cell under SSA, state level urban resource group with civil society participation, development of data collection and tracking systems need to be further pursued.

### Education of children with Disability



<sup>64</sup> Subgroup on elementary education for 12<sup>th</sup> Plan, Dept of School education and literacy, MHRD, Nov 2011

Children with Disability are subjected to negligence, segregation, deprivation and discrimination because of physical and mental characteristics, and the wide-scale negative social attitude towards them. Given the variety of disabilities, the needs of children with disability are category specific and important to be kept in mind while planning and making provisions in education for them. Currently, the number of CWSN identified under SSA stands at 30.28 lakh: 26.46 lakh Children with Disability are enrolled in schools and another 2.41 lakh Children with disability are provided support through school readiness and home-based education. The current coverage of Children with Disability under SSA, thus, stands at 28.87 lakh. While the RTE Act promises new stimulus to the education of Children with Disability, irrespective of the kind, category and degree of disability in an enabling inclusive environment, there is widespread concern that the Supreme Court order providing for homeschooling for Children with Disability. It is feared that this will once again relegate these children to their homes and deny them education.

Lack of reliable data regarding the actual numbers of Children with Disability greatly hampers planning and provisioning for them. Physical barriers and transport facilities are critical barriers to CWSN accessing schooling, with large numbers of schools being non-RTE compliant in this regard. Making all existing school facilities as residential schools, KGBVs, JNVs, KVs will further their inclusion into the larger education system. The training, recruitment and posting of Resource Teachers (RTs) in schools and block level as planned need to be quickened. Orientation to all teachers is recommended to address the exclusion and discriminatory practices by children and teachers against the CWSN which greatly contributes to their inability to complete schooling. Specific attention to be made to include parents of CWSN in the CWSN to highlight and address their issues in school development plans is important. Other recommendations of the subgroup for 12<sup>th</sup> plan includes better identification, community mobilisation and awareness building, engagement of civil society organisations, provision of suitable aids and appliances, engagement of volunteers and care-givers for severe-profound CWSN and individualised education plan for CWSN.

### **Education of Girl children**

Education of girl children and promoting gender parity in elementary education has been focus area under SSA over the past decade too. This has promoted recruitment of women teachers, gender sensitive curriculum and text books, forums for girls in schools, special provisions, EBBs identified with low female literacy, setting up of KGBVs and the Mahila Samakya programme have been some of the prominent efforts. SES 2008-09 data indicates that once given the opportunity, girls tend to be more regular and their dropout rate is less (38.6%) than boys (44.89%). However the actual number of girls reaching the upper primary level is much lower than that of boys. Thus, we see the opportunities of access to education overall are significantly lower for girls. Further, the great diversity and heterogeneity among girls based on their particular identity, socio-economic, and geographic location needs recognition. The cumulative disadvantage emerging out of their multiple identities and disabilities on account of their caste, class, religion and region need special strategies.

As equity issues, the subgroup of the 12<sup>th</sup> Five Year Plan recommended strengthening and expanding the KGBV system by increasing the number of KGBVs, raising the KGBV level to class X, enhancing the enrolment of Muslims and other particularly vulnerable groups from SCs, STs, NT-DNT children. As quality issues, it is essential to focus on gender orientation of curriculum, pedagogy, teacher training and evaluation; building schools as inclusive safe spaces for girls. At the system level needs attention on 'special focus groups' like SC, ST, Muslim girls; attention on migrant girls and integrating the KGBV teachers into the regular state teacher cadre.

## 4.6 Privatisation in the Education Arena:

### Private Schools and the RTE Act

The last year started with the Supreme Court upholding the constitutional validity of the RTE Act<sup>65</sup> and upheld the applicability of the Act to all private schools (except unaided minority schools) on the grounds of it being a child centric legislation that upholds the right of every child to education of a certain standard that every provider has to deliver. During the course of the deliberations it was also pointed out that the argument put forward by the private schools ignores their considerable subsidization (eg granting free or subsidized land) with the purpose of ensuring inclusion for children from marginalized backgrounds. It subsequently refused to entertain a review petition of the same<sup>66</sup>. However, opposition to its applicability continued- including from the Indian army<sup>67</sup>

### The Special Case of Minority Institutions

The RTE Act exempted unaided minority institutions from the RTE Act's provisions. Furthermore, the subsequent amendments in the Act also exempted Vedic Pathshalas and Madrassas from the provisions. This has had a number of implications on the issues of regulation of the private sector. Thus, private schools have again been seeking an appeal to the Supreme Court<sup>68</sup> stating that the exemption to unaided minority institutions is a discriminatory measure. There have also been reports of unaided private schools applying for minority status en masse to avoid the obligation to provide 25% reservations in several states, eg. Maharashtra<sup>69</sup> and Rajasthan.<sup>70</sup> This has culminated in the Supreme Court accepting to hear a review petition on the constitutionality of the differential provisions for minority aided and unaided private schools as a violation of the equal rights of both categories<sup>71</sup>. A five justice bench is being constituted for the same since the issue at hand is a conflict between sections 15(5) and 21-A of the Constitution.

### Need for recognition of Private Schools

The Act mandates that all private schools have to attain the minimum standard of quality within a three year period and obtain recognition after which unrecognized schools would need to close or face stiff penalties. The basis for recognition has to be the norms of the RTE Act, although four States<sup>72</sup> have inserted the requirement that the recognition be as per the pre-existing State laws. In other States, the court has had to intervene to enforce the requirement<sup>73</sup>

The movement into the formal recognized stream has not been free from teething troubles<sup>74</sup> as private schools come to grips with the new procedures and norms. Concern has been voiced from certain quarters about the fate of the Low Cost Budget Schools and interventions have been initiated in several states to avoid their closure including Delhi (relaxation of land norms in the Master Plan based on the CM's direct intervention<sup>75</sup>). What is critical is to ensure that the failure of management to upgrade infrastructure and delayed roll out of guidelines by the State do not penalize children. In this regard,

---

<sup>65</sup> <http://www.thehindu.com/news/national/supreme-court-upholds-rte-act/article3306454.ece>

<sup>66</sup> [http://articles.timesofindia.indiatimes.com/2012-09-20/news/33975994\\_1\\_unaided-schools-minority-institutions-weaker-sections](http://articles.timesofindia.indiatimes.com/2012-09-20/news/33975994_1_unaided-schools-minority-institutions-weaker-sections)

<sup>67</sup> <http://news.outlookindia.com/items.aspx?artid=777501>

<sup>68</sup> <http://www.indianexpress.com/news/private-unaided-schools-to-move-supreme-court-against-rte-act/1044498>

<sup>69</sup> <http://m.firstpost.com/india/schoolsrte-loop-look-to-exploit-minority-loop-hole-335539.html?page=1>

<sup>70</sup> [http://articles.timesofindia.indiatimes.com/2012-04-25/jaipur/31398229\\_1\\_minority-status-linguistic-minorities-religious-minorities](http://articles.timesofindia.indiatimes.com/2012-04-25/jaipur/31398229_1_minority-status-linguistic-minorities-religious-minorities)

<sup>71</sup> <http://www.assamtribune.com/scripts/detailsnew.asp?id=mar2413/at044>

<sup>72</sup> Rajasthan, Manipur, Karnataka and Kerala as per Kaur & Taneja (2012)

<sup>73</sup> Haryana, Punjab and Chandigarh - <http://www.hindustantimes.com/Punjab/Chandigarh/All-schools-in-Punjab-Haryana-UT-to-get-registered-HC/SP-Article1-859191.aspx>

<sup>74</sup> [http://articles.timesofindia.indiatimes.com/2011-07-12/jaipur/29764545\\_1\\_middle-schools-private-schools-education-officer](http://articles.timesofindia.indiatimes.com/2011-07-12/jaipur/29764545_1_middle-schools-private-schools-education-officer)

<sup>75</sup> <http://timesofindia.indiatimes.com/city/delhi/Relax-norms-for-schools-facing-closure-CM/articleshow/18584059.cms>

relatively few states made concerted efforts to ensure absorption of children from unrecognized private schools into recognized schools- government or private<sup>76</sup>. Indeed, the Supreme Court this year ruled that recognition of private schools should not be automatic<sup>77</sup>. “Indiscriminate grant of recognition to schools in the unaided sector may have an adverse effect on the state-owned schools as well as the existing schools in the aided sector, by way of division fall, retrenchment of teachers etc”, the verdict stated.

### **Reservations for children from marginalized communities in private schools- the 25% Quota**

This provision had been vociferously opposed by the private school managements (and indeed often the middle class parents). The Supreme Court verdict ended the uncertainty about its long term existence, leading to a relatively greater push for its implementation in the third year. Several issues pertaining to implementation have emerged- including low rates of filling of seats<sup>78</sup>, corruption in admission<sup>79</sup>, charging of fees from children admitted<sup>80</sup>, inadequate steps taken to academically support children admitted<sup>81</sup> and above all, the gross-discrimination faced by children once admitted.<sup>82</sup> Other private schools are also trying to avoid implementing the provisions- a proportion as high as 70% in Delhi<sup>83</sup>, one of the states with the relatively better rates of implementation. Some schools have been claiming minority status to avoid granting admissions<sup>84</sup> or getting minority status en-mass<sup>85</sup>. All this is not to say that no efforts have been made, with some schools making sincere efforts to meet the inclusion challenges and opportunities as a result of the RTE Act head on with a fair amount of success<sup>86</sup>. Some states have, however, made some progress in admissions including Maharashtra<sup>87</sup>

A critical question regarding the reservation is the question of reimbursement. The second year saw the Centre agree to foot the bill for the implementation of the quota.<sup>88</sup> The third year saw reimbursement procedures being initiated and complaints about delays in reimbursement and unclear procedures have been reported<sup>89</sup> in several states<sup>90</sup> 91 The State/UT Governments reimburse the private unaided schools admitting 25% children from weaker sections and disadvantaged groups under Section 12(1) (c) of the Right of Children to Free and Compulsory Education Act, 2009, as per norms notified by the concerned State/UT Government. So far, 10 States/UTs have notified their norms<sup>92</sup>. Interestingly, MHRD claims to not record details of reimbursements made under this clause.<sup>93</sup> More recently, some schools in Chandigarh has refused to provide such seats unless the government provides clarification on the modalities of implementation including the modalities of reimbursement<sup>94</sup>.

---

<sup>76</sup> Kerala [http://articles.timesofindia.indiatimes.com/2013-02-25/kochi/37288059\\_1\\_unrecognized-schools-government-schools-public-instruction](http://articles.timesofindia.indiatimes.com/2013-02-25/kochi/37288059_1_unrecognized-schools-government-schools-public-instruction)

<sup>77</sup> [http://articles.timesofindia.indiatimes.com/2012-09-06/india/33648337\\_1\\_unaided-schools-recognition-grant](http://articles.timesofindia.indiatimes.com/2012-09-06/india/33648337_1_unaided-schools-recognition-grant)

<sup>78</sup> <http://www.indianexpress.com/news/only-32-per-cent-admissions-under-rte-in-state/981645/0>

<sup>79</sup> <http://www.thehindu.com/news/cities/bangalore/parents-allege-graft-in-rte-admissions/article4498017.ece>

<sup>80</sup> <http://www.thehindu.com/news/national/karnataka/despite-rte-act-parents-forced-to-shell-out-money-in-karnataka/article3904565.ece>

<sup>81</sup> <http://ibnlive.in.com/news/karnataka-rte-fails-to-bridge-academic-gap/285835-62-129.html>

<sup>82</sup> [http://www.daijiworld.com/news/news\\_disp.asp?n\\_id=144268](http://www.daijiworld.com/news/news_disp.asp?n_id=144268)

<sup>83</sup> At end of the 2012 session- <http://ibnlive.in.com/news/delhi-70-pc-schools-still-ignoring-rte/250310-3.html>

<sup>84</sup> <http://www.deccanherald.com/content/273810/rte-hc-seeks-list-educational.html>

<sup>85</sup> [http://articles.timesofindia.indiatimes.com/2012-08-22/news/33321271\\_1\\_minority-status-ncmei-minority-tag](http://articles.timesofindia.indiatimes.com/2012-08-22/news/33321271_1_minority-status-ncmei-minority-tag)

<sup>86</sup> <http://www.hindustantimes.com/Specials/Education/NCRSchool2012/Chunk-HT-UI-NCRSchool2012-RTE-TopStories/Pvt-schools-battle-RTE-Act-s-social-challenges/SP-Article10-922884.aspx>

<sup>87</sup> <http://right-to-education-india.blogspot.in/2013/03/67306-admitted-to-schools-under-rte.html>

<sup>88</sup> <http://www.hindustantimes.com/India-news/NewDelhi/Govt-to-pick-tab-for-poor-schoolkids/Article1-797681.aspx>

<sup>89</sup> [http://articles.timesofindia.indiatimes.com/2012-04-25/jaipur/31398804\\_1\\_rte-act-reimbursement-ews](http://articles.timesofindia.indiatimes.com/2012-04-25/jaipur/31398804_1_rte-act-reimbursement-ews)

<sup>90</sup> <http://www.deccanherald.com/content/301645/govt-releases-rs-56-crore.html>

<sup>91</sup> <http://dailypioneer.com/state-editions/bhopal/123166-st-josephs-co-ed-awaits-rs450-l-grant-under-rte-.html>

<sup>92</sup> Lok Sabha Unstarred Question 2610 answered on 13.03.2013 <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=136721>

<sup>93</sup> Rajya Sabha- Question No 554- answered on 01.03.2013

<sup>94</sup> <http://www.indianexpress.com/news/ews-seats-pvt-schools-defy-say-no-vacancies/1092238/0>

### **Regulation of Fees in private schools**

The period up to 2012 saw steps towards fees regulation through issuance of circulars or passage of State Acts has been undertaken in TN, Maharashtra and MP. However, these move appear to have stalled. This is unfortunate given the high rates of out of pocket expenditure for education- including among the middle class. According to media reports, an ASSOCHAM survey<sup>95</sup>, 65% of parents spend more than half their take-home pay on their children's education, extra co-curricular activities placing significant burden on their family budget. This survey suggest that spending on a single child's education has gone up from Rs 35,000 in 2005 to over Rs 94,000 in 2011 on such items and activities as integral to the school curriculum like fees, transport books, uniform, stationery, building fund, educational trips, extra tuitions and extra-curricular activities. In the absence of any concerted new policy developments, efforts have been undertaken by parents in several states, including Odisha<sup>96</sup>, Maharashtra<sup>97</sup> and Delhi.

### **Other Steps towards regulation of private schools**

Central Board of Secondary Education (CBSE) has a mechanism of regulation of its members and issues notices to the schools on the complaints received pertaining to non-fulfillment of land norms, lack of infrastructure, non-payment of salary, non-adherence to service conditions, illegal termination of service, appointment of unqualified teachers, exorbitant fee hike, charging of capitation fee and donation, sponsoring of students of unaffiliated schools in the examinations of the Board etc. However, the numbers are fairly small- in 2012, only 31 notices have been issued against private schools and indeed, since 2010 action has been taken only against 59 schools. <sup>98</sup> It is in the process of amending its rules towards granting recognition that has been criticized by the States as bypassing them in decision making<sup>99</sup>

Draft legislation is also being prepared to curb unfair practices in schools and it is under consideration of the CBE Committee<sup>100</sup>. Some of the key provisions include charging of capitation fees, misleading and non-transparent processes adopted by schools for the admission of students in higher classes, and the appointment of ineligible and unqualified teachers.

The last year saw issues of working conditions of private teachers, especially women, raised by the Women's Rights Commission in Kerala <sup>101</sup> Punjab for the first time made provision for pension of teachers of private schools<sup>102</sup> In 2010-11, the Himachal Pradesh High Court reinforced the principle of equal pay for equal work<sup>103</sup>. This principle is also laid down in the Affiliation Bye-Laws of the Central Board of Secondary Education (CBSE) that states that "the school in India must pay salaries and admissible allowances to the staff not less than the corresponding categories of employees in the State Government schools or as per scales etc. prescribed by the Government of India"<sup>104</sup>. However, majority of private schools continue to employ teachers under less than optimum labour conditions.

---

<sup>95</sup> [http://articles.timesofindia.indiatimes.com/2013-01-09/india/36236512\\_1\\_fee-hike-higher-education-secondary-education](http://articles.timesofindia.indiatimes.com/2013-01-09/india/36236512_1_fee-hike-higher-education-secondary-education)

<sup>96</sup> [http://articles.timesofindia.indiatimes.com/2013-01-29/bhubaneswar/36615418\\_1\\_arrest-parents-cut-tack-dav-schools](http://articles.timesofindia.indiatimes.com/2013-01-29/bhubaneswar/36615418_1_arrest-parents-cut-tack-dav-schools)

<sup>97</sup> [http://articles.timesofindia.indiatimes.com/2013-01-23/nashik/36504988\\_1\\_fee-hike-deputy-director-fee-structure](http://articles.timesofindia.indiatimes.com/2013-01-23/nashik/36504988_1_fee-hike-deputy-director-fee-structure)

<sup>98</sup> Based on Rajya Sabha Unstarred Question No. 252 answered on 23.11.2012

<sup>99</sup> <http://www.thehindu.com/todays-paper/tp-national/cbse-bill-makes-states-jittery-over-their-diminished-role/article4495651.ece>

<sup>100</sup> <http://www.indianexpress.com/news/cabe-to-take-up-bill-to-end-unfair-practices-in-schools/1023262>

<sup>101</sup> [http://articles.timesofindia.indiatimes.com/2012-12-01/kozhikode/35529941\\_1\\_private-school-teachers-school-managements-city-school](http://articles.timesofindia.indiatimes.com/2012-12-01/kozhikode/35529941_1_private-school-teachers-school-managements-city-school)

<sup>102</sup> <http://in.news.yahoo.com/private-school-teachers-pension-punjab-074609961.html>

<sup>103</sup> <http://www.tribuneindia.com/2011/20110813/himachal.htm>

<sup>104</sup> Lok Sabha unstarred question No. 4251 asked on 19.12.12 <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=134341>

## Handing over of Schools or core services to the Private Sector

A critical move in the last quarter of 2013 is the move of handing over of government schools to the private sector in PPP mode. Large scale movement in this direction has been reported in Uttarakhand<sup>105</sup> and Maharashtra (Bombay Municipal Corporation)<sup>106</sup> Both moves have been criticized as an exclusionary move that amounts to de-facto privatization<sup>107</sup> In other states it has been specific activities that are being outsourced- eg. sanitation in schools in Delhi<sup>108</sup> or the provision of midday meal<sup>109</sup> The experience of their implementation has been that systemic solutions are needed since the implementation on the ground has not automatically improve through mere transfer of management to the private sector.

## 4.7 Teachers

### Recruitment of teachers post RTE

Under SSA, the current total sanctioned teacher posts (till 2012-13) in the country are 19.82 lacs while the number recruited is 12.9 lakhs, leaving a vacancy of over 7 lakhs against sanctioned posts. In addition, the States / UTs have reported 5.65 lakhs teacher vacancies upto end of March 2012 against teacher posts borne on the State budget<sup>110</sup>. All the States have conducted the mandatory Teacher Eligibility Test (TET) for the recruitment of teachers, except West Bengal, where this test is scheduled to be held on 31.3.2013<sup>111</sup>. More than 99% of the 7.75 lakh candidates who appeared for the Central Teacher Eligibility Test 2012 failed the test.<sup>112</sup>

### Pupil Teacher Ratio & Single Teacher Schools

The average PTR for the country at the primary level was 31 in 2011-12, which remains above the minimum norm. Ironically, the PTR for Upper Primary is 1:29. These are, however, obviously averages. Across the country, 40.83% schools have a PTR greater than 30 and 31.05% Upper Primary Schools exceed the norm. Another way of looking at the same figures is that 65.25% enrollment in primary level is in schools that fail the national norm. The corresponding figure for Upper Primary Schools is 51.04%.

According to the DISE 2012, 8.31% schools remain single teacher schools in contravention of the RTE Act that mandates a minimum of two teachers per school. Indeed, the percentage of single teacher schools has gone up in Assam, Dadar and Nagar Haveli, Jharkhand, Kerala, Punjab, Sikkim, Tamil Nadu, and Uttarakhand between the years 2010-11 and 2011-12.

### Training of Teachers

As per DISE 79.58% teachers were professionally trained and the percentage has improved over the years. The Government of India has granted relaxation under Section 23 (2) of the RTE Act 2009 in the

<sup>105</sup> [http://smartinvestor.business-standard.com/market/story-157156-storydet-Uttarakhand\\_to\\_run\\_primary\\_schools\\_under\\_PPP\\_mode.htm](http://smartinvestor.business-standard.com/market/story-157156-storydet-Uttarakhand_to_run_primary_schools_under_PPP_mode.htm)

<sup>106</sup> <http://www.indianexpress.com/news/bmc-okays-ppp-model-for-its-schools/979478>

<sup>107</sup> <http://www.afternoondc.in/epaper/EpaperPost.aspx?id=62542>

<sup>108</sup> [http://www.business-standard.com/article/economy-policy/to-fight-inefficiency-uttarakhand-adopts-ppp-model-for-its-schools-to-fight-112103102004\\_1.html](http://www.business-standard.com/article/economy-policy/to-fight-inefficiency-uttarakhand-adopts-ppp-model-for-its-schools-to-fight-112103102004_1.html)

<sup>109</sup> <http://www.indianexpress.com/news/midday-meal-hc-stays-outsourcing-to-mumbai-ngo/908468>

<sup>110</sup> ANNEXURE REFERRED TO IN REPLY TO PART (a) TO (f) OF LOK SABHA UNSTARRED QUESTION NO. 2039 TO BE ANSWERED ON 5.12.2012 ASKED BY SHRI SANJAY DINA PATIL, DR. SANJEEV GANESH NAIK, SHRI VILAS MUTTEMWAR, SHRI JAGDISH SHARMA, DR. RAGHUVANSH PRASAD SINGH, SHRI RADHA MOHAN SINGH, SHRI RAMASHANKER RAJBHAR, SHRI P.C. MOHAN, SHRI HAMDULLAH SAYEED, AND SHRI SURENDRA SINGH NAGAR REGARDING SHORTAGE OF TEACHERS.<sup>110</sup>

<sup>111</sup> Unstarred Question No 2637 Answered on 13.03.2013 <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=136730>

<sup>112</sup> Question No 1338 asked on 08.03.2013

minimum teachers qualification in respect of 13 States, since these States had inadequate teachers preparation capacity in relation to demand for teachers of classes I to VIII. While doing so is perfectly legal, the continued hiring of para-teachers to fill vacancies is creating a backlog of untrained teachers whose ranks would need to be filled later. 12.16% of the total teacher strength in India is on contract (14.62% in government schools) and the percentage is growing from year to year across 23 states / UTs. The States with high percentage of teachers on contract are Odisha (40.33%), Chattisgarh (23.19), Mizoram (33.74%), Meghalaya (29.54) and Chandigarh (28.56%). This picture may also be deceptive because other states such as Bihar have teachers who may not be on contract, but are on similar pay as contract teachers.

As per current estimates, there are 5.48 lakh untrained teachers at the primary level and 2.25 lakh untrained teachers at the upper primary level. Bihar, Jharkhand, Jammu & Kashmir, Orissa, West Bengal, Uttar Pradesh, Assam and Chattisgarh together account for 6.06 lakh untrained teachers at the elementary level. The Government has taken several steps for improving the quality of teacher preparation and teacher education. These include laying down teacher qualifications under the Right of Children to Free and Compulsory Education (RTE) Act, 2009; specifying passing of the Teacher Eligibility Test (TET) as an essential qualification for being appointed as a teacher in classes I-VIII; the development of the National Curriculum Framework of Teacher Education, NCFTE (2009); the preparation of model syllabi for teacher education courses; the revision of the Centrally Sponsored Scheme of Teacher Education for the XII Plan.<sup>113</sup>

#### **Teacher Education - Pre-Service and In-Service**

The pre-service teacher education has been re-started after two decades in several States with most need. However, the present status is not encouraging given shortages of resource materials and teacher educators. In 2011-12, 34.23% teachers received in-service training- 47.01% government teachers did so. Quoting from the document “However, these are often monotonous and don’t reflect teacher needs. There is a huge backlog of untrained teachers in a few states. Bihar and Jharkhand have opted for the open distance D. Ed programme of IGNOU. Even now more than 1.5 lakh teachers in Bihar are not trained. 70,000 more untrained teachers are being recruited in 2013.

#### **Inclusion in Teacher Education**

There is urgent need to:

1. Expand the ‘social equity-inclusion’ dimensions of quality education building conceptual clarity, curriculum, reading materials, teacher education and monitoring mechanisms.
2. Include the contextual issues of children from SC, ST and Muslim communities in teacher training curriculum, training modules. Ensure adequate and up to date reading materials on these in the TE institutes.
3. Enroll local civil society organizations with have track records on working with marginalized communities to collaborate with teacher education institutions and processes.
4. Include social equity and social inclusion as indicators for quality under Samjhe – Seeken or any other monitoring – CCE formats used in the schools.

---

<sup>113</sup> Rajya Sabha Qn No 2899 asked on 22 March 2013 accessed on <http://164.100.47.4/newsquestion/ShowQn.aspx>

46.3% of teachers in India are women in 2011-12<sup>114</sup>. It was 39% and 40% in 2009 and 2010 which is an improvement. However, Assam, Bihar and Odisha, Tripura have less than 40% female teachers. The deployment of female teachers is a major issue. If posted in far-off villages, female teachers tend to come to school late and leave early, according to CSO studies. Posting of a single female teacher poses further problems. The All-India representation of SC teachers is 12.88%, grossly under-represented in proportion to their population. This will have adverse impact on retention of children of SC communities in schools. The ST representation is slightly better at 8.17% which is on par with the proportion of the population. The OBC representation among teachers all India is 14.71%, that is under-represented in proportion to their population.

### **Head Teachers/school leadership**

Primary schools having an enrollment over 150 and Upper Primary schools over 100 children are entitled to having a full time head teacher. According to DISE 2011-12, 58.46% of the primary schools eligible for having a Head Teacher actually had one. Similarly, only 54.23% Upper Primary schools had a head teacher<sup>115</sup>. This translates into limited efforts at leadership within schools. Furthermore, the head teachers may not necessarily have the skills and capacities to impart the role, given the necessity to play a more management role. Specific efforts towards capacity building are, therefore, needed.

### **Monitoring and Onsite Support**

51.17% schools were inspected / visited by the Resource Persons. 65.17% received visits from the Cluster Resource Coordinators<sup>116</sup>. Monitoring is still patchy in the absence of a comprehensive system, resource support and personnel. Furthermore, BRCCs and CRCCs are busy with administrative tasks and when they visit the schools for inspection, this is often not done in partnership with schools.

---

<sup>114</sup> As per Lok Sabha Unstarred Question No. 1998 answered on 05.12.2012 accessible on <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=130832>

<sup>115</sup> Mehta, AC (2013) Elementary Education in India-Progress towards UEE. Analytical Tables 2011-12: Provisional

<sup>116</sup> Mehta, AC (2013) Elementary Education in India-Progress towards UEE. Analytical Tables 2011-12: Provisional



## 5. Key Recommendations

### 5.1 Systemic Preparedness for RTE

- Ensure complete compliance with the infrastructure norms in all schools of India.
- Put in place a universal definition of Dropout that is applicable across the States and back this definition with comprehensive mechanisms for child mapping (especially at the upper primary equivalent levels and including migrant populations) and subsequent tracking of attendance.
- Initiate special training for the acknowledged 2.7 million out-of-school children, recognizing that the actual numbers of children out of school are likely to be even greater
- Undertake the administrative restructuring streamlining SSA and Education department structures as laid down in the RTE Framework and fill all vacant administrative positions within the departments.

### 5.2 Teachers

- Fill existing vacancies of 12 lakh teacher under both SSA and State Education Department. In doing so, prioritize recruitment of female teachers and teachers from the marginalized communities. Training for the existing in-service 5.48 lakh untrained, unprofessional teachers to be planned and undertaken.
- No school to remain a single teacher school within the coming three months through redeployment of existing teachers
- Concrete steps to enhance teacher training capacities in the States with the largest training gaps, especially Bihar, West Bengal, Jharkhand and Uttar Pradesh. Efforts to train teachers at the Block and District level need to be prioritized to ensure that teachers hired come from the same cultural milieu as their students. This training would require contact hours equivalent to the full time training and cannot be left to be done through distance mode alone. Teachers' training institutes need significant enhancement in capacity to stand up to the task. Issues of teacher career path and autonomy needs urgent thought given the continued contractualization of teacher profession in the post RTE period.
- Real time tracking progress of teacher training in the 13 States exempted from qualifications criteria for teachers' recruitment ahead of the 2015 deadline.
- Prioritize the recruitment of head teachers in the 41% schools lacking the same and put in place a comprehensive package for training of head teachers to ensure school level leadership.
- Enhance and make more meaningful the processes of onsite support and inspection systems to ensure handholding and accountability frameworks for teachers, especially for the 48% schools that failed to receive a school inspector visit during the previous year.
- Free teachers from non-teaching work given that an average 19 days of teaching work is lost annually on the same. Bihar's model of hiring of Accredited Statistical Volunteers could be up-scaled across the country<sup>117</sup>.
- Undertake a system analysis of the reasons of understanding of the funds already committed and take urgent steps to remedy the same through actions like the filling of existing finance staff vacancies (4085 at Block, 496 at District and 113 at State level) and accelerate processes of computerization of the finance systems.

---

<sup>117</sup> <http://news.biharprabha.com/2012/07/bihar-school-teachers-to-be-freed-from-non-teaching-duties/>

### 5.3 Grievance Redressal

- Ensure that the 7 States lacking either an SCPCR or REPA start the same at the earliest and the 4 remaining REPAs are converted into full fledged SCPCRs. SCPCRs and NCPCR to be empowered and adequately funded and staffed by professionals in order to take on the role expected.
- Put in place a pan-national and comprehensive Grievance Redress System that completes the loop from the SMC and Panchayat to the NCPCR.

### 5.4 Regulation Framework for Private Schools

- Enforce the implementation of the 25% quota in private schools, given the extremely poor track record of implementation.
- Put in place a rational regulatory framework for private schools to ensure their compliance with the RTE norms, standards and other provisions and on other issues like regulation of fees through a central legislation on the same.
- Reverse the trend of handing over of government schools to the private sector in the name of PPP, but rather take the steps necessary to reform provisions to ensure compliance.

### 5.5 Community Participation

- Demand generation towards proper functioning of educational facilities from the people themselves and children should be strengthened to build people's pressure in ensuring educational rights. Media campaigns and community awareness programmes to activate people and children in realizing educational rights should be conducted on a large scale by the state.
- SMCs have to be constituted through elections and giving legally specified representation to women and socially excluded groups. Democratic constitution of the SMCs with gender equity and proportionate representation to excluded groups should be made a responsibility of the Head Teacher, which will be monitored.
- Training of SMCs has to focus on empowering them as functionaries of a decentralised system of education. Being essentially an exercise in decentralization, SMC training should draw from the successful experiments in training of PRI functionaries in some states.
- Overhaul the mechanisms of training and functioning of SMCs to ensure their legitimacy and capacity including ensuring that the same are formed through elections and the entire body is trained
- Deepen the process of bottom up planning through building SMC capacity to prepared School Development Plans, ensure absorption of plans prepared in the education system and fund allotment based on the same.
- Initiate processes of dialogue and capacity building of the Local Authorities (especially the Panchayats and Urban Local Bodies) that have a role to play for education both in terms of the RTE Act and pre-existing 73<sup>rd</sup> and 74<sup>th</sup> Amendments.

### 5.6 Quality Improvement

- Resolve the consequences of non-implementation of CCE on the ground and the inefficient ways of implementation of no detention policy.
- Upscale interventions for instruction in the mother tongue for children from tribal background, migrants and Urdu speakers in the early grades.

- Recognise the rich diversity of religion, culture, leadership and contribution of Adivasi, Muslim and Dalit communities in school curriculum and create sensitivity and respect for them among all children and teachers. Recognise, monitor and address various forms of discrimination faced by Dalit, Muslim and Adivasi children in schools. Undertake studies/mechanisms to build further information on these practices. Budget allocation under Tribal Sub Plan (TSCP) and Scheduled Caste Plan (CSCP) in education should directly benefit Adivasi and Dalit children's access and achievements in education in terms of providing for additional coaching, additional teaching-learning materials, exposure visits, motivation and personality development programmes, meeting travel costs, etc and not be used for general items already mandated as in construction, school facilities etc. Special emphasis needs to be placed on issues of inclusion of concerns of gender and children with disability to ensure their inclusion in the education system and to put in place the necessary provisions for the same.
- Provide equal and equitable per child budget allocations to all schools run by the government and make education a means of disparity reduction and social leveler.
- Undertake review of the curriculum and textbooks to ensure they are of a level commensurate with the actual learning levels of the students and make necessary adaptations.

## 5.7 Social Inclusion

- Social Exclusion of Dalits, Muslims, Adivasis and CWSN is by and large not accepted as a reality by many local practitioners of the elementary education sector. This is a bubble that needs to be busted. In this regard sociological and historical training should be imparted to teachers as part of their Teacher Education curriculum and in service training programmes along with sensitization sessions in this regard for the students.
- Gender Equity in dealing with Girl and boy children is another arena which needs to be strengthened in the households, in the society as well as in the elementary education sector. There should be special efforts including media and community awareness programmes to arrest the drop out of girls in the upper primary classes. Gender training needs to be made part of the training curriculum of Teacher Education as well as their in service training.
- A CWSN cell should be constituted in all states with participation of civil society members working among CWSN to monitor the functioning of all provisions of the RTE Act on CWSN.

## 5.8 Key Enablers for Accelerating RTE Implementation

- Use of the DISE as a temporary immediate basis for planning to ensure compliance with the basic RTE Norms.
- Put in place transparent systems of real time tracking of implementation with the current status of the same available online, using pre-existing models like the Madhya Pradesh education web portal where all information is publically available and adding space whereby local residents can input their information Civil society organisations and networks may be better able to extend support if implementation challenges are more widely known.
- Given the slow rate of change, explore possibilities of out of box solutions to ensure systemic change like the Education Services to ensure availability of trained, professional cadres of workers for education.