



FEDERALISM AND FIDELITY

A REVIEW OF THE PROVISIONS UNDER THE NATIONAL MODEL AND STATE RULES UNDER THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT 2009



ऑक्सफैम इंडिया
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ABBREVIATIONS

<i>ANM</i>	Auxilliary Nurse Midwife
<i>BEO</i>	Block Education Officer
<i>CCE</i>	Continuous Comprehensive Evaluation
<i>CPC</i>	Circle Project Coordinator
<i>CTS</i>	Child Tracking Survey
<i>DDPI</i>	Deputy Director of Public Instruction
<i>DDSE</i>	Deputy Director of School Education
<i>DEO</i>	District Education officer
<i>DSERT</i>	Department of State Education Research and Training
<i>ICT</i>	Information Communication Technology
<i>LA</i>	Local Authority
<i>NCERT</i>	National Council for Educational Research and Training
<i>NCF</i>	National Curriculum Framework
<i>NCPCR</i>	National Council for Protection of Child Rights
<i>NCTE</i>	National Council for Teacher Education
<i>PCR</i>	Pupil Cumulative Record
<i>PTA</i>	Parent Teacher Association
<i>PRI</i>	Panchayati Raj Institutions
<i>REPA</i>	Right to Education Protection Authority
<i>RMSA</i>	Rashtriya Madhyamik Shiksha Abhiyan
<i>RTE</i>	Right to Education Act
<i>SAC</i>	State Advisory Council
<i>SCERT</i>	State Council for Educational Research and Training
<i>SCPCR</i>	State Council for Protection of Child Rights
<i>SDP</i>	School Development Plan
<i>SDMC</i>	School Development and Management Committee
<i>SI</i>	School Inspector
<i>SMC</i>	School Management Committee
<i>SSA</i>	Sarva Shiksha Abhiyan
<i>TET</i>	Teacher Eligibility Test

EXECUTIVE SUMMARY OF THE REPORT

The present report undertakes an analysis of the basic provisions of the Right of Children to Free and Compulsory Education Act, 2009 (henceforth, the RTE Act) and the Model and State rules across the country, except in Jammu and Kashmir, where the Act is not applicable. The analysis has been undertaken to assess the extent to which the provisions therein adhere to the core principles of the Act (fidelity) and the intent behind specific clauses therein, while also adapting the provisions to state level specifications and recognizing the fact that education is a concurrent issue (federalism).

The present analysis looks at the model rules that have been shared with the states to serve as a basis for contextualization and offers a comparison with the notified state rules. Further levels of delegated legislation in the form of specific government orders have not been analyzed in the present paper. The main findings have been clustered around the following themes based on the provisions of the RTE Act itself, viz:

- Issues pertaining to the school management committees (SMCs)
- Issues of inclusion
- Issues pertaining to out of school children, and those with need for special training
- Regulation of private schools including 25% reservation, regulation and recognition
- Grievance redressal including the setting up of State Commissions on Protection of Child Rights (SCPCRs)
- Provisions related to teachers
- Curriculum

School Management Committees

The RTE Act laid down the formation of a legally mandated structure for community, especially parental, participation in school education in the form of the SMC. These are expected to plan, monitor and supervise the functioning of schools. In a majority of states these have a two-year term. However, six states have a three-year term co-terminus with the school development plan (SDP) they are expected to produce and two

have a term of only one year. Its membership size ranges from eight to 27. All provide for 75% of membership to be drawn from parents of children studying in the specific schools. All states except Assam specify that it be done through election of parents to the School Management committee. All states have a parent representative as the leader, except Delhi and Andhra Pradesh. Fourteen states have provision for some form of child representation in the SMC. Eleven states have issue-based sub-committees within the SMC. Frequency of meetings is usually once a month. However, four states specify that it should be done once a quarter or once in two months. The SMCs have been tasked with a range of responsibilities, many of them fairly technical, but very few explicitly specify a modality for the capacity-building of an SMC. All states retain the clause of development of the school development plan. All states retain all the provisions, but six states add provisions. Most follow the format of a three-year perspective plan broken down into annual plans. Punjab is the only exception with a two-year perspective plan co-terminus with the SMC.

Out of school and special training

India has the world's largest number of child labourers and children out of school. However, neither the RTE Act or model rules define the term 'out of school child'. Four states have a definition of out of school children by including an attendance criterion. This ranges from 15 (Kerala) to 90 (Uttarakhand) days depending on the state. Most states do not specify who is tasked with their identification with either/and SMC or the local authority (usually the local self governance structure, the *panchayat*) being tasked with this. The rules are largely silent on the respective roles of both structures in this regard. Four states explicitly expect some collaboration between the two structures. Two states place responsibility on the SMC alone and three holds the state government responsible.

Most states specify that a process of bridging of hitherto out of school children, through special training would be undertaken either on the school premises or in safe residential facilities. Existing or specially hired teachers would be used for the purpose. Unfortunately, the modalities of their operation have not been clearly defined. In Punjab, the duration of such

training is from three months to three years. Five states lay no outer term. Only Tamil Nadu and Kerala mention possibility of special training in private schools.

Most states follow the model rules in terms of the need to award a certificate on completion of the academic term (i.e. at the end of eight years of schooling). However, perhaps alarmingly, six states have omitted the statement that the child has completed all courses of study.

Private schools and basis of recognition

While 80% schools in India are government run, private schools form a fairly significant number in real terms. Furthermore, historically, processes of regulation of private schools have often remained weak and the new legislation was heralded as being critical in terms of mandating a system of regulation of private schools in all states. According to the legislation, all schools are expected to comply with a certain set of norms or face closure and a process of recognition for all private schools has been laid down.

All states except Rajasthan specify that schools must file a self-declaration in the format laid down. The duration of doing so is largely three months, but has been extended to four months in Madhya Pradesh and a year in Nagaland. Rajasthan expects the pre-existing Act to be followed. Three more state that schools already recognized under existing state Acts need not apply for re-recognition. The self-declaration is largely submitted at the district level and would be kept in the public domain for 15 (as per the model rules) to 45 days (West Bengal). This has been specified as a special website in five states. Criteria for recognition largely conform to that of the model rules, but add some more in several states. Gujarat provides for heavy weightage to learning outcomes through standardized testing as a basis of derecognition of non RTE compliant private schools. The recognition is to be granted at the district level in 13 states (as per the model rules) and six have provisions for an appeal against de-recognition. In ten states there is a proviso that a list of de-recognized schools shall be maintained publically and 13 also state that inspection reports will be kept in the public domain.

Some states have stipulated a time-frame for the recognition. Thus, in Andhra Pradesh and Madhya Pradesh, recognition once granted will

be valid for a three-year period. It will be valid for five years in Karnataka and Uttarakhand. The procedure for de-recognition followed by most states is broadly similar. Decision maker for de-recognition is frequently the Director of Education (in six states) or the Secretary of Education (in two states).

Curriculum

The RTE Act expects all curricula to broadly adhere to the provisions of the National Curriculum Framework (NCF). This entails certain steps to be taken to ensure curricula and textbooks adhere to the same, starting with the notification of a body or bodies for taking the process forward which would act as the academic authority. Most of the states have adopted the model rules as it is in this regard or actually specified their respective State Council of Education Research and Training (SCERT) as the academic authority for their states. Himachal Pradesh and Karnataka visualize the possibility of the existence of multiple academic authorities in the same state. Gujarat has laid down testing processes. The academic authority is largely tasked with the same set of duties as laid down under the model rules. There are in addition some supplementary provisions or contextualization in terms of reference to local structures.

Grievance redress and State Commission for Protection of Child Rights

The RTE Act largely does not lay down a clear mechanism for grievance redress. However, provisions pertaining to redress may be found in two locations in the model rules – in the provision for grievance redress for teachers and the existence of the State Commission for Protection of Child Rights (SCPCR). Only three states (Uttar Pradesh, Uttarakhand and Rajasthan) provide for redress of non-teacher issues in their rules.

All state rules make provision for the formation of either an SCPCR or a transitional Right to Education Protection Authority (REPA) except in Madhya Pradesh, Punjab, Tamil Nadu. Ironically, Madhya Pradesh actually had an SCPCR for the preceding year (albeit fairly understaffed). Himachal Pradesh only mentions the setting up of a REPA and not the full-fledged commission. The clause that REPA has to be formed within six months has been omitted in seven states. None of the state rules that mention the formation of

REPA specify a time frame by which a full-fledged commission should come up. This does not bode well for the empowerment of these structures.

Punjab, Tamil Nadu and Nagaland omit the mention of a State Advisory Council (SAC).

Teacher qualifications

The RTE Act mandates a universal minimum education and professional qualifications in order to be eligible to become a teacher, a critical contribution. It also provides for a clear timeline by which all teachers have to comply with the same, envisages a professional teacher cadre and curtails the involvement of teachers in non-teaching work.

The majority of states have repeated the language of the model rules whereby the unspecified academic authority will notify the teacher qualifications. Assam, Delhi, Himachal Pradesh, Karnataka, Odisha, Uttar Pradesh, Uttarakhand, Rajasthan, Tamil Nadu, and Punjab mention that the Central/National Council for Teacher Education (NCTE) norms would be followed. West Bengal, Madhya Pradesh, and Andhra Pradesh do not mention minimum qualifications. In addition, Nagaland and Gujarat mention passage of the Teacher Eligibility Test (a state-level examination) as an essential qualification in order to become a teacher. Nagaland also mentions laying down a recruitment policy, forbidding the hiring of teachers on ad-hoc/temporary basis and the regularization of existing ad-hoc/temporary teachers.

Most states mention that in case the state does not possess enough institutions for providing adequate trainings to the teachers, it should apply to the central government for relaxation of the minimum qualifications for appointment of elementary teachers while the state government strives to achieve the minimum qualifications for all teachers within five years. Nine states do not have this provision. The omission of Jharkhand is interesting considering the large scale appointment of para-teachers¹ in the state.

¹ A non professional set of teachers hired by the government on short term contract and on lower pay and frequently having lower education and/or professional qualifications than is otherwise mandated.

Many states specifically mention that it is the duty of the state government to provide enough educational facilities so that teachers possess the minimum qualifications as laid down by the academic authority. The school management committee is expected to ensure this compliance for private schools. Nine states, however, omit the clause of the State being responsible for ensuring teacher-training institutions are made available. Maharashtra specifies it will be done through aided and unaided private institutions. Punjab, Assam and Arunachal Pradesh mention their own capacity would be enhanced.

Eight states have excluded the clause that lays down a statement of intent of having a permanent cadre of teachers. The issue of working conditions of teachers in private schools has been avoided in a number of states. Tamil Nadu is alone in stating that the working conditions of teachers in unaided private schools shall be as per government regulations. The RTE Act was expected to end the non-formalization of the teaching profession. Gujarat state rules retain the duality of *shiksha sahayaks* (literally, teaching assistants, but in practice parateachers) and teachers. Two states permit the SMCs to hire teachers. Twelve states have omitted the clause of parity of working conditions for special training teachers.

Duties of teachers are largely as per the model rules. However, in four states the rules state that they must undertake additional duties as may be prescribed by the administration.

Most states follow the provisions of the model rules in specifying the SMC as the first line of redress on teacher issues. Most states lay down tribunals for redress. Seven states omit block level tribunals and three the state tribunals. Uttar Pradesh omits all higher-level structures. Six states look into redress in private schools.

Inclusion

The RTE Act was envisaged as facilitating the social inclusion of marginalized communities. However, several state rules have removed some of the provisions for non-discrimination in classrooms. Others make special mention of provision for child labour, migrant and conflict affected areas. Four states have mentioned the child tracking survey in the state rules.

For children with disability, most states have a provision for arrangements of appropriate and safe transportation except Himachal, Maharashtra and Nagaland's state rules that omit the provision for ensuring transportation for children with disability, replacing it with the provision that the state government or the local authority (LA), will /shall endeavour to provide a distance or transportation allowance. Delhi and Kerala make a definite commitment. In Andhra Pradesh the rules specify that all teachers in regular schools shall be trained in appropriate teaching methods for child with special needs for the purpose of inclusive education. Andhra and Kerala have made provision for home-based education within the State Rules.

Marginalized communities are more likely to reside in remote areas. Most states adhere to the letter of the model rules by providing for a 1 and 3 km distance between home and school at primary and upper primary levels respectively. West Bengal and Jharkhand reduce the distance to 2 km for upper primary. Karnataka alters the wording of the rules of schools being available within 1 and 3 km respectively to state that schools "shall normally be established" at such distance.

The RTE provision that has arguably received the greatest media attention is the reservation of 25% seats at entry level for children from poor families and marginalized communities in fees charging private schools. Most states have largely adhered to the provisions of the model rules for the same. Five states have provided for an internal breakup in the rules to ensure that the reservation is not monopolized by a single group. Punjab and Andhra Pradesh considered the issue of 25% implementation in minority institutions. These provisions could have offered some possible solutions to balance compliance with RTE provisions and the rights of marginalized communities.

Another critical aspect of the Act was its scope for de-bureaucratization, by removing several layers of documentation expected to be procured by parents. However, despite this, five states have retained the original wording of the model rules requiring an affidavit as a proof of age. Three states additionally ask for evidence of age within six months of admission. Some other states suggest additional sources of evidence regarding age that would be accepted.

Conclusion

States were expected to translate model rules into state rules adapted to local conditions. However, the nature of these processes has varied tremendously. The depth of consultation has varied widely between states. Contextualization has resulted in a diversity of outcomes that at times depart from the original intent of the model rules. While some states have considerably expanded specific provisions, others have omitted entire sections. In particular, provisions with financial implications have frequently been dropped in an apparent attempt to cut costs and avoid major departmental restructuring. There are instances when provisions contradict the parent Act. Broadly speaking, all states have made some modifications while drafting their rules, although no clear RTE champion state has emerged. The paper identifies seven specific areas in which the rules require strengthening.

- Modalities of delegation of powers to the community weak or inadequately defined
- Demarcation of lines of responsibility and operationalization of provisions remains frequently unclear
- Grievance redress remains a critical area of weakness in the rules.
- Lack of a clear definition of out of school children is unfortunate since it has clear implication on the implementation for or their special training
- Inadequate attention to the implementation of rules on and regulation of private providers.
- Continued inadequate attention to the issues of teachers
- The issue of Inclusion has not really been mainstreamed in the state rules. Chapter I:

CHAPTER I: INTRODUCTION

The passage of the Right of Children to Free and Compulsory Education Act, 2009 (henceforth RTE Act) has been a long-time coming. The first effort towards passing a national compulsory education legislation dates back to the 1911 Gokhale Bill that was placed before the legislative council. At Independence in 1947, the Directive Principles of State Policy under the Constitution spoke of free and compulsory education being provided to children within ten years of its passage. In contrast, it was only in 2002 that article 21-A was inserted into the Constitution making education a fundamental right. It lays down the legal provision whereby every child has a right to free and compulsory elementary education of an appropriate standard in a neighbourhood school.

Education is a concurrent subject in which both the Centre and states have a role to play. This makes it imperative for the states to draft rules fixing the modalities for its implementation, keeping in mind the local realities. A set of model rules were drafted by the Centre and circulated to the states to serve as a skeletal frame around which they were to draft their own rules. This set of model rules was also used by the central government to draft a set of central rules that would apply to the schools under its own direct jurisdiction (e.g. in the Union Territories of the country).

It was expected that the model rules would be modified by each state into fresh state rules based on their respective local conditions. However, these processes have varied widely in quality, especially in terms of the depth and degree of consultation undertaken. Consultation is critical. It demonstrates the degree to which the spirit and vision of the parent Act has been understood by entire drafting teams in every state. It also bears evidence to the extent citizens have actually participated towards the adaptation of the Rules with their aspirations duly incorporated. There has been considerable variation in terms of their contextualization of the rules and several departures from the original intent of the rules may be noted. While considerable expansion of specific provisions has taken place in some states, whole sections have been omitted in others. There are also instances when provisions run counter to the

parent Act. However, fundamentally, all states have added some local flavour to the original document.

The RTE Act has been much criticized in the last couple of years as a legislation imposed from above and running counter to the federal nature of India's polity. The present analysis is an effort to assess the extent to which the process of rule-making makes use of the space provided for contextualization, at the same time delivering a product that is faithful to the original provisions and intent of the legislation.

Keeping this in mind Oxfam India commissioned an analysis of the various provisions under the state rules. An inherent limitation of this analysis is that it only looks at the model rules. Many of the states have since passed a range of government orders that provide additional details in terms of how specific provisions would be actualized on the ground. It may also be essential to reiterate that the model rules have only been drafted for the issues listed under Section 38 of the Parent Act, not for the entire document. At the same time, it is obvious that the passage of rules does not necessarily translate into implementation of these provisions.

The present analysis looks at the following:

- Issues pertaining to the school management committee's (SMCs)
- Issues of inclusion
- Issues of out of school children, especially those who need special training
- Regulation of private schools including their regulation and recognition and implementation of the 25% reservation
- Grievance redressal, including State Commissions on Protection of Child Rights
- Provisions related to teachers
- Curriculum

This report follows the above framework. Each section starts with the provision in the parent RTE Act and the model rules. This is followed by an analysis of the state rules and highlights any exceptional provisions (positive or negative) made. This provides a broad picture of the status of the model rules across the country and cross-cutting trends are identified.

This report is intended to feed into advocacy by civil society across the country and may be of use to researchers interested in a deeper reading of the provisions.

Sources of the state rules

The Sarva Shiksha Abhiyan (SSA) national portal has a few state rules. It has not been updated on a continuous basis, though some rules were sourced from this website. The majority was downloaded from the respective state's education department or SSA websites. The rules for Nagaland and Bihar were only available as a hard copy and that was sourced from the RTE division of Educational Consultants India Limited, which falls under the Central government's Ministry of Education and Culture. In some places access was available through other websites (other than government) but we did not use these sources as it was felt that to ensure veracity the SSA site should be the main focus.

It is thus clear that at the current moment there is no centralized repository of the state rules and these can only be accessed through state chapters of SSA or education departments.

In some cases where the states had rules in both Hindi and English we found some discrepancies. For example, in Chhattisgarh, the number of women members for the SMC in the English version is tagged at 50 while the Hindi version mentions that 50 per cent of SMC members shall be women. In cases like this a common sense approach was adopted and it was assumed that the state meant 50% of SMC members would be women.

CHAPTER II: THE TRENDS

SECTION I: THE SCHOOL MANAGEMENT COMMITTEE

One of the key provisions of the RTE Act is the formation of SMCs that has been seen to have potential for parental participation in education. The criticality of the provision stems from the possibility that this provision provides for engagement of the community in planning, monitoring and accountability of the schools.

The specific provision draws on, and goes beyond, pre-RTE provisions and lays down a pan-national framework for such structures. As such, it offers considerable potential for deepening the accountability systems of the education system through strengthening the voice and agency of parents and children themselves in the governance of the school.

A. ANALYSIS OF THE STATE RULES

1. Term of SMC

Mostly two years in states, except West Bengal, Jharkhand, Karnataka, Odisha, Tripura and Assam where it is three years. In Uttarakhand and Manipur the term is set for a year. Chhattisgarh's original state rules notified the SMC's term at one year, but this has since been amended through a special circular. The duration of one year may be inadequate for lasting change to be brought by, especially in light of frequent delays in roll-out of training of SMC members. In contrast, Nagaland does not mention a term. Uttarakhand specifies that the term of an individual SMC member may be higher provided the child whose parent is the member of the SMC continues to be a student

PROVISION IN THE ACT

A school, other than a school specified in sub clause (iv) of clause (n) of section 2 shall constitute a School Management Committee consisting of the elected representatives of the local authority, parents or guardians of children admitted in such school and teachers:

Provided at least 3/4 of members of such Committee shall be parents or guardians; Provided further that proportionate representation shall be given to the parents or guardians of children belonging to disadvantaged groups and weaker section.

Provided also that 50% of members of such Committee shall be women.

PROVISION IN THE MODEL RULES

- (1) A School Management Committee (SMC) shall be constituted in every school, other than an unaided school, within its jurisdiction, within six months of the appointed date, and reconstituted every two years.
- (2) Seventy five per cent of the strength of the SMC shall be from amongst parents or guardians of children.
- (3) The remaining twenty five per cent of the strength of the SMC shall be from amongst the following persons
 - a) One third members from amongst the elected members of the local authority, to be decided by the local authority;
 - b) One third members from amongst teachers from the school, to be decided by the teachers of the school;
 - c) Remaining one third from amongst local educationists / children in the school, to be decided by the parents in the committee.

of the school. Assam makes a provision for the continuity of processes, whereby the new SMC has to be constituted within a month of the expiry of the old committee. The old structure continues to function until the new committee is formed. This is a critical feature that ensures that at no time would any school lack an SMC.

2. Number of members

The number of members ranges between eight in Uttarakhand to 27 in Andhra Pradesh. In Haryana and Kerala the SMC strength is linked to number of children in school with larger schools having a larger body.

Failure to consider the feasibility of calculating percentage values, as in 50%, 75% and two-thirds of the strength of members is a concern while determining the count in a large number of states. In the majority of states the figure is a fraction which is not going to be feasible to implement. Thus, Uttar Pradesh's rules specify that the number of parent SMC members will be 11 and state that the representation of women members would be 50% of the same in the very next sentence. This creates confusion at the time of actual formation of the same in the individual school where it becomes impossible to actually implement having a fraction of a person occupy a position.

3. SMC structure

In most states, this is broadly based on the model rules. This includes the necessity of having 75% parents and the representation of women. However, while some states have specified the actual number of members, some have just left it open (only specifying that 75% would be parents). The lack of operational detail also extends to the provision of proportionate representation for marginalized communities. Of operational concern: What would this proportion be to the catchment area of the specific school, the schools actual current enrolment, the population of the overall *panchayat*, the district or the state? Hopefully, some of these issues would have been further resolved in the detailed operational guidelines for the

formation of the SMCs. These have not been looked at under this document.

Some states have, however, introduced some additional provisions to address some of the other practical issues encountered.

- Assam specifies that one parent can be a member of only one SMC at a time. This is an important step considering past experience when the same influential people became SMC position holders in multiple schools.
- All states make provision for representation of parents from marginalized communities. In addition, Kerala specifically makes room for the representation of a parent of a child with disability in the SMC.
- Kerala has recognized the fact that in a committee that is expected to last for two to three years, some of the children of the parent members may be passing out of the school, and makes provision for replacement of these members. The SMC rules state: "Provided that where the child of a member has left or completed his studies in that school, such member shall be replaced by a parent selected at random from among the parents or guardians of the children of that category, for the remaining term of the Committee."
- Madhya Pradesh has made special provision for parents from economically weaker sections whose children are high achievers. This provision was also earlier in place for Andhra Pradesh, but has since been amended. Maharashtra seeks SMC members from parents whose children are at three different levels of achievement (high, medium and low). This goes against the spirit of both the National Curriculum Framework (NCF) and the expectation that the parent Act will introduce Continuous and Comprehensive Evaluation that would look at learning in totality and not through artificial categories of high and low achievement.

4. Variation in SMC structures

Three issues are of relevance when addressing the functioning of the SMC – its structure and its relationship with

pre-existing processes for community participation in education. The effort to detail out structures and processes is welcome. However, it would be essential to ensure that these have clearly delineated roles, are empowered and adequate investment is made towards building their capacities.

- 1. Tiers of the SMC:** Uttarakhand and Rajasthan have two bodies – the SMC general body and an executive body. The former consists of all the parents and teachers of the school and the latter consists of the position holders. Similarly, Odisha maintains a distinction between the Parent Teacher Association (that acts as the general body) and the SMC. The presence of a general body with specific responsibilities is critical for ensuring accountability of the elected SMC members.
- 2. Sub-structures of the SMCs:** Maharashtra, Nagaland, Manipur, Meghalaya, Uttar Pradesh, Punjab, Sikkim, Tripura, Madhya Pradesh, Goa, Haryana and Mizoram have made provision for sub-committees/ working groups within the SMC to focus on specific aspects of functioning pertaining to the school. This is a welcome step, but it would be critical to ensure empowerment of the structures thus formed.
- 3. Relationship of SMCs and pre-existing school level structures for community participation in the school:** SMCs are not the only school level structures for community participation and many states have had communities in place either under SSA, Rashtriya Madhyamik Shiksha Abhiyan (RMSA) or as part of the respective state education or Panchayati Raj Acts. Punjab specifies a single SMC irrespective of whether this is a primary, middle or higher secondary school. In contrast, Uttarakhand provides for different structures being formed at each level. Kerala mentions the representation of the Mother-Teacher Association in the SMC. Nagaland, with a standing system of community participation in education, has chosen to go ahead with the existing structures

under the Nagaland Communitization Act, 2002, with the rider that the same would be reviewed in line with the provisions of the RTE Act. It would be imperative to ensure that the specific roles and powers of each of these structures have been laid down in the operational guidelines to minimize confusion.

5. Nominated and ex-officio members of the SMC

A range of stakeholders has been included as ex-officio members. All states include teachers/head teachers of the school and most also provide for membership of representatives of the local authority (LA). Delhi provides for a representation of part-time teachers of the schools as special invitees in the SMC. In addition to this, there is considerable variety in the provisions.

- **'Local Educationist':** Arunachal Pradesh, Chhattisgarh, Tamil Nadu, Punjab, Odisha, Mizoram, Meghalaya, Haryana, Goa, Karnataka and Gujarat specify the representation of either a local educationist or children, with the decision being made by parents. In addition, Manipur and Kerala make provision for the participation of local educationists. Delhi has made provision for the presence of a social worker actively engaged with education. None of these states have really made any guidelines for what constitutes a local educationist, which is of concern. There are possibilities that conflicts of interest could arise from the appointment of local private school owners or people without real stake in the school system in this capacity.
- **Operationalization of representation of local authority:** In a majority of states this is at the discretion of the concerned LA. Madhya Pradesh specifies that the member has to be a woman (nominated either by the Mayor/chairperson of the urban local body or the *sarpanch* depending on whether it is an urban or rural school). Uttarakhand provides for the participation of both the *sarpanch/up-sarpanch* and the *panchayat* secretary. Kerala and Rajasthan specify that the local ward member should

be the representative. Rajasthan also includes all elected members of the local authority residing in the area who could perhaps be expected to have a greater interest in developing elementary education in the area. Fundamentally, a provision for representation by a political representative in each school opens up the space for political interference from the rural elites. None of the state rules provide for the SMCs to have a direct reporting line to the Panchyati Raj Institutions (PRI) through its notification as a *panchayat* sub-committee.

- **Provisions for collaboration with allied services:** Uttar Pradesh provides for representation of the ANM (Auxiliary Nurse and Midwife) in the SMC whereas Assam and Karnataka extends the provision to health workers or *anganwadi* worker. This could be said to foster engagement between these institutions in the village. Similarly, Andhra Pradesh makes a provision of the participation of the Mahila Samakhya (education for women's equality) nominee of the village. Kerala makes a provision for what it calls a 'school leader'. Kerala also empowers the convener of the SMC to invite up to three persons at a time as special invitees to advice on specific issues such as child protection, health and nutrition, child psychology and on matters relating to construction activities undertaken by the committee. These provisions are broadly welcome in terms of their potential to ensure linkage of education sector with other allied fields. There are, however, some instances where this desire for collaboration has been taken beyond what would be desirable. In Gujarat, there is a provision for compulsory membership of a local mason. Indeed, the rules state that if there is no mason in the village, then masons from nearby village is to be made a member.
- **Role of the education department:** The SMC is expected to ensure parental participation and leadership in the education endeavour. However, three states have vested considerable decision making powers with the education department. Karnataka's rules give the

Block Education Officer (BEO) the power to appoint the teacher and children representatives. The BEO has also been made the competent authority to ensure functioning of school development and monitoring committees (SDMCs) in his/her jurisdiction and to facilitate resolution of disputes. In Kerala, the Assistant Educational Officer is vested with the responsibility for timely constitution of the committee, organizing training of members and facilitating its proper functioning. Discretionary powers have been granted to the BEO in Assam for the appointment of president and vice-president (described below). Efforts by some states to lay down responsibility on a specific officer to ensure functioning of these structures and their capacity building are welcome. However, provisions whereby the state has the discretion to appoint specific SMC members would impede the autonomy of these structures and defeat the very purpose of the formation of the SMC.

- **Linkages with administration:** Uttar Pradesh makes provision for the membership of the *lekhpal* (village accountant/land records officer) on the nomination of the District Magistrate (DM). Under the rules, considerable powers have been vested on the DM in the state. The *lekhpal* becomes the eyes and ears of the DM within the committee.
- **The special case of the SMCs in aided schools:** Aided schools are private schools receiving government funding of certain kinds and fully complying with the regulations therein. The state rules in Maharashtra and Tamil Nadu allow representatives of the management to be appointed as chairpersons of the SMC. In the case of Goa and for aided schools, the Management Committees formed under the Goa School Education Rules, 1966 for the Goa, Daman and Diu School Education Act have been notified as the SMC. The specific mention of aided schools in these rules is a welcome move since the rest of the states have failed to consider the modalities of the formation of SMCs in aided schools. This had been a critical omission, given the fact that these schools, which form a fairly

large percentage of the schools in several states, are supported by government funds. This specific model also avoids the concerns raised by private school managements about the SMCs affecting their autonomy, while also providing space for decision making of the community.

6. Student representation in the SMC

A critical opportunity offered by the SMCs is the space for child participation in the education system. Andhra Pradesh, Jharkhand and Maharashtra have representation of students in the SMC. Bihar also allows for students from the Bal Sansad (children's parliament) and those of the Meena Manch (girl's groups established across the state by education department) to attend regular SMC meetings. Maharashtra specifies that two children (one boy and one girl) would be co-opted as members without voting rights. Jharkhand makes a formal representation for one child representative of the Bal Sansad of the school. In addition, Arunachal Pradesh, Chhattisgarh, Tamil Nadu, Punjab, Odisha, Mizoram, Meghalaya, Haryana, Karnataka and Gujarat provide a space for child participation in the SMC at the discretion of the parent body.

It is to be seen how the power dynamics are addressed to enable children to raise issues of concern during deliberations of the SMC. While representation is a good step, an enabling frame may be needed for children's voices to be actually heard. Detailed operational guidelines need to be issued to support processes of community participation.

7. Leadership of the SMC

Most states have a parent representative as the leader. Delhi is an exception, with the head teacher as the president. This creates an anomalous situation where the sanctioning authority rests with the school. In Andhra Pradesh, the *sarpanch* is made the chairperson of the SMC in rural areas and in municipal areas the concerned councillor/corporator is appointed. The SMC president, in addition to representing the parental voice within the school, is also the signatory for the financial accounts of the school and the one

signing off the school development plans. Consequently, it is critical to ensure that parental leadership is maintained in the SMCs.

In Assam the rules make it explicit the need for the President or the Vice President of the SMC to be a woman. The efforts to ensure presence of women in leadership positions are welcome. This can be a precedent for participation of parents from marginalized backgrounds in leadership positions.

8. Process of formation of the SMCs and subsequent functioning

All states, except Assam, have a system of election of parents to the SMC. In Uttar Pradesh the SMC can be formed through consensus in an open meeting. Very few state rules lay down the operational details of the formation of SMCs. This has been left to the subsequent operational rules.

- **Processes of formation:** In Uttarakhand and Assam it has been specified when the SMC elections should take place and a detailed process of election and quorum has been laid down. Bihar has one of the most detailed rules with regard to elections of the SMC and provides for the formation of an electoral roll to elect members of the committee, a system for corrections/additions and deletions in the roll, nomination/ and selection/election of parents of children from disadvantaged sections. Bihar, Kerala and Rajasthan lays down a quorum for the SMC equivalent to at least one third of the members. The quorum is 50% in Tamil Nadu and 70% in Assam. A 30% quorum for the general body of the SMC has been laid down in Uttarakhand. It is essential to ensure that guidelines or rules lay down the specific operational details of how the SMCs are to function to avoid subsequent confusion.
- **Recall:** In Assam and Uttarakhand, an elected Chairperson or Vice-Chairperson can be recalled through a 2/3rd and 3/4th majority respectively and a new position holder has to be elected within a time bound period. Similarly, Bihar has a provision of passing a no confidence motion against the president of the SMC and also has provision whereby the local

authority can dissolve the SMC under certain conditions. Bihar also provides for complaints against the SMC for not holding meetings regularly. Laying down a clear process of dealing with inactive SMCs members is critical to ensure that the structure remains always active.

- **Frequency of meetings:** Majority of the states specify that the SMC is to meet once a month. West Bengal, Kerala, Delhi and Tripura provide for the SMC to meet every two months. Chhattisgarh, Nagaland, Gujarat and Rajasthan, however, specify that the meetings are to take place at least once in a quarter. The instance of Chhattisgarh is particularly critical since it was one of the states that laid down a term of one year for the SMC. Fundamentally, if community ownership over the educational endeavour is to be ensured, it is critical for SMCs to meet regularly. One meeting in a quarter may not be adequate if the community is to get deeply engaged and is expected to play the range of roles laid down. Assam specifies that since the SMC is responsible for approving the absentee statement of the teaching and the non teaching staff of the school, the meeting must be held before the last working day of the month.
- **Concerns about autonomy of the SMC:** In Assam, where parents can be selected to the SMC, the District Elementary Education Officer (DEEO) , after examining the relevant SMC resolution, may approve the name of one person as president and the other person as the vice-president out of the names of two persons selected/ elected by the parents/guardians. The criterion for this decision has been specified as “the comparative educational qualification, aptitude and willingness to work for the betterment of the school of these two persons.” The SMC comes into effect only when the Deputy Inspector of Schools or the BEO approves it. Furthermore, the DEEO or as authorized by him, the Deputy Inspector of Schools/ Block Elementary Education Officer shall have the authority to issue direction for holding the meeting of SMC. The President can call a special meeting of the SMC only if more than 50% SMC Members make a

requisition for it. Assam also provides for the DEEO to remove an SMC president on recommendation via resolution signed by more than 50% SMC members and after an investigation by the Deputy Inspection of Schools/Block Elementary Education Officer. In addition, the entire SMC may be dissolved by an order of the Deputy Inspector of Schools/Block Elementary Education Officer on the basis of resolution adopted in a meeting and after a due inquiry is conducted. The grounds for this include negligence of its duties and responsibility as assigned in these rules, non-compliance to government orders or/and non-cooperation towards the implementation of the government funded schemes for the improvement of academic environment in the school.

9. Role of the SMCs

Most state rules repeat with minor variation the provisions made under the model rules.

ROLES OF SMC AS PROVIDED IN THE ACT

The SMC shall perform the following functions

- Monitor the working of the school;
- Prepare and recommend school development plan;
- Monitor the utilization of the grants received from the appropriate government or local authority or any other source; and
- Perform such other functions as may be prescribed.

PROVISIONS IN MODEL RULES

- Communicate in simple and creative ways to the population in the neighbourhood of the school, the rights of the child as enunciated in the Act; as also the duties of the state government, local authority, school, parent and guardian;
- Ensure the implementation of clauses (a) and (e) of section 24 and section 28,
- Monitor that teachers are not burdened with non academic duties other than those specified in section 27;
- Ensure the enrolment and continued attendance of all the children from the neighbourhood in the school;

- (e) Monitor the maintenance of the norms and standards prescribed in the Schedule²;
- (f) Bring to the notice of the local authority any deviation from the rights of the child, in particular mental and physical harassment of children, denial of admission, and timely provision of free entitlements as per section 3(2).
- (g) Identify the needs, prepare a plan, and monitor the implementation of the provisions of section 4.
- (h) Monitor the identification and enrolment of, and facilities for learning by disabled children, and ensure their participation in, and completion of elementary education
- (i) Monitor the implementation of the mid-day meal in the school.
- (j) Prepare an annual account of receipts and expenditure of the school.

a. Learning outcomes and quality.

About half a dozen states have included specific responsibilities for SMCs to further the overall learning environment in schools. Thus, Andhra Pradesh, Kerala and Uttarakhand have provided for SMCs to monitor the achievement of the “expected learning outcomes” of children. In the case of Kerala, the rules also specify that help of experts may be taken in this regard. Uttarakhand expects the SMC to work for qualitative reforms by improving the level of educational achievement of the students and review the evaluation and progress report of children through continuous and comprehensive evaluation. They are accordingly expected to take steps for remedial education/special training. In Andhra Pradesh, the SMC is expected to arrange to demonstrate learning outcomes of the children in the areas of reading, writing, simple arithmetic and comprehension, picking the children at random from each class. In Assam the SMC shall take all the necessary steps for the growth and development of the school leading to an educational environment conducive for attainment of academic excellence by the children. Punjab expects the

SMCs to monitor that the teachers take all measures to improve the quality of education of the students in the school. Karnataka makes it the duty of the SDMC to ensure a minimum of 220 working days in a year and also fix local holidays –not more than four days in a year.

This expectation that SMCs intervene on the more technical issues would happen when they are pertaining to quality is welcome. However, the SMCs would need to be supported and nurtured in order to step into this role. The nature of support (financial and otherwise) that an average SMC would receive to fulfill this range of objectives is unclear. Consequently, it would be critical to ensure that the process of capacity building of SMCs reflects these expectations.

b. Oversight and regulation of teachers.

Several state rules speak of the role of the SMC in tracking attendance. However, a few states go beyond this to enter into the domain of teacher recruitment, performance appraisal and transfers. It is critical to ensure that the professional authority of teachers is not impacted in this regard and clear mechanisms for adoption of due process are taken.

- **Recruitment of teachers on short contracts.** In Kerala SMCs are expected to provide teachers against vacancies from a panel maintained by the LA. This process is initiated for vacancies upto one academic year. The remuneration is fixed by the Director of Public Instruction. It is hoped that the education department would provide the necessary resources for the same. Under the Karnataka rules, local persons can be hired as teachers or instructors on a voluntary basis or on payment of fixed honorarium, the cost being covered by the SMC’s funds. However, no regular post can be filled on a permanent basis in this manner.

² This refers to the Schedule 1 under the RTE Act that contains the minimum infrastructure and teacher availability norms of schools under the Act

While the principle of SMCs having a say in terms of who teaches in their school is welcome, it is critical to ensure that this system of hiring on short term contracts is not misused to hire para-teachers through the back door. Karnataka could consider a mechanism like that of Kerala whereby the panel of teachers is maintained by the government and minimum qualifications are adhered to. In both instances, however, it is critical to ensure that the government provides the funds and charges are not levied on parents for meeting the salaries of the teachers.

- **SMCs and review of teacher performance and transfers.** In Uttarakhand, the general body of the SMC has been vested with the powers to recommend teacher transfers, both for good and bad performing teachers. However, it is critical to ensure that punitive decisions are not taken without giving the teachers ample opportunities for due process. Karnataka also provide for SDMCs to periodically review teacher performance.

UTTARAKHAND:

- (xix) The General body of School Management Committee (SMC) of a school situated in remote/remotest area may make a recommendation to the District Education Officer that the transfer of any particular teacher shall not be done because of special contribution of such teachers in the development of children, provided that a written consent is also given by such teacher, then transfer of such teacher shall not be done till next session; and
- (xx) In cases of proposals passed by the two third members of the general body of the School Management Committee for the transfer of any teacher working in a Sugam School³, because of unsatisfactory performance of such teacher, then such teachers shall be transferred, provided that minimum stay of such teachers has been completed, provided that such types of decisions may be taken on the meeting organized for the review of annual evaluation at the end of academic session.

- **Teacher training.** In Karnataka the SDMC is responsible to provide need-based training of teachers based on the demands of the teachers and head teachers. It is, however, unclear to what extent an individual SDMC can be expected to intervene to provide training given the centralized nature of the provisions.
- **Prohibition of private tuitions and other work.** Goa spells out the clause of non-engagement of teachers in private tuition to include private consultancy or business or rendering services to any firms with or without remuneration.

c. Child tracking and special training

Ensuring universal enrollment of children has been one of the traditional roles expected to be played by the pre-RTE community-based structures. This has been expanded by several states. However, there is a real concern about the capacity of the SMC to undertake the range of activities vested on them. This includes the extent to which SMCs are actually empowered for action, the availability of funds and also the extent to which they are trained to undertake these actions.

- **Tracking attendance.** In Kerala and Karnataka, SMCs are expected to ensure complete enrollment and undertake tracking of children's attendance. Uttar Pradesh additionally mentions the role of the SMC in ensuring enrollment of children at age six. The most detailed and unambiguous guidelines of the specific role expected to be played by the SMCs for tracking teacher and student attendance is described in the Assam state rules. The relevant section can be seen in *Appendix I*.
- **Special training.** Several states furthermore talk about the role of the SMC in facilitating the initiation of special training.
- **Inclusion.** Karnataka's rules specify that the SMC is expected to ensure

³ Hills Schools

non-discrimination against and provision of special facilities such as hearing aids, Braille etc. to children in the neighbourhood who are physically or mentally disabled to enable them to attend school. It is also expected to monitor the identification and enrolment of and facilities for learning of disabled children and also to ensure their participation in and completion of elementary education. Uttarakhand makes it the responsibility of the SMC to ensure the identification of children with disability and to provide them with inclusive education.

d. Financial oversight

The RTE Act vests considerable powers on the SMCs for oversight of their schools. This includes planning (delineated in more detail in the subsequent section on preparation of the school development plans), monitoring of expenditure and its subsequent audit. As the subsequent section suggests, responsibilities to be undertaken by the SMCs in a few states are of a fairly technical nature, especially in the absence of adequate supportive systems and capacity building for them to play the range of roles anticipated.

- **Supervise properties, funds and finances of school.** In Karnataka, SMCs are expected to supervise all properties, funds and finances of the school. It may issue appeals and applications for money and funds and receive, collect and accept any gifts or donations, either in cash, kind or of any property, either movable or immovable. The SMCs can spend the funds in the fulfillment of all or any of its functions. This is not to be interpreted as authorization to collect donations from parents. This would be in violation of the expectation that education in the school is to be free.
- **Financial oversight.** In Uttarakhand SMCs are expected to monitor civil works and ensure transparency, arrange for the furniture and maintenance of the school and monitor the utilization of annual school and

maintenance grants. Furthermore, the rules specify that materials purchased by the SMC for the development of the school shall be purchased under the prevalent procurement rules of the state government. The extent to which the parent SMC members are conversant with these provisions is open to question. In the case of Goa, the role of the SMC has been spelled out to prepare annual accounts of receipt and to submit the same to the Management Committee.

- **Oversight of assets.** Karnataka also expects the SDMC to oversee the infrastructural facilities like playground, compound walls, classrooms, toilets, furniture, provision for drinking water etc. for the school. It shall also arrange construction and maintenance of any works as per the annual work plan/school development plan (SDP). It is likewise expected to protect school premises against encroachment and nuisance. Similarly, the Uttarakhand state rules provide for SMC oversight of school building, library and other assets.
 - **Auditing.** Tamil Nadu, Jharkhand, Madhya Pradesh, Arunachal Pradesh, Chhattisgarh, Delhi, Manipur, Meghalaya, Karnataka, Punjab, Rajasthan, Sikkim, Mizoram, Nagaland, Tripura, Odisha and Haryana specify that any money received by the committee for the discharge of its functions under this Act, shall be lodged in a separate account, and made available for audit every year. Kerala, in addition, specifies that the funds are to be audited annually by a chartered accountant engaged by the committee and presented before its annual meeting along with audited report. Andhra Pradesh expects the committee to have the accounts audited by either a chartered accountant or a local fund auditor or one from the department of cooperatives.
- The chairperson and/or vice chair becomes the signatory of the school accounts, which are to be handed over

either to the education department officials or the LA, which varies from state to state. For example, in Kerala, the accounts are shared with the department, while in Tamil Nadu and Jharkhand, the LA is responsible.

In the case of Assam, the member secretary of the SMC is held responsible for the maintainance of the financial records of the school, but is duty bound to place the details of the financial transactions in the monthly SMC meeting. The SMC is, in turn, expected to submit the utilization of the funds to the concerned authorities.

Uttarakhand's state rules are the only rules that record the potential of social audit⁴ of the SMC accounts. The member secretary of an SMC is expected to present the accounts before the meeting of the general body, which is then provided for social audit and general/special audit by an authorised agency nominated by the government.

e. Others

A range of other tasks are assigned to the SMCs under some of the state rules.

- Linkage with health systems. In Uttarakhand the SMC will ensure the regular health check-ups of the children studying in the school, provide assistance in health check-up programmes organized by the education and health departments and to prepare the health cards of the children with the coordination of the health department. Karnataka also expects the SMC to oversee hygiene, upkeep and maintenance of the school; in addition, monitor the school health programmes and facilitate regular health camps in the schools.
- In Uttarakhand, SMCs are expected to ensure the cooperation of the community

in co-curricular activities such as fairs for children called Bal Melas (children fairs), science exhibitions and games competitions held in schools.

- In Maharashtra, SMCs are expected to take cognizance of children's opinion based on the report of the children's parliament at school level called the Bal Panchayat (children's group) formed in the school.
- Karnataka expects the SMC to ensure that schools have the child helpline number displayed prominently.

10. School Development Plan

PROVISIONS UNDER THE MODEL RULES:

- 1) The School Management Committee shall prepare a School Development Plan at least three months before the end of the financial year in which it is first constituted under the Act.
- 2) The School Development Plan shall be a three year plan comprising three annual sub plans
- 3) The School Development Plan, shall contain the following details –
 - a) Estimates of class-wise enrolment for each year;
 - b) Requirement, over the three year period, of the number of additional teachers, including Head Teachers, subject teachers and part time teachers, separately for Classes I to V and classes VI to VIII, calculated, with reference to the norms specified in the Schedule
 - c) Physical requirement of additional infrastructure and equipment over the three year period, calculated, with reference to the norms and standards specified in the Schedule
 - d) Additional financial requirement over the three year period, year-wise, in respect of (b) and (c) above, including additional requirement for providing special training facility specified in section 4, entitlements of children such as free text books and uniforms, and any other additional financial requirement for fulfilling the responsibilities of the school under the Act.

⁴ "Social Audit is a process in which, details of the resource, both financial and non -financial, used by public agencies for development initiatives are shared with the people, often through a public platform. Social Audits allow people to enforce accountability and transparency, providing the ultimate users an opportunity to scrutinize development initiatives. (http://planningcommission.nic.in/reports/sereport/ser/stdy_sagspr.pdf)

4) The School Development Plan should be signed by the Chairperson/Vice-Chairperson and Convener of the School Management Committee and submitted to the local authority before the end of the financial year in which it is to be prepared.

a. Plan period

Most of the states have followed the central rules in laying down the format of a three-year perspective plan broken down into annual plans. Punjab is the only exception with a two-year perspective plan coterminous with the SMC.

b. Process of development.

Andhra Pradesh has provided that the SDP is to be prepared each year by calling a *gram sabha* involving all the parents of the children enrolled in the school, the local peoples' representative of the PRIs, the *mahila samakhyas*⁵. A representative of any prominent NGO working in the field of education in the neighbourhood of the school, if any, may also be invited. Other states fail to mention such provisions which are highly desirable to ensure wider sense of acceptance of the plan.

In Kerala the rules specify that the SMC prepare a master plan for the school using services of experts, keeping in view the future requirements of the school and incorporating the concept of learner-friendly and eco-friendly construction.

c. Content of the School Development Plan(SDP)

Most states follow the model rules. However, Andhra Pradesh expects a special focus on school sanitation, school safety and health & hygiene. Both the Andhra Pradesh and Karnataka rules suggest that plans for addressing the needs of disabled learners be made. Andhra Pradesh speaks about

⁵ The Mahila Samakhya programme was initiated in 1989 by the Ministry of Human Resource Development under the Department of Education. It provides women and adolescent girls with the necessary support structure and informal learning environment to create opportunities for education.

the need for inclusion of a plan for early detection of disability and intervention. Karnataka also expects it to detail the academic improvement activities of the school including periodical review of performance of children in both curricular and co-curricular activities. The Kerala rules spell out the physical requirement of additional infrastructure and equipment, especially for laboratory, information and communication technology, library, sports and games calculated with reference to the norms specified in the Schedule and in the Kerala Education Rules. In Maharashtra the state rules suggest the requirement of additional teachers for special training of out-of-school children, filling of periods of teachers' extended leave and arrangement of educational support for children from the weaker sections, disadvantaged sections and children with disabilities.

West Bengal has the most detailed description of the SDP including:

- a) Location, land details, connectivity, and any other interesting details of the school including its history, alumni, good practices of the school and its students etc,
- b) Details of class wise enrolment for each year, including those of children with special needs and children of special focus groups and enrolment made under clause (c) of sub-section (1) of section (12), if applicable.
- c) Three years projection of requirements of additional teachers, including head teachers of Class I to IV.
- d) 3 years projection of requirement of additional infrastructure, including that of child friendly and barrier free building, infrastructure for smooth implementation of the cooked Mid day Meal Program if applicable, water sanitation facilities, and other amenities, furniture and equipment including Teaching Learning Equipment, library books, sports and games equipment and play material calculated with reference to existing norms and standards.

- e) Minimum number of working days and instructional hours in an academic year;
- f) Minimum numbers of working hours per week for the teachers;
- g) School safety plan for different hazards and vulnerabilities;
- h) Strategies for innovative activities to be taken up for improvement of both academic and non-academic performance of the children in the school.

d. To whom is the SDP submitted?

The model rules specify that these plans to be presented to the LA. The ambiguity about what constitutes the LA and the limited empowerment of the PRI system is reflected in the fact that Andhra Pradesh, Madhya Pradesh, and Punjab state that this is to be submitted to either of the two (undecided until notification issued), Kerala and Himachal Pradesh expect that this is to be sent to both and in Rajasthan, West Bengal, Mizoram and Delhi the plan would be submitted to the appropriate government. This ambiguity creates potential problems at the stage of compiling of the plans.

11. Training and motivation of school management committees

While a long list of tasks are assigned to the SMCs, only two states have put down specific responsibilities or provision for a process of capacity building of the SMCs in order to undertake the tasks expected. Uttarakhand specifies that the Department of Elementary Education shall ensure the training of the members of the general body of the SMC so that capacities of the members might be used in school management. It is also expected to prepare an encouragement scheme for the motivation of the SMC conducting good work in the field of elementary education. The identified SMC shall be rewarded at block, district and state level. Haryana specifies that training in preparing SDPs shall be provided to the convener by the academic authority. No other references to capacity-building have been laid down.

B. SOME IMPLICATIONS BASED ON THE ANALYSIS OF THE RULES.

The SMCs have been created to put power in the hands of the parents and communities so that they can direct the focus of the concerned schools. The SMC is expected to determine the priorities of the school (the SDP) and monitor functioning of the school, and utilisation of the budget.

1. Policy issues

There is a lot of hope lying on the SMCs as a vehicle of community voice towards bringing about systemic reform in schools. The summary treatment they have received in the state rules, however, does not give much cause of optimism. A large number of states do not appear to have given thought to the operational matters for their rollout. Some of these gaps have been subsequently filled through detailed guidelines. However, these cannot run counter to the parent rules and consequently the gaps in the rules cannot be fully met through the guidelines alone. There are some larger policy issues that require attention:

- While the SMCs were intended to decentralize the powers to the community for school management, several states have attempted to assert control over processes by retaining control over its formation and/or functioning. Provisions such as leaving the formation of the SMC (and the calling of its meetings) to the discretion of the state leaving the head teacher as the SMC president are clear signs of reluctance by several states to relinquish control.
- Lack of attention to operational detail makes implementation of several key provisions difficult and creates ambiguities of interpretation in others. The calculation of the proportion of women, parent and marginalized community members is a case in point. Furthermore, while several states have not altered the wording of the model rules for their state rules, others have introduced provisions that may be difficult to implement in the face of either inadequate resourcing or thought to feasibility of implementation. This does not bode well for subsequent

implementation.

- Considerable responsibilities have been delegated to SMCs. However, the mere mention of the requirement of the SMC to look into an array of tasks does not translate into actual practice until the concerned decision-making powers are likewise handed over to the SMC (eg. sanctioning of special training courses) and they have the funds to implement them (which are actually vested with the government). This creates a clear disconnect between the visualized role and the actual reality. Furthermore, the lack of innovative provisions such as having an unrestricted discretionary grant (mirroring the discretionary grant with the Village Health and Sanitation Committee under the NRHM or National Rural Health Mission) with this structure that could enable it to respond to school needs and exercise a certain degree of autonomy in decision-making is unfortunate. Fundamentally, the reading of the rules reinforces the impression that what has been decentralized in the majority of states is the responsibility of implementation of existing provisions, not actual decision-making power.
- In the light of the above, it is critical to note that only two states have delineated responsibilities on the government for ensuring capacity building of these structures. A volunteer structure of concerned citizens would need to be prepared if it is to undertake a range of actions from auditing, planning, budget oversight, tracking learning, ensuring retention of children and a whole array of other tasks.

2 The specifics: good practices identified and overarching concerns

Good practices:

- Most state rules are silent on the modalities for formation of SMCs in aided private schools, except Maharashtra and Tamil Nadu being the only two states with specific provisions. Other states should also look more closely at the modalities of formation of SMCs in these states.
- Linkage with allied services like health (auxiliary nurse midwife (ANM) and

early childhood care and development *anganwadi* worker) has been introduced in Assam, Karnataka and Uttar Pradesh through their membership in the SMC. This is a welcome step that could be adopted by others. Andhra Pradesh also talks about linkage with *mahila samakhya*.

- Kerala state rules provide an innovative provision for ensuring that pupil teacher ratios are met at all times through the SMC having the right to select teachers from a roster of teachers maintained by the State. This is an intriguing possibility since it combined both the maintenance of qualifications of teachers and allowing space for community participation.
- Karnataka's state rules provide for social audit of the school accounts, a welcome step.
- Uttarakhand and Haryana place clear responsibilities on the government for ensuring SMC capacity building which is a welcome step.

Overarching concerns:

- Term of SMCs should be for a period of two years at least to enable the SMC to undertake the action expected. Furthermore, quarterly meetings of the SMC may not be adequate if actual oversight function is to be played by it.
- When summative evaluation has no place in the RTE (Schedule/29h) and the National Curriculum Framework (NCF) 2005 (Schedule/7.6a), it is surprising that annual exams has been chosen as the basis of which some states are planning to select parents to the SMC.
- Child representatives are to be included in a large number of states in the SMCs. It would be critical to work out the modalities of their empowerment and interface with the adult members.
- Several states retain ambiguity about the place of submission of the SDPs. The larger concern, however, is the lack of assurance that the plans submitted would actually lead to allocations as per the plan submitted.

SECTION II. OUT OF SCHOOL, SPECIAL TRAINING AND TRANSITION

India has one of the largest populations of children out of school and the largest percentage of child labourers. The RTE Act provides for a series of measures for ensuring universal enrollment, including the provision of special training, certification of school completion and putting in place of some mechanisms for addressing the question of transition.

A. PROVISIONS UNDER THE STATE RULES.

1. Definition of children out of school,

The RTE Act does not specify who is an out of school child. Some states provide a definition under state rules. Andhra Pradesh states that a pupil of an elementary school who is absent for more than a month shall be considered an out of school child. In the case of Kerala, children not attending schools for more than 15 days shall be placed in the category of drop-outs and it will be the duty of SMC to bring them back to schools. In Maharashtra an out of school child includes a student of an elementary school who has been absent for more than a month continuously. Uttarakhand defines out of school as those who never enrolled and those who dropped out and in the rules defines only temporary dropouts as a child who has been absent for 60 of 90 continuous working days of school.

Very few state rules, however, have looked at the related issues of tracking of attendance of specifically vulnerable populations such as migrants. In Manipur the state government shall make provision to track children's academic progress, retention and transition and also track children migrating from one district to the other or to other states and those coming into Manipur. This is a critical provision that could be adopted by other states.

2. Special training

a. Who identifies the children and starts special training

In the overwhelming majority of states the rules state that the SMCs or the

PROVISION OF THE ACT:

Where a child above 6 years of age has not been admitted in any school or though admitted, child could not complete his/her elementary education, and then he/she shall be admitted in a class appropriate to his/her age.

Provided that where a child is directly admitted in a class appropriate to his/her age, then he/she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time limits as may be prescribed.

MODEL RULES:

The School Management Committee/ local authority shall identify children requiring special training and organize such training in the following manner, namely:

The special training shall be based on specially designed, age appropriate learning material, approved by the academic authority specified

It shall be provided in classes held on the premises of the school, or through classes organised in safe residential facilities.

It shall be provided by teachers working in the school, or by teachers specially appointed for the purpose.

The duration shall be for a minimum period of three months which may be extended, based on periodical assessment of learning progress, for a maximum period not exceeding two years.

The child shall, upon induction into the age appropriate class, after special training, continue to receive special attention by the teacher to enable him/her to successfully integrate with the rest of the class, academically and emotionally.

LA are expected to identify eligible children and ensure the initiation of special training. They are silent on the circumstances when either of the structures is to initiate the process and the roles that each would play in this regard. It is hoped that this would be

spelled out in subsequent government orders of the respective states. However, this lack of functional delineation of responsibility does not bode well for the implementation of this provision.

Karnataka and Madhya Pradesh specify that the SMC shall function under the overall guidance of the LA. Sikkim and Tamil Nadu specify that consultation between SMC and the LA is expected. The extent of preparation of the LA to undertake the role anticipated of it is an issue of concern in all the states where the role is vested with the LA. In contrast, Jharkhand and Odisha place the onus on the SMC alone. The concern here is of the extent to which the SMC has the actual resources to initiate such provisions. Uttarakhand and West Bengal (and to a lesser extent Maharashtra), specify the role of the state government in this regard. Thus, Uttarakhand expects the BEO (or an authorized officer) with the cooperation of SMCs to identify 6-14 years out of school children (both never enrolled and drop out)/children requiring special training and will ensure their age-specific class enrolment in the neighbourhood school. The SMC of the school and teachers with the help of CRC (Cluster Resource Coordinator)⁶ is expected to assess the learning level of the child and accordingly organize such training. A combination of the responsibility of the state (which controls the budget for the special training) and either of the two structures for community participation – the LA or the SMC would be the desirable way forward.

b. Applicability to private schools

Kerala and Tamil Nadu are the only States that mention upfront that aided schools are also expected to identify children requiring special training. In Tamil Nadu, the rules state that in case the child is admitted in age appropriate class in an unaided school, the management of school shall provide the special training.

c. How will the Special Training be undertaken

The modalities of the implementation of these special trainings have by and large not been spelled out in great detail. Most states remain ambiguous as to who will design the training modules for these special courses for out of school children, and leaves the task to “academic authority” which as per the Act should be notified by the appropriate government. It is expected that the same would be the State Council of Educational Research and Training (SCERT). Karnataka, Mizoram and Uttar Pradesh explicitly states that the SCERT is expected to undertake this, based on specially designed, age appropriate materials designed by the same. Odisha expects the capsule course to be designed by TE (Teacher Education) & SCERT. The provisions of Chhattisgarh, Bihar, Delhi, Haryana, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu and Uttarakhand also imply that the academic authority is likely to be the SCERT given that it refers to the academic authority for the entire state. Maharashtra specifies that its SCERT is expected to address: a) development of learning materials; b) training of teachers c) scientific methods for evaluation of children. The Director of Education has to undertake the a) appointment of teachers, specially for this purpose; b) survey of out-of-school conducted by the LA; c) supervise arrangements to assist the progress of such children; d) financial provision.

d. Location for the training

Most states specify that the special training would be undertaken either on the school premises or in safe residential facilities. The criteria for which option to be selected have not been specified. Assam specifically mentions the option of non residential special trainings. Tamil Nadu leaves the location at discretion of head teacher. Kerala expects the decision to be taken either by the head teacher or the LA.

⁶ This is a teacher who is designated as a resource person for 8-10 schools in an area designated as a cluster under SSA

e. Who imparts the training

Most states place the duty of the special training courses to the regular teachers or teachers appointed for the purpose without specifying the circumstances under which one or the other would be tasked with the same. Bihar places the task squarely on the existing teachers of the schools. There is concern about the tasks being placed on the existing teachers without adequate thought to the appropriate steps that need to be taken to enable them to combine the task of bridging with the existing task of teaching the already enrolled children.

Given that the majority of the rules leave the option of imparting special training by new sets of teachers, it is important to note that the rules do not lay down any parameters for selection of these special teachers. Kerala specifically mentions multi-grade learning centre instructors, retired teachers who can be selected for the purposes of special training while Uttarakhand mentions *mahila samakhya* and voluntary organizations. It is hoped that this does not amount to the reopening of the practice of the hiring of para-teachers through the backdoor. While most states do not specify the appointing authority for the special teachers, Kerala delegates the duty of such appointment to the LA, which in turn is not defined. Punjab similarly leaves the option of appointment of these teachers by SMCs or LAs.

f. Duration of training

Most states lay down the period of the training to be between three months to two years. Maharashtra stipulates that the duration of such special training shall be decided by SCERT. Punjab places the outer limit at three years. Gujarat, Haryana, Manipur, Nagaland and Uttarakhand do not place an outer limit.

g. Support to students after admission in age appropriate grade

All State rules specify that support is to continue to be extended to newly enrolled children.

SPECIAL TRAINING IN WEST BENGAL

- 2) The school authority, shall within two weeks of the enrolment of the child in any class the appropriate age, identify whether the child needs special training and intimate the same to the concerned Circle Project Coordinator (CPC). The parents or guardians shall be intimidated regarding the need for their child to undergo special training.
- 3) The CPC shall review monthly the requirement of special training to be provided under its jurisdiction and make arrangements for the same. Special training shall be conducted in accordance with the materials prepared by the academic authority.
- 4) The period of such training shall be for a minimum period of three months and such special training may be extended to two years, based on the periodic assessment of the child.
- 5) A school imparting special training shall maintain records of the progress of students undergoing such special training and submit a quarterly progress report as per format prescribed by the state government to the District Project Officer, Sarva Shiksha Mission through the CPC who shall then assess the same in consultation with the District Inspector (Academic) for further course of action.

3. Award of Certificate on completion of Elementary Education

AS PER THE ACT,

30 (1) No child shall be required to pass any Board examination till completion of elementary education.

(2) Every child completing his elementary education shall be awarded a certificate, in such form and in such manner, as may be prescribed

THE MODEL RULES STATE THAT

- (1) The certificate of completion of elementary education shall be issued at the school/block/district level within one month of the completion of elementary education.
- (2) The certificate referred to in sub-rule (1) shall
 - (a) certify that the child has completed all courses of study prescribed under section 29.
 - (b) Contain the pupil cumulative record⁷ of the child and also specify achievements of the child in areas of activities beyond the prescribed course of study and may include music, dance, literature, sports, etc.

Almost all states broadly follow the model rules. Some of the other states contextualize the provision mentioning that the local administration should develop the format (to be issued by the head teacher) or the letter needing to be signed by the DEO. Some of the provisions introduced are as follows:

- **Additional documents to be handed over.** Kerala speaks of the children's health card being given along with the completion certificate, cumulative record and other documents. Nagaland speaks of the cumulative record and other details being forwarded to the head teacher within 10 days of the completion of the term. In contrast, West Bengal provides for the certificate to be ready in three months.
- **Completion certificate for private schools.** The issue of issuance of certificate by private schools has been addressed by Andhra Pradesh, Manipur, Uttar Pradesh and Madhya Pradesh which state that the school recognition number is to be affixed on the certificate. West Bengal expects this certificate to be issued by the Secretary of the Board to which the school may be affiliated.
- **School completion certificate and learning.** Chhattisgarh, Delhi. Himachal

⁷ The cumulative record for a student contains information about the academic experiences, challenges, and accomplishments of that particular student.

Pradesh, Karnataka, Kerala, Odisha omit the provision that the certificate has to certify that the child has completed all courses of study. Madhya Pradesh and Tamil Nadu provide for a format within the Rules themselves. Uttarakhand expects the school to ensure that the child has reached the expected learning levels before a certificate is issued.

- **Responsibility for development of format.** Uttarakhand and Maharashtra have additionally stated that the SCERT shall design a model format for recording details of academic progress of the child and circulate it among all schools through the DEO.

B. SOME IMPLICATIONS BASED ON THE ANALYSIS OF THE RULES

The above analysis allows some overarching trends to be drawn in terms of the systemic readiness for implementation of these provisions.

1. Policy issues

- Lack of an overarching definition of an out of school child remains a critical concern. The entire discussion about ensuring bridging and retention is incomplete unless a clear definition is laid down as to when a child ceases to be counted as being school going and enters the category of drop-outs. The most practical definition has been laid down in Uttarakhand where the state rules specify that the child is to be counted as having dropped out if he/she has been absent for 60 out of 90 working days. In so doing, it includes the element of erratic attendance
- Operationalization of special training does not appear to have been completely thought through at the time of the drafting of the state rules. The continued ambiguity about the specific roles to be played by the LA and SMC is one case in point. In instances when the existing government teachers are visualized as also to be providing special training for hitherto out of school children, it would be imperative to look into the feasibility of the same teacher providing both full time instruction to children already in age appropriate grade and likewise supporting children requiring significant support (especially in the face of failure to meet even

existing pupil teacher ratios). Furthermore, the extent to which schools' infrastructure has been enhanced to provide dedicated spaces for such children is open to doubt. The rules also fail to specify when residential or non residential modes of special training are to be resorted to. All of these are critical concerns that need to be resolved before implementation is to happen. Fundamentally, the states do not appear to have invested enough time to delineate the modalities of implementation of this provision.

- Some states have made provision to hire dedicated teachers for special training courses. It is critical to ensure that their qualifications are maintained at par with the mainstream teacher cadres and their working conditions and scope for a career path are laid down.

2. The specifics: good practices identified

- A large section of India's population consists of migrants. Manipur specifically talks about provisions for special training for migrant populations.
- Several states have a fairly large proportion of aided schools that could also potentially shoulder the responsibility of bringing all children into school. Only Tamil Nadu and Kerala place a degree of responsibility on aided schools for providing special training and to ensure age appropriate placement of children. This should be followed by other states as well.
- Nagaland's rules mention that the child cumulative record be forwarded to the next school within 10 days of school completion. This is a welcome step that would ensure that the teachers in the new school are familiar with the previous learning record of the students admitted. Kerala's rules talk about the children's health card being handed over. Other states should also adopt similar practices.

SECTION III. REGULATION AND RECOGNITION OF PRIVATE SCHOOLS

According to the DISE (District Information System for Education) data, approximately 20% of schools in India are privately run. As such, they are responsible for a fairly large share of the population and consequently it is critical to ensure that the government's own norms

are also met in those schools. The present section looks at the issues of recognition and regulation of private schools while the issue of 25% reservation of seats in the same has been addressed under the section of social inclusion.

PROVISIONS OF ACT

- 1) No school, other than a school established, owned or controlled by the appropriate government or the local authority shall, after the commencement of this Act, be established or function, without obtaining a certificate of recognition from such authority, by making an application in such form and manner, as may be prescribed.
- 2) The authority prescribed under sub section 1 shall issue the certificate of recognition in such form, within such period, in such manner, and subject to such conditions as may be prescribed. Provided that no such recognition shall be granted to a school unless it fulfils norms and standards specified under section 19.
- 3) On the contravention of the condition of recognitions, the prescribed authority shall by an order in writing, withdraw recognition.
- 4) With effect from the date of withdrawal of recognition no such school shall continue to function.
- 5) Any person who establishes or runs a school without obtaining certificate of recognition or continues to run a school after withdrawal of recognition, shall be liable to fine which may extend to 1 lakh and in case of continued contraventions, a fine of Rs. 10,000 for each day during which such contravention continues.

NORMS AND STANDARDS FOR SCHOOLS

- 1) No school shall be established or recognized unless it fulfills the norms and standards specified in the schedule.
- 2) Where the school established before the commencement of this Act does not fulfill the norms and standards specified in the Schedule, it shall take steps to fulfill such norms and standards at its own expense within a period of three years from the date of such commencement.

- 3) Where a school fails to fulfill the norms and standards within the period specified the authority prescribed shall withdraw recognition granted to such school in a manner specified
- 4) With effect from the date of withdrawal of recognition no such school shall continue to function.
- 5) Any person who establishes or runs a school without obtaining certificate of recognition or continues to run a school after withdrawal of recognition, shall be liable to fine which may extend to 1 lakh and in case of continued contraventions, a fine of Rs. 10,000 for each day during which such contravention continues.

MODEL RULES ADOPTED BY THE UNION TERRITORIES

- (1) Every school, other than a school established, owned or controlled by the state government or local authority, established before the commencement of this Act shall make a self declaration within a period of three months of the commencement of the Act, in Form No. 1 to the concerned District Education Officer regarding its compliance or otherwise with the norms and standards prescribed in the Schedule and the following conditions:
 - (a) the school is run by a society registered under the Societies Registration Act, 1860 (21 of 1860), or a public trust constituted under any law for the time being in force;
 - (b) the school is not run for profit to any individual, group or association of individuals or any other persons;
 - (c) the school conforms to the values enshrined in the Constitution;
 - (d) the school buildings or other structures or the grounds are used only for the purposes of education and skill development;
 - (e) the school is open to inspection by any officer authorized by the state government/ Local Authority;

- (f) the school furnishes such reports and information as may be required by the Director of Education/District Education Officer from time to time and complies with such instructions of the state government/local authority as may be issued to secure the continued fulfilment of the condition of recognition or the removal of deficiencies in working of the school;
- (2) Every self-declaration shall be placed by the District Education Officer in public domain within fifteen days of its receipt.
- (3) The District Education Officer shall conduct on-site inspection of such schools to fulfill the norms and standards and the conditions mentioned within three months of the receipt of the self-declaration.
- (4) After the inspection is carried out, the inspection report shall be placed by the District Education Officer in public domain and schools found to be conforming to the norms, standards and the conditions shall be granted recognition by the District Education Officer within a period of 15 days from the date of inspection.
- (5) Schools that do not conform to the norms, standards and conditions mentioned shall be listed by the District Education Officer through a public order to this effect, and any time within the next two and a half years, such schools may request the District Education Officer for an on-site inspection for grant of recognition.
- (6) Schools which do not conform to the norms, standards and conditions mentioned after three years from the commencement of the Act, shall cease to function
- (7) Every school, other than a school established, owned or controlled by the state government/local authority established after the commencement of this Act shall conform to the norms and standards and conditions in order to qualify for recognition.

A. Provisions under the state rules

1. Basis of recognition

All states (except Rajasthan) specify that a self declaration be filed by schools within a period of three months in the format laid down. In some cases, like Madhya Pradesh, it is four months and in the case of Nagaland it is one year. Rajasthan specifies that recognition needs to be attained under the Rajasthan Non-Government Education Institutions Act, 1989 (Act No. 19 of 1992). Similarly, Karnataka, Manipur and Kerala specify that the rules for the recognition of schools under the pre-existing state acts shall continue apply for the recognition of schools. It is hoped that a process of review of the procedures of recognition would be undertaken in the four states that intend to follow the procedures as laid down under their state acts. Doing so would be critical to ensure rationalization of the existing procedures of regulation of the private sector in education.

2. Submission of self declaration

These declarations are to be submitted largely to the DEO, District School Inspector or equivalent position. Arunachal Pradesh and Jharkhand speak of the submission being made to the Deputy Director of School Education, a district level position. Bihar and Uttarakhand provide for a committee at the district level headed by the DEO. Madhya Pradesh expects the application to the DEO to be routed via the BEO. Submissions are to be made at the block level in Karnataka (educational concerned Block Development Officer) and Himachal Pradesh (BEO), Gujarat specifies that the submission be made to a competent authority. Manipur and Nagaland stipulate that the submission be made to the Director of Education. In Kerala the application shall be made to the Assistant Education Officer and in Goa, it is the deputy director of the concerned zone.

3. Scrutiny in public domain

All states except Goa (and Rajasthan as mentioned earlier) stipulate that the application be placed in the public domain within a period of 15 (as per model rules) to 45 days (West Bengal). Some states, such as West Bengal, Uttar Pradesh, Andhra

Pradesh, Kerala and Madhya Pradesh further specify that this would be through a website. Andhra Pradesh and Madhya Pradesh make a provision for the affidavit to be displayed, but do not provide a defined space for ordinary citizens to question the information provided. Odisha further mentions that this information is also to be displayed on the notice board of the *gram panchayat*. While online access to information about schools is welcome, it is critical to remember that only a fraction of India's rural population has internet access. Consequently, provisions like that of Odisha are welcome and should be adopted by other states as well. In the case of Goa, the final inspection report would be put in the public domain.

4. Criteria for recognition

Most states adhere to all the points under the model rules. However, there are some interesting omissions. Thus, Assam omits the clause that the school be operated on a no-profit basis.

In addition, there are some other requirements. Several states add on other clauses including compliance with specific provisions under the RTE Act including the 25% quota (Andhra Pradesh), declaration of the fees charged (Andhra Pradesh & Madhya Pradesh), no screening and no levying of capitation fees (Uttarakhand), compliance with the Schedule I norms of schools (Andhra Pradesh) and Pupil Teacher Ratio (Kerala). Gujarat lays down fairly elaborate floor space requirement of classrooms. It also expects all schools to create and maintain a website (in conformity with specifications laid by the Director of Education) and update information as per the DISE format (also mentioned by Uttarakhand). Madhya Pradesh furthermore specifies that the school shall set up fire extinguisher and other fire security arrangements as per norms specified under the National Building Code of India Part 4. Four states have made fairly extensive insertions to the list of minimum standards for recognition. Some of these examples have been appended as *Annexure*

Many of these additional provisions are welcome and can be used as precedent by other states. However, it would also be critical that the provisions being made compulsory

in private schools are also provided in the government sector to ensure parity.

5. Modalities of granting recognition

The process for inspection and subsequent recognition adopted is fairly similar. The steps include a school inspection to ascertain the validity of the self-declaration leading to recognition or a provisional recognition/extension until the completion of three years of RTE. All states give a period of 2 ½ years to three years for private schools to conform to the norms and standards in the Schedule and get recognized. Punjab and Jharkhand, however, do not explicitly state that the school be visited to verify the statements made in the submission made by the school.

Gujarat, in contrast, presents a completely different modality for recognition, giving considerable weight to improvement in learning outcomes through the setting up of a state-wide system of testing learning in its rules. There is reason to believe that the provisions violate the spirit of the RTE Act. For a more detailed look at the provision, refer *Annexure III*.

There is some difference in terms of the process for the eventual sanctioning of recognition of the school based on the school inspection. This is the DEO or equivalent in a majority of states (Andhra Pradesh, Arunachal Pradesh, Chhattisgarh, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Meghalaya, Odisha, Punjab, Tripura, Uttar Pradesh & Uttarakhand) in consonance with the model rules. The BEO has the equivalent powers in Himachal Pradesh. Manipur and Nagaland vest the power with the Director of Education. An undefined 'Competent Authority' shall do the same in Tamil Nadu.

However, several states make provision for the decision not to be taken by a single individual- setting up committees for the process. These include Assam, Gujarat, Bihar, Kerala and West Bengal. In Assam, the DEO is expected to place the list of schools which do not conform to the norms before a district level board for stoppage of their functioning and will only order the school's closure after its approval. Jharkhand specifies that while the order is to be issued by the DEO, this is not to happen without order from the state government.

States like Assam, Punjab, Karnataka, West Bengal, Uttarakhand, and Andhra Pradesh provide scope for appeal against decision of withdrawal or non-grant of recognition.

Several of the other states have devoted considerable attention to the modalities to be adopted. Some of the examples of these are part of *Appendix III*.

All state rules retain the clause in the model rules wherein unrecognized schools would cease to exist by the end of the third year.

6. Public access to information – lists of recognized and unrecognized schools and other provisions

Public lists of schools that fail to adhere to the norms are expected to be created and maintained in Arunachal Pradesh, Chhattisgarh, Uttar Pradesh, Manipur, Mizoram, Tripura, Meghalaya, Uttarakhand and Punjab. Bihar, Haryana, Jharkhand, Kerala, Manipur, Mizoram, Meghalaya, Nagaland, Tamil Nadu, Tripura, Maharashtra, Uttar Pradesh and Gujarat rules talk about the school inspection reports being made available in the public domain.

WEST BENGAL

Every recognized school under this Act, shall display in its notice board the following Information:

- a) Number of students studying in the said school on the last day of previous month;
- b) Number of teachers in the school;
- c) Curricular activities undertaken by the school;
- d) Facilities available in the said school;
- e) Details of number of days on which mid day meal is provided and the number of children to whom such mid-day meal is provided in the school, where the school is required to provide such mid-day meal in accordance with law for the time being in force;
- f) Composition of the SMC;
- g) Neighbourhood to which the school belongs;
- h) Board to which the school is affiliated.

7. Duration of validity of recognition once granted

Some states have stipulated a time frame for the recognition. Thus, Andhra Pradesh, and Madhya Pradesh state that the recognition once granted would be valid for a three-year period. It will be valid for five years in Karnataka and Uttarakhand.

8. Withdrawal of recognition

In case of withdrawal of recognition, the procedure followed by most of the states is broadly similar. In Uttar Pradesh, the DM appoints a committee for the inspection of schools and it has also been given the right to change the members. This is the only state where such powers have been vested with this position.

In case any conflict arises wherein the recognition of the private school might be withdrawn, all state rules provide for a five-member committee for inspection of the school in question. However the composition of this committee varies from state to state. While states like Delhi make no mention of any parameters by which its members will be selected, other states like Tamil Nadu, Kerala sets parameters for selection as educationist and government representatives. States like Odisha, Meghalaya and Sikkim provide for representation from civil society and media as well. In Goa, a three-member committee is to be constituted by the Deputy Director of Schools including an educationist and one representative each of the government and civil society. This committee would submit its recommendations to the Deputy Director. There is a provision for a hearing for the school. Prior approval from the government would need to be taken before a decision is taken to de-recognize a school.

There is one significant difference on which there is a major variation from the model rules. The model rules specify that the DEO forward the inspection report to the State Commissions for Protection of Child Rights (SCPCR). After due deliberation, the SCPCR makes its recommendation on the case, on the basis of which the state government takes its decision on de-recognition or

otherwise. The decision is then conveyed to the DEO for execution. This is what is broadly stated by Arunachal Pradesh, Haryana, Meghalaya, Mizoram, Sikkim and Tripura. In the latter two cases, the decision is to be taken by the Secretary, education department. The Collector takes the call in Andhra Pradesh. The DM holds considerable powers in determining the recommendations in Uttar Pradesh, albeit the education department is expected to make the final decision. The Director, education is expected to decide in Assam, Delhi, Himachal Pradesh, Karnataka, Kerala, Maharashtra (with copy of the decision being marked to the SCPCR), Manipur, Nagaland, and Uttarakhand. Punjab specifies the Director of Education as the decision-making authority, with the SCPCR as the site of appeal. The education department (at an unspecified level) is expected to make the decision in Bihar, Jharkhand and Odisha. The "competent authority" is expected to play this role in Gujarat. The decision is to be made directly by the DEO or equivalent in Chhattisgarh and Tamil Nadu (without any specified site of appeal) and West Bengal (with an appeal directly to the education secretary). Rajasthan specifies that it would continue to follow its pre-existing rules. The case of Gujarat has been described already.

B. SOME IMPLICATIONS BASED ON THE ANALYSIS OF THE RULES

Many of the operational details of the actual modalities of regulation are likely to be found in the fine print of the documents to be drafted by the specific governments. However, the guidelines do raise some issues with implications for regulation of the private sector.

1. Policy issues

• Modalities of regulatory system proposed.

The RTE Act itself lays down a fairly skeletal framework for the regulation of the private schools. In contrast, several states have had pre-existing regulatory frameworks that have ranged from being arguably excessively bureaucratic in some regards, to being effectively laissez-faire. The post-RTE regime imposes a certain minimum set of standards that form the

minimum standards for all schools across the country – both government and private. A major improvement is that now all states make it necessary for primary schools to receive recognition and come under a mechanism of regulation. This is long overdue.

However, as with several other provisions under RTE the implementation of the change has been somewhat half hearted. On one hand, four states' rules state upfront that they would continue to follow their old modes of recognition. In so doing, a critical opportunity for review of the same to introduce rational regulation has been left. On the other hand, several other states have taken the path of least resistance by not making many changes in the model rules, removing provisions that would require effort to implement (eg. removing statement that schools are not run for profit as in Assam, or the visit for verification of the statement of private schools, as in Punjab and Jharkhand), and postponing the decision-making on the modalities till the drafting of the operational guidelines. A fairly large number of states have dovetailed the provisions within the existing administrative machinery while forming the state rules. In a lot of ways, it has remained a matter of business as usual.

- **Need for support to government schools to enable them to meet the same norms as mandated for private schools.** For the successful rollout of the RTE Act, private schools too have to meet the standards laid down for them under the RTE rules or face shutdown. Thus, every school in the country has to adhere to minimum fire safety norms, be structurally safe, have a library and not have overcrowded classrooms. There is an immediate need for a clear mechanism to ensure that these norms are also met in the government schools, if they have been made mandatory for the private ones. Necessary support has to be provided to government schools so that these can match the same timeline as the private schools.

2. The specifics: good practices and concerns identified

The positives

- Measures for transparency in the recognition of private schools and subsequent functioning.
 - Lot of states provide for the affidavits of the private schools to be displayed online. However, Odisha is the only state that has provisions for the same to be displayed in the Gram Panchayat. It is critical given the low internet penetration in the country.
 - Nine state rules are specific that lists of schools that fail norms will be displayed in the public domain and thirteen speak of putting out the school inspection records. This has far-reaching implications for making private schools more transparent and accountable.
- Several states have introduced additional procedural requirements for recognition including publishing the fees charged and ensuring compliance with DISE submission. These are simple steps without cost implications that can streamline the education governance system.
- Some other states have introduced requirements such as compliance with the national building code and fire safety norms (West Bengal, Madhya Pradesh), ensuring adequate floor space to avoid overcrowding (Gujarat, West Bengal), a library, common room for girls and medical checkup of students (West Bengal). All of these steps are welcome and should also be ensured in government schools.
- Four states have introduced a fixed term for the recognition granted. This is either three to five years and recognizes the fact that school quality may vary drastically over time.

Overarching concerns

Only six states' rules retain a role for the SCPCR in the recognition of private schools. This is probably a valid strategy in light of the current capacities of the SCPCRs. A more detailed analysis of the roles of the same will be provided in the section on the SCPCR.

SECTION IV. CURRICULUM

AS PER THE ACT

29(1) The curriculum and the evaluation procedure for elementary education shall be laid down by an academic authority to be specified by the appropriate government by notification.

(2) The academic authority, while laying down the curriculum and the evaluation procedure under sub-section (1), shall take into consideration the following, namely

- a) Conformity with the values enshrined in the constitution;
- b) All round development of the child;
- c) Building up child's knowledge, potentiality and talent;
- d) Development of physical and mental abilities to the fullest extent;
- e) Learning through activities, discovery and exploration in a child friendly and child centered manner;
- f) Medium of instruction shall, as far as practicable, be in child's mother tongue;
- g) Making the child free of fear, trauma and anxiety and helping the child to express views freely;
- h) Comprehensive and continuous evaluation of a child's understanding of knowledge and his or her ability to apply the same.

THE MODEL RULES STATE

(1) The state government shall notify the State Council of Educational Research and Training (or its equivalent), as the academic authority for the purposes of section 29.

(2) While laying down the curriculum and evaluation procedure, the academic authority notified under sub-rule (1) shall

- (a) formulate the relevant and age appropriate syllabus and text books and other learning material
- (b) develop in-service teacher training design, and

(c) prepare guidelines for putting into practice continuous and comprehensive evaluation

(3) The academic authority referred to in sub-rule (1) shall design and implement a process of holistic school quality assessment on a regular basis

A. Provisions under the state rules

a. Academic authority: singular or plural?

While most of the states have adopted the Model Rules as it is or actually specified their respective SCERT as the academic authority. Himachal Pradesh and Karnataka visualize the possibility of the existence of multiple academic authorities in the same state.

b. Role of the academic authority

The academic authority is largely tasked with the same set of duties as laid down under the model rules. Of the states that mention that an academic authority would be set up, none omit any of the functions laid down under the model rules. There are in addition some supplementary provisions or contextualization in terms of reference to local structures.

a. Role regarding curricula, teaching learning materials and textbook design.

Haryana in addition expects them to develop the framework for award of certificates at the end of elementary education and expects the academic authority to act in tandem with the state education board. Tamil Nadu specifically mentions that the SCERT is to commission and undertake researches/studies on policies, programmes, curriculum, learning outcomes of children etc. Maharashtra expects its academic authority to liaison with the Maharashtra State Bureau of Text Books Production and Curriculum Research, Balbharti, Pune and State Institute of Educational Technology, Pune for textbook development and the curriculum is to include a range of child-centered activities. One exception to reinforcing the role of the state in the curriculum and material design is

that of Gujarat and talks about public-private partnership (PPP) in material development.

GUJARAT: LEGALLY MANDATED PPP FOR MATERIAL DEVELOPMENT.

The state SCERT shall also arrange to approve the text book or learning material prepared by private publishers or PPP partners, if those are found to conform to the curriculum and learning outcome norms finalized by it. It is hoped that this would turn into a process whereby state textbooks are gains prominence instead of publications developed by expensive private publishers.

- b. Teacher training:** The Maharashtra State Council Of Education Research And Training is expected to develop teacher-training design, periodically evaluate the teacher-training programmes and make necessary improvements, develop teacher-training capacity in district institutes of educational training (DIET), block resource centres (BRCs), urban resource centres (URC), academic district resource group and academic block resource group.
- c Standard setting role:** In a few states the academic authority is expected to also lay down both academic/ children's learning standards and for the functioning of the system as a whole.
 - **School Level:** In Sikkim the academic authority has additional responsibility of preparing bench-marking guidelines for academic achievement in schools, diagnosis of classroom transactional analysis and hard spots and development of relevant support systems. Similarly, Kerala expects it to design and implement a process of holistic school quality assessment based on performance indicators on a regular basis. More specifically, it is expected to develop a continuous school rating system based on a five-point scale on parameters like student achievement, physical infrastructure, teacher training,

assessment and evaluation and co-curricular activities, to improve overall quality (with the last two categories in the scale receiving specific time bound supportive inputs). Maharashtra's SCERT is also expected to, with the help of the Maharashtra Institute of Educational Planning and Administration, design the process of holistic school quality assessment on a regular basis to be implemented by the concerned block level education officials.

- **Child level:** Gujarat is again an outlier in the space it gives to the role of the SCERT in defining the expected learning outcomes, the laying down of mechanics of the testing to be done and providing oversight over the overall processes of testing. In so doing, the process of individual child learning has been placed at the heart of the systemic and school assessments. Similarly, Tamil Nadu's academic authority is expected to develop performance indicators for the individuals and institutions along with accountability criteria towards children's learning levels, undertake periodic performance appraisal of individuals and institutions. However, the detailing and emphasis on learning outcomes is significantly higher in the case of Gujarat.
- **Systemic:** In Maharashtra, the rules state that all state, district and block level institutions, including the academic authority shall be evaluated periodically and that the reports be made available in the public domain. The time lapsed between two such evaluations shall not exceed more than five years. Uttar Pradesh additionally states that external agency shall be explored for the purpose of undertaking this assessment with the team to be drawn from amongst academia, research institutes and other reputed institutions working on basic education⁸. The report shall

⁸ Basic education refers to the whole range of educational activities taking place in various settings (formal, non formal and informal), that aim to meet basic learning needs.

be published as a State Level School and Learning Assessment Report. Parameters for the external biennial assessment will include students' learning achievement levels and a range of more process orientated indicators including the availability and use of text books/ teaching learning materials in classroom teaching, teachers' punctuality and regularity, extent of interface with parents around children's academic performance, processes of teaching and learning in classroom and other factors of like nature. The report shall furnish the outcomes of the school assessment, block and district-wise to the SCERT, SSA, DMs and Zila Basic Shiksha Adhikaris for remedial action. Uttarakhand additionally states that the state shall designate an authority to regularly monitor the levels of learning of children in all government and aided elementary schools of the state through sample surveys using appropriate evaluation tools and bring out block-wise annual reports on the status of quality of elementary education in the state. The statewide testing mechanism proposed to be set up in Gujarat is another outlier with potentially long lasting negative consequences. For a description of the process to be adopted refer to *Annexure IV*.

- **Principle of school autonomy:** It is significant to note that Uttarakhand is the only state to recognize and embed the need for school level autonomy in the rules. Within the overall guidelines prescribed by the curriculum and textbooks, the schools shall be given a degree of academic freedom which includes flexibility in adopting methods of teaching to suit local situations and standards which will help schools to aim for excellence in quality of education imparted in them. This shall also help in experimentations and innovations in pedagogy.

Kerala has a range of additional provisions that are expected to be undertaken by the government and LA, annexed under *Appendix IV*.

B. SOME IMPLICATIONS BASED ON THE ANALYSIS OF THE RULES

The present section is relatively shorter than the rest of the document; however, it does throw up some concerns related to the rollout of these provisions.

1. Policy issue

Fairly intensive expectations have been placed on the SCERT to deliver on a range of actions from curriculum design, teacher training and material development. Demands have also been placed on the teacher training and support systems in this regard. These expectations need to be translated into practice through adequate supports being extended to these structures in order to enable them to take on these anticipated responsibilities. There is little in the current experience of the implementation of these provisions that these aspects are receiving adequate attention on the ground.

2. Some specifics: positives and overarching concerns

Positive features

- a. The state rules of Uttarakhand are the only rules that specifically recognize the principles of school autonomy, enabling localized decision-making. This can be adopted by other states as well.
- b. Uttar Pradesh provides an intriguing model of holistic assessment of the school including learning outcomes, but also going beyond the unifocal attention to the same by introducing concerns of classroom lesson transaction, home-school interface and the other critical concerns that contribute to a positive school environment. If implemented properly, this can serve as a model for other states to adapt and adopt as a model for assessment. In contrast, the focus on learning outcomes alone (eg. Gujarat) may have negative implications in the long run due to the reductionist nature of the recommendations.
- c. The emphasis on systemic review at regular intervals that has been introduced in several states is positive. It is a healthy trend for the system to review its performance (especially relying on grassroots evidence) and change its policies accordingly.

- d. Kerala's rules introduce some promising additional dimensions including instruction in the mother tongue, provision of counselling in schools, ensuring safety of children while being transported to and from school and above all, fixing accountability to ensure that funds are made available to improve quality provisions on the basis of the school development plans. The latter is particularly critical to ensure that the quality improvement plans are backed by actual resources and implemented.

SECTION V: TEACHER RELATED PROVISIONS

PROVISIONS OF THE ACT

Qualifications for appointment and terms and conditions of services of teachers:

- 1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorized by the central government, by notification shall be eligible for appointment as a teacher.
- 2) Where a state does not have adequate institutions offering courses or training in teacher education or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the central government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification.
Provided that a teacher who at the commencement of the Act does not possess minimum qualifications as laid down shall acquire such minimum qualifications within a period of five years.
- 3) The salary and allowances payable to, and the terms and conditions of service of teachers shall be such as may be prescribed.

Duties of teachers and grievance redress

- 1) A teacher appointed shall perform the following functions namely:
 - a) Maintain regularity and punctuality in attending school.

- b) Conduct and complete the curriculum
- c) Complete entire curriculum within the time specified;
- d) Assess the learning ability of each child and accordingly supplement additional instruction, if any, required;
- e) Hold regular meetings with parents and guardians and apprise them about the regularity of attendance, ability to learn, progress made in learning and any other relevant information about the child and
- f) Perform any other duties as may prescribed;

- 2) A teacher committing default in performance of duties shall be liable to disciplinary action under the service rules applicable to him or her.

Provided before taking such disciplinary action, reasonable opportunity of being heard shall be afforded to such teacher.

- 3) The grievances, if any, of the teachers shall be redressed in such as manner as may be prescribed.

Prohibition of deployment of teachers for non-academic purpose

No teacher shall be deployed for any non-academic purpose other than decennial population census, disaster relief duties, or duties relating to elections of local authority or the state legislature or the Parliament as the case may be.

Prohibition of private tuitions

No teacher shall engage himself/herself in private tuition or private tuition activity.

MODEL RULES: MINIMUM QUALIFICATION

- (1) The academic authority notified shall, within three months of such notification, lay down the minimum qualifications for persons to be eligible for appointment as a teacher in an elementary school.
- (2) The minimum qualifications laid down by the academic authority shall be applicable for every school.

Relaxation of minimum qualification

- (1) The state government shall estimate the teacher requirement as per the norms in the Schedule for all schools within the state, within six months from the commencement of the Act.
- (2) Where a state does not have adequate institutions offering courses or training in teacher education, or persons possessing minimum qualifications are not available in sufficient numbers in relation to the requirement of teachers estimated (1), the state government shall request, within one year of the commencement of the Act, the Central Government for relaxation of the prescribed minimum qualification.
- (3) On receipt of the request the central government shall examine the request of the state government and may relax the minimum qualifications by way of a notification.
- (4) The notification shall specify the nature of relaxation and the time period, not exceeding three years, but not beyond five years from the commencement of the Act, within which the teachers appointed under the relaxed conditions acquire the minimum qualifications prescribed by the academic authority notified.
- (5) After six months after the commencement of the Act, no appointment of teacher for any school can be made in respect of any person not possessing the minimum qualifications prescribed by the academic authority notified under sub-section.
- (6) A person appointed as a teacher within six months of the commencement of the Act, must possess at least the academic qualifications not lower than higher secondary school certificate or equivalent.

Acquiring minimum qualifications

- (1) The state government shall provide adequate teacher education facilities to ensure that all teachers in schools who do not possess the minimum qualifications laid down acquire such minimum qualifications within a period of five years from the commencement of the Act.

- (2) For a teacher, of any school who does not possess the minimum qualifications at the time of commencement of the Act, the management of such school shall enable such teacher to acquire such minimum qualifications within a period of five years from the commencement of the Act.

Salary and allowances and conditions of service of teachers

- (1) The state government or the local authority, as the case may be, shall notify terms and conditions of service and salary and allowances of teachers in order to create a professional and permanent cadre of teachers. The terms and conditions of service shall take into account the following, namely:
 - (a) Accountability of teachers to the School Management Committee constituted under section 21.
 - (b) Provisions enabling long term stake of teachers in the teaching profession.
- (3) The scales of pay and allowances, medical facilities, pension, gratuity, provident fund, and other prescribed benefits of teachers, including those employed for the purpose of imparting special training shall be that of regular teachers, and at par for similar work and experience.

Duties to be performed by teachers

- (1) In performance of the functions specified, the teacher shall maintain a file containing the pupil cumulative record for every child which will be the basis for the awarding the completion certificate.
- (2) In addition to the functions specified a teacher may perform the following duties assigned to him or her, without interfering with regular teaching:
 - (a) Participation in training programmes;
 - (b) Participation in curriculum formulation, and development of syllabi, training modules and text book development;

What the state rules state

1. Qualifications of teachers

The RTE Act is expected to bring about a significant change on the ground by mandating the promulgation of minimum standards for teacher qualifications thereby ensuring that the non-formalization of the teacher profession is reversed. These standards are expected to be those laid down by the NCTE at the central level.

- **Adherence to academic authority/NCTE norms for teacher qualifications.** The majority of states have repeated the language of the model rules whereby the unspecified academic authority will notify the teacher qualifications. Assam, Delhi, Himachal Pradesh, Karnataka, Odisha, Uttar Pradesh, Uttarakhand, Rajasthan, Tamil Nadu, and Punjab mention that the central/NCTE norms would be followed. States like West Bengal, Madhya Pradesh, and Andhra Pradesh do not mention minimum qualifications.
- **The Teacher Eligibility Test (TET)** Nagaland and Gujarat also mention the passage of the TET as an essential qualification in order to become a teacher.
- **A recruitment policy for teachers.** Nagaland also lays down a recruitment policy, forbidding the hiring of teachers on ad-hoc/temporary basis and the regularization of existing ad-hoc/temporary teachers.

2. Relaxation of qualifications of teachers

Most states mention that in case the state does not possess enough institutions for providing adequate trainings to the teachers, it should apply to the central government for relaxation of the minimum qualifications for appointment of elementary teachers and while the state government strives to achieve the minimum qualifications for all teachers within five years.

- **The omissions:** Delhi, Goa, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Tamil Nadu and West Bengal do not have this provision. The omission of Jharkhand is interesting considering the large scale appointment of para-teachers in the state.

- **Attention to modalities:** Uttarakhand in contrast, mentions a process of compilation of this information.
- **Requests for additional relaxation:** Uttar Pradesh further intends to appeal to the Central government for providing required facilities for distant mode of teacher training in addition to the request for extension of the deadline.

3. Responsibility for acquiring minimum qualifications of teachers

The above mentioned provision of ensuring minimum qualifications are met for all teachers would only be actualized if mechanisms are put into place for ensuring teacher training systems are put in place.

- **Role of the state:** Many states specifically mention that it is the duty of the state government to provide enough educational facilities so that teachers possess the minimum qualifications as laid down by the academic authority. The school management is expected to ensure this compliance for private schools. Punjab commits itself to providing adequate teacher training institutions to meet this norm. Similarly, Arunachal and Assam commit the state government to providing adequate teacher education facilities to ensure that teachers who do not possess the minimum qualifications acquire them within five years.
- **Role of private sector:** In contrast, Maharashtra's rules state that this would be ensured with the help of government-aided and unaided teacher training institutions. In context, it is significant to note that there is no mention of expansion of government teacher-training institutions. Meghalaya and Nagaland's state rules do not state upfront that it is the state's responsibility, but mention that adequate teacher-training facilities would be made available.
- **Strategic silence:** Andhra Pradesh, Delhi, Goa, Gujarat, Tamil Nadu, Tripura, Karnataka, Madhya Pradesh, Uttarakhand and West Bengal omit this clause. It is an unfortunate omission that may have far reaching implications at the end of the five year period of the Act where large numbers of untrained teachers

remaining in the face of inadequate efforts made towards teacher training by their respective states. Many of these states have fairly large numbers of professionally untrained teachers.

4. Salary, allowance and working conditions of teachers

A significant provision that was made under the model rules was the statement that the salary, allowances and working conditions of teachers should be such as to support the permanent cadre of teachers. This provision was expected to hold for both government and private schools.

- **Professional permanent cadre of teachers:** Eight states have omitted the mention of a permanent cadre of teachers. This is a major omission given that this commitment was one of the major highlights of the Model rules in terms of the potential it had of ensuring commitment of teachers to the teaching profession through regularizing their terms of employment.

States that mention a professional permanent cadre of teachers	States that do not mention a permanent cadre of teachers
Arunachal, Assam, Bihar, Chhattisgarh, Delhi, Goa, Gujarat, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Sikkim, In all UTs	Haryana, Himachal Pradesh, Madhya Pradesh, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal

- **Codification of salaries and working conditions of all teachers:** This provision has, however, been deleted in a large number of states. Thus, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura, Uttarakhand and West Bengal do not make this commitment. Uttarakhand, West Bengal, only state that the salary and working conditions of government and government-aided schools would be as per their respective service rules. Himachal Pradesh only provides the same for government schools. Uttar Pradesh and Madhya Pradesh leaves it open saying

that the service conditions would be as per that institution's respective rules. Rajasthan mentions it would be as per the specific pre-existing state rules.

- **Parity of government and private school teachers:** The related issue is the question of the private schools – both aided and unaided. Tamil Nadu is the only state where the rules explicitly states that the working conditions of teachers of unaided school shall be accordance with state government regulation. A majority of states do not mention this issue. Madhya Pradesh and Mizoram specify that they would issue specific orders by which the private schools may be bound and Goa states that these would be as per relevant unspecified rules. Indeed, the provisions of Mizoram only apply to aided schools (remaining silent on the issue of private unaided schools). There is something of a reluctance to intervene in the regulation of private schools, especially unaided ones.
- **Parity within government system:** Interestingly, some of the states continue to maintain the existence of multiple strands of teachers. Thus, Gujarat maintains the distinction between the cadres of *vidhya sahayaks* (teaching assistants) and teachers (both of whom are supposed to be professional and permanent cadres) with distinct salaries and working conditions. Himachal Pradesh and Karnataka allow SMCs to engage teachers on part-time basis. In Himachal Pradesh, these teachers are paid on the basis of rates set by the state government. Karnataka merely mentions that the same be paid out of SMC's funds and should not be considered as a permanent position.
- **Question of special training teachers:** While the Model Rules speak of parity of working conditions of the special training teachers, the state rules of Chhattisgarh, Delhi, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Punjab, Uttar Pradesh, Uttarakhand and West Bengal are silent about this provision. This is a potentially critical issue given that most of these states are unclear about the modalities of

implementation of special training. There is a risk of setting up of parallel lower paid cadres in the absence of clear guidelines in this regard.

5. Duties of teachers

Most state rules follow the model rules in terms of the responsibilities and roles of teachers. Delhi, Nagaland, Odisha, and Himachal Pradesh, however, expect teachers to perform any duty that may be prescribed by the government. This would appear to contradict the parent Act that limits the number of tasks that teachers can be involved with.

Many of the states make provisions for additional tasks- fortunately all of them academic in nature. Thus, Haryana expects the maintenance of a teacher diary. Andhra Pradesh, Nagaland and Manipur expect the cumulative record to also include the records of the existing training and other innovative programmes undertaken by the state. Karnataka makes periodic assessment of children a specific responsibility of teachers.

Karnataka and Maharashtra make the identification of out of school children, initiation and provision of special training and/or broadly ensuring attendance of children the responsibility of the teacher. A convergence with hostel facilities of government departments like social welfare, backward classes and women and child welfare is expected in the case of Karnataka for ensuring special trainings. Mizoram, Uttar Pradesh and Uttarakhand have a provision of holding regular meetings with parents to apprise them of the performance of their wards.

West Bengal also makes it the task of a teacher to inform the parents and the SMC of a child, who in the opinion of the teacher may need special care and attention. Uttarakhand also reiterates the expectation of no corporal punishment, harassment and discrimination in the responsibilities of teachers and expects teacher to provide quality education to every child in a "congenial learning environment" and to "inculcate expected human values among students". Interestingly, it also adds another task: "The teacher shall keep positive attitude about teaching profession".

Kerala has also given additional functions to ensure full utilization of school facilities like library, laboratory and information and communication technology, sports and games, work education etc.

6. Grievance redress for teachers

Some states follow the model rules in making the SMCs the first line of redress for teachers. Karnataka expands this provision a little further with the expectation that the SMC monitor and take appropriate action in the event of harassment of teachers in general and also complaint of women teachers in particular. Jharkhand, Odisha, Tamil Nadu and Chhattisgarh omit this section completely. Delhi and Himachal Pradesh specify that separate notification would be brought out for grievance redress of teachers whereas in Uttarakhand it has been specified that grievance redress of government and aided school teachers would be in accordance with their service rules. Maharashtra's section on grievance redress of teachers only looks at private schools.

a. First line of redress

Only three states explicitly state a body other than the SMC as the first line of redress. In Kerala, the head teacher shall examine and redress the grievances of teachers at the school level in the first instance with the SMC taking the matter up only in case the issue remains unresolved. Punjab makes the block level as the first point of redress. Karnataka, however, expects the BEO to be present during all the grievance hearings of the SMC. West Bengal lays down a timeline of four months for redress at the SMC level, after which the complaint would be expected to be upgraded upwards to the next level.

b. Second and higher levels of redress

Again, the majority of states reiterate the principle of tribunals at the state, district and block levels. Assam, Gujarat, Bihar, Goa, Gujarat, Kerala, Madhya Pradesh and Nagaland, however, do not provide for tribunals at the block level. Uttar Pradesh does not have any mechanism at a level higher than the SMC. State tribunals are missing in Uttarakhand, Rajasthan and Andhra Pradesh. West Bengal refers all

cases unresolved at the SMC level to the West Bengal Administrative (Adjudication of School Disputes) Commission. Punjab specifies the DEO as the appellate for receipt of teacher complaints and provides for a tribunal just at the state level.

Some of the states have done an amount of fleshing out of the processes involved. Thus, Rajasthan, Madhya Pradesh & Andhra Pradesh provide a breakdown of the membership of the committees that are expected to play these roles and stipulate that they meet at least once in a quarter. Madhya Pradesh additionally provides for the district committee to redress complaints within a period of 30 days. Nagaland elaborates on just the structures.

c. Grievance redress for teachers in private schools

Andhra Pradesh, Madhya Pradesh and Rajasthan expect each private school to develop its own mechanism of redress. Uttarakhand expects unaided schools to inform the DEO of a case, who is responsible to ensure that the grievance is looked into. In Karnataka, while the SDMC is the first line of redress for aided schools, for private unaided schools, section 96 of chapter 14 of Karnataka Education Act 1983 applies for grievance redress.

Maharashtra specifies that teachers aggrieved over issues of dismissal/promotion are to appeal to the tribunal constituted under section 8 of the Maharashtra Employee of Private Schools (Conditions of Service) Regulation Act, 1977 with the appeal to the same being governed by the provisions of sections 8-14 of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act 1977 and Rule 39 and 43 of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act 1981.

7. The special case of head teachers

Kerala specifically talk about the roles of the head teachers in addition to the roles of teachers. The parent rules are silent on the role of the head teachers, but their role can be considered critical from the perspective of ensuring onsite support and leadership to teachers.

KERALA DUTIES TO BE PERFORMED BY HEAD TEACHER AND TEACHERS:

- (1) The head teacher shall be a person having a minimum of twelve years of teaching experience and possessing pass in such departmental tests and test on Kerala Education Act and Rules as may be specified in that regard:
Provided that teachers in service shall be given time up to three years to pass the above tests.
- (2) The head teacher shall undergo training in school management and administration conducted by the education department; and
 - (i) Prepare a school academic calendar covering all curricular and co-curricular activities, based on the calendar of the education department;
 - (ii) Observe and assess the performance of the teachers based on the academic calendar including conduct of regular meetings of class parent-teacher association and mother parent-teacher association at least once in a term and provide the teachers with necessary guidance;
 - (iii) Regulate the absence of teachers from their instructional duties in the school on account of their participation on other-duty in co-curricular activities outside the school;
 - (iv) Assess the learning ability of every child and shall ensure that he attains the learning outcomes specified by the academic authority for each subject throughout the academic year;
 - (v) Act as a mentor to the children and shall adopt the tutorial system so as to ensure individual attention for the all-round development of the child;
 - (vi) Ensure parent involvement by conducting meetings of class parent-teacher association and mother parent-teacher association at least once in two months;
 - (vii) maintain a file containing the pupil cumulative record for every child which may form part of the certificate issued at the completion of elementary education;
 - (viii) Review the teacher performance on their duties under Rule 18(3) at the monthly Staff Council Meeting and forward a review report to the Assistant Educational Officer periodically;

B. SOME IMPLICATIONS BASED ON THE ANALYSIS OF THE RULES

This is the section of the document that has seen the largest extent of modification from the model rules, principally in terms of omission of several key provisions. Serious concerns about the teacher support systems emerge based on the reading of the model rules.

1. Policy issues

- Lack of thought on modalities of implementation of provisions pertaining to upgradation of teacher qualifications. Ten states have provided for a blanket relaxation of qualifications in the instance that adequate number of qualified teachers are not in place. Ten states have also omitted the provision defining a specific responsibility of ensuring teacher training systems. Delhi, Goa, Gujarat, Karnataka, Kerala, Tamil Nadu and West Bengal appear in both lists. This points to a lack of seriousness about addressing these issues and is a serious matter of concern as far as the compliance with the 2015 deadline of the RTE Act is concerned.
- One of the expectations from the RTE Act was its potential of putting in place mechanisms for the setting of professional permanent teacher cadres to ensure commitment of teachers to the teaching profession. In contrast, 11 States have omitted the mention of the same in their state rules. Similarly, 12 states have omitted the provisions pertaining to parity of the working conditions of teachers and special training teachers, and a few states have continued the practice of multiple strands of teacher qualifications. Provisions pertaining to grievance redress of teachers at higher levels (the teacher tribunals) have been deleted in several states. The concern that this raises is of the commitment of the Indian state towards the development of mechanisms of ensuring re-professionalization of the teaching force. Any improvement in the learning outcomes, one of the Stated outcomes of the 12th Five Year Plan is unlikely without due consideration to these aspects.

2. Some specifics: positives and overarching concerns

Positives:

- Nagaland's state rules mention the development of a teacher recruitment policy and the ending of hiring of *ad hoc* and temporary teachers.
- Uttarkhand's state rules speak about a mechanism whereby gaps in teacher availability are compiled.
- Some states (including Karnataka) have laid down a mechanism for dovetailing the processes of grievance redress for teachers with the SMCs.
- Maharashtra has specified the laying down of a grievance redressal system for teachers in private schools in their state rules. This is a positive development. However, at the same time, there is a concern that the provisions for redress for government teachers have been removed from the rules.

Gaps:

- Under the Gujarat state rules, there is a distinction between teachers and Vidyasahayaks.
- Himachal Pradesh and Karnataka permit SMCs to hire teachers on the other hand
- Four states have inserted blanket statements that teachers may be permitted to undertake "other duties" in their state rules. This opens a dangerous open space for engagement of teachers in non teaching work.

SECTION VI: INCLUSION

The RTE Act has a number of provisions that aim at ensuring inclusion of all children. Many of these provisions are more cross-cutting in nature, rather than forming a discrete category of "inclusion". These provisions are further translated into wherever applicable specific provisions within the model rules. Given the cross-cutting nature of the issue of inclusion, some aspects of the issue have already been dealt within the report. Thus, the issues of setting up of universal standards of quality, identification of children out of school and provision of special training to ensure their inclusion in the school system have direct

implications for the issue of inclusion. At the same time, the provision of 25% seats being set aside for children from marginalized communities in fees charging private schools is something that has direct implications for inclusion.

The present section looks at some of the issues not covered elsewhere in the report and having direct implications on the issues of inclusion.

1. Inclusion of children with disability

PROVISION IN THE ACT

A child suffering from disability, as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1996 shall have the right to pursue free and compulsory elementary education in accordance with the provisions of Chapter V of the Act.

A school shall admit in class I to the extent of at least 25% of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion. Provided further that where a school specified in clause (n) of section 2 imparts pre-school education, the above provision shall apply for admission to such pre-school education.

The recently passed amendment in section 3 suggests that a child with multiple and severe disabilities such as autism and cerebral palsy, or who is mentally challenged, "may also have the right to opt for home-based education". National Trust Act disabilities have likewise been inserted into the list of disabilities.

PROVISIONS UNDER THE MODEL RULES

In respect of children with disabilities which prevent them from accessing the school the state government/local authority will endeavour to make appropriate and safe transportation arrangements for them to attend school and complete elementary education.

A child with disabilities shall also be provided free special learning and support material. The state government/local authority shall ensure that no child is subjected to caste, class, religious or gender abuse in the school.

Complete omission: Uttarakhand and West Bengal omit the clauses pertaining to disability completely. Madhya Pradesh and Gujarat mention that children with disability will be mapped but does not specify entitlements under the rules⁹.

Arrangements for appropriate and safe transportation: All states have these provisions under their rules except Himachal Pradesh, Nagaland, Maharashtra and Sikkim. These instead providing for a distance or transportation allowance at such rate as may be fixed by the state government from time to time, for enabling them to attend the school. In contrast, Delhi and Kerala alone make a definitive statement that transportation shall be made available.

Home-based schooling for severely disabled children: In Andhra Pradesh and Kerala there is provision for home-based education for severely disabled children who cannot be transported to schools. These provisions echo subsequent RTE amendments that have provided opportunities for home schooling. According to activists, this provision would make it easier for schools to deny admission to a disabled child and recommend home-based schooling. Given the thin line between various disabilities, even those suffering from mild symptoms may pay the price as schools are already known to turn down admission requests for disabled children citing lack of trained teachers. Option that may be suggested is inclusions of provision that "severely disabled children may receive home-based schooling for say one-two years and then they must be sent to mainstream schools." This has also been how this provision has been seen under SSA in the past – as a form of bridging and not as a full-fledged and permanent alternative.

Provisions for teaching learning materials and other adaptations necessary for schooling: Of the states with mention of provision of facilities for children with disability, many also make provision for supply of special materials for such children.

⁹ Bihar and Jharkhand use the word nishakt – which may mean disabled/disadvantaged but do not have any specific provisions

Andhra Pradesh expands this clause by stating that every child with disability shall be entitled to free education with barrier free environment and special material, uniforms and books supplied by the state and that all teachers in regular schools shall be trained in appropriate teaching methods for child with special needs for the purpose of inclusive education. In Maharashtra the entitlements required should be projected in the school development plan made by the SMC. These may include rehabilitation arrangements for children from weaker sections and children with disabilities. Sikkim has excluded the clause pertaining to supply of materials directly but tasks the SMC in ensuring access to school and completion of education by children with this disability.

IN KERALA:

- (3) The government shall;
- (a) ensure that children with disabilities have access to free education till they attain the age of 18 years and shall promote their integration in the regular schools;
 - (b) equip and upgrade the existing special schools for children with severe disabilities and provide them with residential facilities in appropriate locations;
 - (c) provide vocational training to all children with disabilities;
 - (d) provide special teaching/learning material and improved assistive devices and all such items that are necessary to give a child with disability equal opportunities in education;
 - (e) provide health care for the child with disabilities at school level;
 - (f) formulate a restructured and relevant curriculum for children with various categories of disabilities;
 - (g) develop appropriate systems for their continuous and comprehensive evaluation.

2. Delimitation of catchment areas of schools

MODEL RULES:

- 4 (1) The areas or limits of neighbourhood within which a school has to be established by the state government shall be as under:
- (a) In respect of children in classes I-V, a school shall be established within a walking distance of one km of the neighbourhood.
 - (b) In respect of children in classes VI-VIII, a school shall be established within a walking distance of 3 km of the neighbourhood.
- (2) Wherever required, the state Government shall upgrade existing schools with classes I-V to include classes VI-VIII. In respect of schools which start from class VI onwards, the state government shall endeavour to add classes I-V, wherever required.
- 3) In areas with difficult terrain, risk of landslides, floods, lack of roads and in general, danger for young children in the approach from their homes to the school, the state government/local authority shall locate the school in such a manner as to avoid such dangers, by reducing the limits specified under sub-rule (1)
- (4) For children from small hamlets, as identified by the state government/local authority, where no school exists within the area or limits of neighbourhood specified under sub-Rule (1) above, the state government/local authority shall make adequate arrangements, such as free transportation, residential facilities and other facilities, for providing elementary education in a school, in relaxation of the limits specified under sub-Rule (1).
- (5) In areas with high population density, the state government/local authority may consider establishment of more than one neighbourhood school, having regard to the number of children in the age group of 6-14 years in such areas.

Most states have retained these provisions verbatim. An exception to this Karnataka that has modified the wording “shall be established within a walking distance” into “normally established.” In contrast, in West Bengal and Jharkhand the norm for upper primary has been changed to 2 km instead of 3 km as per the model rules.

3. Provisions for non-discrimination in all schools

PROVISIONS UNDER THE MODEL RULES

- (1) The state government/local authority shall ensure that access of children to the school is not hindered on account of social and cultural factors.
- (2) The state government/local authority shall ensure that no child is subjected to caste, class, religious or gender abuse in the school.
- (3) For the purposes of clause (c) of section 8 and clause (c) of section 9, the state government and the local authority shall ensure that a child belonging to a weaker section and a child belonging to disadvantaged group is not segregated or discriminated against in the classroom, during mid day meals, in the play grounds, in the use of common drinking water and toilet facilities, and in the cleaning of toilets or classrooms.

Most states reiterate the same principles laid down above. However, in a large number of states, non-discrimination clauses are missing. West Bengal’s rules omit all three, Gujarat omits the first two of three and Madhya Pradesh the second point. Furthermore, even when this has been specified, it would be critical to see these provisions functioning, especially in the face of the absence of an effective grievance redress system on the ground.

4. Provision for reservation of 25% seats in fees charging private schools for marginalized communities

With regard to this state’s rules across most states have adopted the provisions in the Model Rules and there are minor variations. Himachal Pradesh, West Bengal, Bihar and Jharkhand do not mention this clause.

PROVISION UNDER THE MODEL RULES

- (1) The school referred to in clauses (iii) and (iv) of clause (n) of section 2 shall ensure that children admitted in pursuance of clause (c) to section 12 (1) shall not be segregated from the other children in the classrooms nor shall their classes be held at places and timings different from the classes held for the other children.
- (2) The school referred to in clauses (iii) and (iv) of clause (n) of section 2 shall ensure that children admitted in pursuance of clause (c) to section 12 (1) shall not be discriminated from the rest of the children in any manner pertaining to entitlements and facilities such as text books, uniforms, library and ICT facilities, extra-curricular and sports.
- (3) The areas or limits of neighbourhood specified in Rule 4 (1) shall apply to admissions made in pursuance of clause (c) to section 12 (1). Provided that the school may, for the purposes of filling up the requisite percentage of seats for children referred to in clause (c) to section 12 (1), extend these limits with the prior approval of the state government.

a. Non segregation of children admitted

These provisions largely hold for all states. Gujarat has sought to combine the two provisions. Gujarat orders that special training be undertaken for the special category children by the school management to integrate them with other children. Teachers and school management should be properly sensitized to integrate these children through professionally conducted trainings. Maharashtra has specified that supplementary additional classes may also be held for children thus admitted, without making this mandatory. Goa omits the clause completely.

b. Process of identification of children for admission

i) Procedures to be followed:

Several states have sought to delineate some of the modalities for admission

within the state rules. This is over and above the detailed operational guidelines on this issue made by the states and the circulars in this regard issued by the central government.

Broadly speaking, a listing of eligible children is to be maintained on the basis of which the admission is to be given. This may be the LA (Uttar Pradesh), school authority (Tripura) or SMC chairperson (Andhra Pradesh). Goa has chosen to postpone taking a decision on this, stating that this list has to be maintained by either the LA or government. Tripura has specified that before finalizing the process of admission as such, the school authority shall undertake an awareness programme on the process of admission in the locality concerned. In Uttarakhand, the Block Education Officer is also expected to identify orphaned children with the help of the social welfare department. The help of various orphanages may be also taken for the identification of children living in these establishments. The Block Education Officer shall also prepare the ward wise list of the existing schools as defined under sub-clauses (iii) and (iv) of clause (n) of section 2. In Andhra Pradesh's rules in tribal areas, children falling under the ambit of the Scheduled Tribes (ST) shall be admitted first. In Kerala and Haryana, selection of children shall be through the drawing of lots. Haryana specifies that it is the responsibility of the school to ensure the retention of these children once admitted.

The act specifies that the 25% clause applies to the starting class of the school. However, the rules have specifically reiterated that the clause applies to the pre-school sections in Arunachal Pradesh, Haryana and Kerala.

ii) Internal breakup of the 25%

Several states have set aside specific percentage reservations for specific sections within the 25 or lays down

other criteria by which internal division is ensured. The details thereof have been covered under *Annexure V*.

iii) Minority institutions

Two states specifically mention provisions for implementation of the 25% quota in minority institutions in their rules. These provisions, however, were obviously laid down prior the Act's amendment keeping minority institutions outside the Act. In Punjab, the rules stated that minority institution shall be at liberty to admit the same percentage of students of the weaker section and the disadvantaged group belonging to that particular minority only to which such an institution pertains. In Andhra Pradesh, in minority institutions, all candidates belonging to the minority concerned should be considered for filling first. After exhausting applications of minorities the remaining seats are to be filled in the order of ST, SC (Scheduled Castes) and BC (Backward Castes). These provisions would, however, would need to be subject to the alternations brought about by the amendments in the RTE Act.

5. Special provisions for child labourers migrant children and children in conflict areas

Andhra Pradesh, Maharashtra, Manipur and Nagaland's state rules talk about the setting up of a formal child tracking system in their states as part of the state rules.

The state rules of Andhra Pradesh emphasize that educational status of children migrant locations, work places and unregistered habitations needs to be updated on a regular basis. Punjab specifies that the enrollment of children from migrant communities is to be emphasized. Manipur emphasizes the need for tracking the education of children migrating both outside and into the state.

In Kerala and Maharashtra, migratory children shall be enrolled in a neighbourhood school if it has the appropriate medium of instruction. If the appropriate medium of instruction is not available, the transportation facilities for attending the school, or a seasonal residential hostel and other facilities

shall be provided by the local authority. Kerala specifies the government and the local authority shall make arrangements including transportation, for the education of the migrant children coming from other states, in the neighbourhood school, or where this is not practicable, by setting up on-site schools at the work places where the migrant labour from other states are engaged in any economic activity in groups. Furthermore, it specifies that as far as may be practicable, the learning material and the text books shall be in their respective mother tongue. Appropriate learning materials shall be developed by the academic authority in consultation with the academic authority in their state of origin.

ANDHRA PRADESH:

- (7) The government shall make appropriate arrangements for tracking the children migrating from one district to another within the state or children of the families migrating from Andhra Pradesh to other states or children of the families migrating from other states into Andhra Pradesh along with their parents, so as to ensure continuity of elementary education.
- (8) The government shall provide seasonal hostels in the villages known for migration of labour, either on a seasonal basis or for a longer time cycle so that the children will stay back when their parents migrate to other places and so that these children are provided education and suitable residential facility in spite of their parents migration
- (9) In areas affected by civil unrest and in respect of children in difficult circumstances, the government shall notify schools as safe zones for children to enable them to continue their education uninterrupted. In case of disruption of schooling, all the children shall be accommodated in residential schools where their education can resume safely.

6. Maintenance of records

WHAT THE ACT SAYS

Every local authority will maintain records of children up to the age of fourteen years residing in its jurisdiction in such manner as may be prescribed.

WHAT THE RULES SAY

- 6 (1) The LA shall maintain a record of all children, in its jurisdiction, through a household survey, from their birth till they attain 14 years.
- (2) The record, referred to in sub-Rule (1), shall be updated each year.
- (3) The record, referred to in sub-Rule (1), shall be maintained transparently, in the public domain, and used for the purposes of clause (e) of section 9
- (4) The record, referred to in sub-Rule (1) shall, in respect of every child, include
 - (a) name, sex, date of birth, (Birth Certificate Number), place of birth;
 - (b) parents' / guardians' names, address, occupation;
 - (c) pre-primary school/Anganwadi centre that the child attends (upto age 6);
 - (d) elementary school where the child is admitted;
 - (e) present address of the child;
 - (f) class in which the child is studying (for children between age 6-14), and if education is continued in the territorial jurisdiction of the Local Authority, the cause of such discontinuance;
 - (g) whether the child belongs to the weaker section within the meaning of clause (e) of section 2 of the Act;
 - (h) whether the child belongs to a disadvantaged group within the meaning of clause (d) of section 2 of the Act;
 - (i) details of children requiring special facilities / residential facilities on account of migration and sparse population; age appropriate admission; disability.
- (5) The local authority shall ensure that the names of all children enrolled in the schools under its jurisdiction are publicly displayed in each school.

The same broad framework has been followed by all state rules. In addition, Andhra Pradesh, Kerala, Madhya Pradesh, Manipur and Uttar Pradesh rules talk about allotment of a unique identification number to each child during the process. Haryana and Kerala in addition to the other records, expect that a comprehensive health card be compiled and updated annually for each child.

Tamil Nadu specifies that these records be maintained till the age of 18 for children with disability. Haryana envisages that the record of all under five year old children be collected through a household survey whereas the record for older children up to the age of 14 years is to be maintained by the District Elementary Education Officer.

The local authority is principally tasked with this in a majority of states. Bihar and Jharkhand task this to the Local authority and provides details in the state rules as to what needs to be recorded and updated regularly. Rajasthan and Sikkim task both the LA and the state government. It is the BEO for Uttarakhand. In West Bengal, the state government is expected to have these records maintained at the circle level resource centre, with the birth registration authorities in rural and urban areas providing the relevant data for this purpose. In Maharashtra the state rules follow the suggestions of the model rules but also suggests mapping of out of school children and children who have dropped out.

An interesting dimension is the transparency of the information. The model rules specify that the information is to be available in the public domain. Chhattisgarh, Kerala, Madhya Pradesh and Delhi omit the aspect of the information being compulsorily publically available.

7. Proof of age

Most state rules broadly adhere to the provisions as under the model rules. An issue of significance is whether the self declaration is to be undertaken as a formal affidavit (as laid down in the model rules) or a self declaration (as recommended by the NCPCR). Arunachal Pradesh, Chhattisgarh, Haryana, Manipur, Meghalaya, retain the provision of it being an affidavit.

PROVISION IN THE ACT

On the basis of birth certificate or the basis of other documents that may be prescribed

No child shall be denied admission in a school for lack of age proof

MODEL RULES PRESCRIBES FOR AGE PROOF THE FOLLOWING

Birth certificates

Hospital auxiliary nurse and midwife register record

Anganwadi record

Declaration through an affidavit by parents or guardians

In Jharkhand and Gujarat where a birth certificate is not available, the proof of age may be taken from the records of the hospital, records of the midwife or ANM, *anganwadi* register or by parental proclamation of age of child.

In addition, several states have clearly deviated from the provisions of the RTE by adding additional layers of certification. Madhya Pradesh expects the parents to (in addition to the self declaration) submit a certificate of verification of the date of birth of the child within six months of admission from any elected representative of the local authority, urban local body or *panchayat* of the area where he / she resides. Maharashtra expects the self declaration to be certified by the *sarpanch* of the village or head master of the local school, or in case of urban or semi-urban area, by an officer notified by the government. In cases where a birth certificate is not available, an officer of a rank senior to that of the officer who admitting the child to the school, shall confirm that other documents acceptable in place of the birth certificate are in fact, not available or cannot, in fact, be obtained. Haryana expects the head teacher to intimate the local authority concerned regarding admission of any child without birth certificate and the concerned authority (registrar, births and deaths) shall forward copy of the birth certificate within six months of such intimation. In West Bengal while a submission of self declaration is

acceptable, the parents or the guardian submitting such written declaration shall have the responsibility of submitting a birth certificate, records of the sub-centre/ICDS (integrated child development services) Centre or a certificate from a medical practitioner within 6 months from the date of admission.

Other states recommend other documents as possible sources of proof. The record of the village chowkidars (watchman) register will be counted as well. In case of Sikkim the letter issued by the local authority will also be valid. In Tripura while admitting unaccompanied children, such as orphans, the school at its own expense shall call for a medical examination of the child by a qualified government doctor and make an entry of the date of birth as certified by the doctor. In Uttarakhand the proof of age will be the *parivaar* (family) register or *gram* (village) register. Manipur states that a horoscope is an acceptable alternative document. Mizoram accepts a baptismal certificate and Nagaland accepts an entry in the Church register.

8. The under six child

The Gujarat rules look fairly extensively on the issue of pre-school education. Thus, the rules specify that no under-three year old child shall be admitted in any pre-school and that no parents be interviewed during the course of admission. It also speaks about the provision for designing of pre-school curriculum and assessment procedures in the state rules. The necessary mechanism for the training of pre-school teachers has also been laid down. Haryana state rules reiterate that an endeavour to extend pre-school education shall be made. Arunachal Pradesh and Kerala rules also mention ECCE (early childhood care and education).

B. SOME POSITIVES AND OVERARCHING CONCERNS:

Positives:

West Bengal and Jharkhand have exercised their discretion to lower the minimum distance criterion for upper primary schools from 3 to 2 km.

Maharashtra and Gujarat's state rules pertaining to the implementation of the 25% provision have provided for the school to provide supplementary classes and otherwise render support for social inclusion.

Punjab and Andhra Pradesh state rules had looked into providing for the implementation of the 25% quota in minority institutions. The rules of Punjab, in particular, offered a formulation that offers a possibility for implementation of the provision without violating the institution's minority character.

Andhra Pradesh, Maharashtra, Manipur, and Nagaland provide for child tracking surveys in their state rules rendering the need for doing so legal rather than just policy based.

Several states have looked into the modalities of implementation of the Act for migrants. Kerala and Maharashtra state rules address the issue of medium of instruction of incoming migrants. Manipur specifies that tracking of children migrating both outside and into the state would be tracked.

Andhra Pradesh is the only state to recognize civil strife in their state rules.

Gujarat has made extensive provisions for ensuring a focus on early childhood education in the framework of the Act, pushing the Act's boundaries forward in its scope.

Haryana and Karnataka speak about the essential nature of linkage of Health and Education, making it essential for the school to maintain a Health Card for every student.

Concerns:

Himachal Pradesh, Nagaland, Maharashtra, Sikkim has made provisions for the payment of a transportation allowance in case transportation is not provided to children with disability. It remains unclear what said allowance would do in remote areas where the state itself is unable to provide transport.

Andhra Pradesh and Karnataka's state rules provided for home-based education for children with disability, something that has since been taken nationwide through the amendments to the RTE Act.

Karnataka has removed the distance norm in its state rules, leaving the definition as a

rather vague “walking distance” that is open to multiple interpretations.

The clause pertaining to non discrimination has been omitted in two states- West Bengal and Gujarat.

Four states do not provide for 25% quota in their rules, although the same is being implemented in their states. The omission is, however, indicative of lack of attention to the issues of implementation of the same.

The only state to recognize the existence of civil strife in its boundaries is Andhra Pradesh that provides for the education of the children affected.

SECTION VII: GRIEVANCE REDRESS AND THE ROLE OF THE SCPCR

The RTE Act largely does not lay down a clear mechanism for grievance redress. However, provisions pertaining to redress may be found in two locations – in the provision for grievance redress for teachers and the SCPCR. A more detailed analysis of this provision is covered under the appropriate section under the teacher section. However, broadly, most states follow the provisions of the model rules in specifying the SMC as the first line of redress on teacher issues.

1. Grievance redress

Only Uttarakhand, Uttar Pradesh, Goa and Rajasthan lays down a mechanism for redress within the rules that reach out to issues beyond teachers within their state rules. These provisions are reproduced in *Appendix VI*. Several of the states have, however, subsequently issued detailed operational guidelines for redress. In the case of Goa, the provision is for submission of written complaints to the LA which is given three months to resolve the same. This is followed by an appeal to the SCPCR.

2. State Commissions for Protection of Child Rights

The SCPCRs are the appellate structures in the RTE Act and are the mandated for grievance redress at the state level. This section looks at this provision.

PROVISIONS IN THE ACT

The National Commission for Protection of Child Rights (NCPCR) constituted under Section 3 or as the case may be, the State Commission for Protection of Child Rights (SCPCR) constituted under section 17 of the Commissions for Protection of Child Rights Act, 2005 shall in addition to the functions assigned to them under that Act, also perform the following functions:-

- a) Examine and review the safeguards for rights provided by or under this act and recommend measures for their effective implementation.
 - b) Inquire into complaints relating to child rights to free and compulsory education; and
 - c) Take necessary steps as provided of the said Commissions for Protection of Child Rights Act.
- 2) The said Commission shall, while inquiring into any matters relating to Child Right's to free and compulsory education under clause c of sub section 1 have the same powers as assigned to them respectively under section 14 and 24 of the said Commissions for Protection of Child Rights.
- 3) Where the SCPCR has not been constituted in a state, the appropriate government may, for the purpose of performing the functions constitute such authority, in such manner and subject to such terms and services as may be prescribed.

Redress of grievances

Any person having any grievances relating to the right of a child under this Act may make a written complaint to the local authority having jurisdiction.

After receiving the complaint the local authority shall decide the matter within a period of 3 months after affording a reasonable opportunity of being heard to the parties concerned.

Any person aggrieved by the decision of the local authority may prefer an appeal to the SCPCR or the authority prescribed.

The appeal shall be decided by the SCPCR or the authority prescribed.

MODEL RULES

In respect of a state which does not have a SCPCR, the state government may take immediate steps to set up the commission.

- 1) Till such time as the state government sets up the commission, it shall constitute an interim authority known as the Right to Education Protection Authority (REPA) for the purposes of performing the functions specified in sub-section (1) of section 31, within six months of the commencement of Act or the constitution of the SCPCR, whichever is earlier.
- 2) The National Commission for Protection of Child Rights Rules, 2006 shall, so far as pertains to the terms and conditions, apply to chairperson and other members of the REPA.
- 3) All records and assets of the REPA shall be transferred to the SCPCR immediately after its constitution.
- 4) In performance of its functions, the SCPCR or the REPA, as the case may be, may also act upon matters referred to it by the State Advisory Council.
- 5) The state government shall enable constituting a cell in the SCPCR or the REPA, as the case may be, which may assist the commission or the REPA in performance of its functions under the Act.
- 6) The SCPCR, or the REPA, as the case may be, shall set up a child help line, accessible by SMS, telephone and letter, which would act as the forum for aggrieved child/guardian to register complaint regarding violation of rights under the Act, in a manner that records her identity but does not disclose it;
- 7) All complaints to the helpline should be monitored through a transparent 'alert and action' online mechanism by the SCPCR, or the REPA, as the case may be.

a. Formation of appropriate structures

All state rules make provision for the formation of either an SCPCR or a REPA except

Madhya Pradesh, Punjab, Tamil Nadu. Ironically, Madhya Pradesh actually had an SCPCR at the time of the rules' drafting (albeit fairly understaffed). Himachal Pradesh does not make mention of the need for an SCPCR and just intends to set up a REPA in its rules.

PROVISION UNDER RULES

Rules mention on SCPCR	Rules mention only REPA	Rules mention both SCPCR and REPA
Assam, Bihar, Delhi, Karnataka, Maharashtra, Nagaland, Odisha, Rajasthan, Sikkim	Himachal Pradesh	Rest (except Madhya Pradesh, Tamil Nadu and Punjab that omit these structures completely)
Actual status of the structures (on 1 April 2013)		
States with scpcr ¹⁰	States having only a repa	States lacking both scpcr and repa
(i) Assam, (ii) Bihar (iii) Chhattisgarh (iv) Delhi (v) Goa (vi) Haryana (vii) Jharkhand (viii) Karnataka (ix) Madhya Pradesh (x) Maharashtra (xi) Punjab (xii) Odisha (xiii) Rajasthan (xiv) Sikkim (xv) Uttarakhand (xvi) Tamil Nadu (xvii) West Bengal.	(i) Arunachal Pradesh, (ii) Himachal Pradesh, (iii) Meghalaya, (v) Mizoram	(i) Andhra Pradesh ¹¹ (ii) Gujarat (ii) Kerala (iv) Manipur, (v) Nagaland (vi) Tripura, (vii) Uttar Pradesh UTs lacking either SCPCR or a REPA Andaman and Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep, Puducherry

¹⁰ <http://pib.nic.in/newsite/erelease.aspx?relid=92409>

¹¹ A government order has been issued for nomination and formation of the same. The actual SCPCR is not yet in place.

As the table above suggests, a fairly large number of states had a REPA or lacked either structure. Most states follow the model rules in specifying that the REPA be formed within six months of the notification. This clause has been omitted by Gujarat, Haryana, Jharkhand, Kerala, Tripura, Uttar Pradesh and West Bengal that do not specify a time frame. Manipur gives a period of nine months. None of the State Rules mentioning the formation of REPA specify a time frame by when a full-fledged commission is expected to come up.

b. Enhancing SCPCR capacity to move into anticipated role

Andhra Pradesh, Arunachal Pradesh, Gujarat, Manipur, Sikkim and Haryana state that the state government shall enable the constitution of a cell in the SCPCR/REPA to assist the latter in performance of its functions under the Act. Bihar specifies that “necessary support” shall be extended to the commission for the purpose. Kerala mentions that “resources” would be made available. Delhi and Odisha state that “resource support” shall be extended. Chhattisgarh, Karnataka, Maharashtra, Uttarakhand, Himachal, Jharkhand, Manipur, Tripura, Mizoram, Uttar Pradesh, West Bengal omit the clause. The issue arises from the limited capacities of the existing SCPCRs whose ambit of work has been considerably enhanced under the RTE Act. A commensurate expansion in the support extended to these structures is required. Omissions of supportive provisions from the model rules are consequently unfortunate.

c. Role expected to be played by the commission

Most rules mention that the commissions thus formed would have the powers laid down and be governed by the terms and conditions laid down under the National Commission for Protection of Child Rights Rules, 2006.

In tangible terms, the state rules of Arunachal Pradesh, Gujarat, Haryana, Manipur, Meghalaya, Mizoram, Uttar Pradesh and Assam expect the SCPCR/REPA to set up a child help line, accessible by SMS, telephone and letter, which would act as the forum for aggrieved child/guardian to register complaint regarding

violation of rights under the Act, in a manner that records her identity but does not disclose it. Delhi and Jharkhand speak of the setting up of a child helpline to register complaints regarding violation of rights of the child under the Act, which may be monitored by it through a transparent on-line mechanism.

JHARKHAND

- 1) In case of denial to admission for not having age proof or transfer certificate, the parents/guardian of the child may lodge written complaint with SMC and SMC shall immediately resolve the issue and ensure enrolment of the child
- 2) In case of unavailability of facilities in the school, as per the provisions of the Act, affected person may give application to the local authority. After inquiry the local authority shall made it available to the District Education Officer. District Elementary Education Committee shall decide such cases as per the Act and shall make their recommendations available to the state government.
- 3) Complains against non-availability of free textbooks, writing material or uniform shall be registered with SMC. In case of inaction of SMC parents/guardian of the child may appeal to the local authority.
- 4) Any complaint against any type of discrimination by the school/teacher shall be made primarily to the SMC. In case of inaction of SMC parents/guardian of the child may register first appeal to the local authority and second appeal to the District Education Tribunal.
- 5) Complaint against illegitimate deputation of teachers or involvement of teachers in tuition/coaching shall be reported to the local authority. In case of inaction of the local authority an appeal shall be made to the District Education Tribunal.
- 6) In case of not obtaining certificate of completion of elementary education, complain can be made to the SMC. In case of inaction of the SMC an appeal shall be made to the District Education Tribunal.

3. State advisory council

THE ACT STATES

- 33 (1) The Central Government shall constitute, by notification, a National Advisory Council, consisting of such number of members, not exceeding fifteen, as the central government may deem necessary, to be appointed from amongst persons having knowledge and practical experience in the field of elementary education and child development.
- (2) The functions of the National Advisory Council shall be to advise the central government on implementation of the provisions of the Act in an effective manner.
- (3) The allowances and other terms and conditions of members of the National Advisory Council shall be such as may be prescribed.
- 34 (1) The state government shall constitute, by notification, a State Advisory Council, consisting of such number of Members, not exceeding fifteen, as the state government may deem necessary, to be appointed from amongst persons having knowledge and practical experience in the field of elementary education and child development.
- (2) The functions of the State Advisory Council shall be to advise the state government on implementation of the provisions of the Act in an effective manner.
- (3) The allowances and other terms and conditions of members of the State Advisory Council shall be such as may be prescribed.

Punjab, Tamil Nadu and Nagaland omit a reference to the formation of the SAC. The rest of the states have made a provision for a State Advisory Council to be set up as a counterpart to the National Advisory Council. A detailed analysis of the specific constituent members, their entitlements and other similar operational issues of each State has not been made.

C. Some implications based on analysis of the rules

Policy implications

The provisions regarding the setting of redress mechanisms for the Act would have been expected to form the most critical component that would ensure the legislation's implementation. In contrast to that expectation, the sections pertaining to redress are among the weakest in the rules and have seen considerable further dilution. A few states have also opted to remove a reference the setting up of the SACs which is a cause of concern. Together these developments point towards the reluctance of the state to implement robust accountability systems. It is imperative to ensure that a strong and clearly delineated mechanism for redress is put into place to deal with both instances of individual complaints and manifestations of large scale systemic failure to adhere to the Act's provisions and deliver quality education. Failure to ensure such an administrative and quasi judicial route would only leave the judicial route open relying on the already over burdened courts as a modus of conflict resolution and redress.

Positives

- Credit goes to the state rules of Rajasthan, Uttarakhand and Uttar Pradesh for having included mechanisms for redress in its rules. The delineation of mechanisms for appeal and an actual procedure for how complaints are to flow from the grassroots to the State and national level is a positive feature. The placement of these provisions in the rules rather than placing this aspect under operational guidelines or circulars by these states gives them additional sanctity.

Concerns

- Madhya Pradesh, Punjab and Tamil Nadu omit provisions pertaining to REPA and SCPCR in their state rules – ironically despite Madhya Pradesh actually having an SCPCR in place. Several states omit a timeline for the formation of the REPA

¹² A government order has been issued for nomination and formation of the same. The actual SCPCR is not yet in place.

and no state has a provision laying down a timeline by when the REPA would be converted into a full-fledged SCPCR.

- Three states have omitted provisions laying down the formation of a SAC.

CONCLUSION

The RTE Act came into force in April 2010 and with a timeline of three years to implement all of its provisions, except those pertaining to teacher training. This deadline is 2015. However, despite this, in reality the ground situation has not improved in substantial ways with barely 10% schools compliant with the entire set of RTE norms at the end of the RTE's 2013 deadlines.

The implementation of the RTE Act, consequently, presents a classical example of the creation of an implementation gap between policy and its implementation. The gap persists for two sets of reasons- the actual provisions under the Act and the modalities of their implementation.

A detailed analysis of the processes of drafting of the parent act and the subsequent delegated legislation is outside the purview of the present document. However, the same has not been very participatory in its nature and the continued persistence of centre-state discord over the Act's implementation had lowered its legitimacy and the sense of ownership of those tasked for its delivery. The limited efforts made towards building awareness of its provisions (and more critically, the spirit behind the same) among both the staff on the ground tasked with the Act's implementation and indeed even the drafters of the respective state rules has also lead to confusion and misinformation on a few aspects.

From the review of all state rules it is clear that considerable variety exists in how the states intend to carry forward the agenda of implementation of the parent RTE Act. There is also considerable variety in the extent to which the multiple state rules have remained faithful to the spirit of the RTE Act.

This was anticipated and indeed expected for an issue that is on the concurrent List in a largely federal education system. Not all deviations are necessarily negative aberrations, but are actual positive provisions that would strengthen the implementation of the provisions. A case

in point is that of West Bengal which has delineated 2 km as the distance for upper primary schools. Or take the expansion on the provisions for early childhood education in the Gujarat state rules or the planning specifically for education of children in areas of conflict in Andhra Pradesh. There are several other examples. These positive provisions may be used by other states while implementing these provisions in their own areas.

However, a large part of the adaption in several states has taken the form of omissions of certain clauses from the model rules. Thus, the omission of provisions pertaining to entitlements for persons with disability does not amount to a process of contextualization of the provisions, but rather deliberate omissions. These are usually provisions with cost implications or provisions where penal clauses may be applied. Systemic inertia has been the predominant factor in those states.

This inertia may have two reasons: the precarious financial situation of the state government and operational difficulties in bringing about far-reaching change in the structure of an education system whose functioning has remained unchanged for decades.

Financial allocations are inadequate for the Act's timely roll out. The Parliamentary Standing Committee on Human Resource Development highlights severe shortfall between the projections of the MHRD and actual allocations. In 2013-14, the projected cost for the implementation of SSA and RTE was Rs. 50,000 crores, which contrasts with an actual allocation of 27,258 crores.¹³ Allocations were further reduced by Rs. 26608 during the course of the year 2013-14.

The central government's failure to make adequate investments for the Act's implementation is compounded by the poor fiscal status of states, which are unable to find the resources needed to take proactive steps. The progress of implementation during the first year was severely affected by a long negotiation over cost-sharing between the centre and states. At last, an agreement was reached on a share of 63:35 for non-NER States/UTs and 90:10 for

¹³ <http://164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20HRD/253.pdf>

NER (North Eastern Region). However, almost half of all states/UTs (16) are currently unable to find the resources needed to meet their own share. The 16 states include several of the most populous states – Andhra Pradesh, Bihar, Chandigarh, Himachal Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Odisha, Punjab, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal together amounting to a backlog of 1812.48 crores as on 31st December 2012. This is a central reason for the omission of several provisions of the model rules in state rules. Issues like the formation of permanent cadres of trained and professional teachers would have long term and recurring cost implications for states and have thus been undermined.

In contrast, 18 states/UTs have released excess state share amounting to 2519.10 crore as on 31 December, 2012. These States/UTs were Andaman & Nicobar Islands, Assam, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Goa, Gujarat, Haryana, J&K, Jharkhand, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Nagaland, Puducherry, Rajasthan and Uttarakhand. While these typically have a relatively smaller implementation gap, not all states failing to meet their shares are the most fiscally challenged and not all states that are making excess contributions are consistently better off.

In a federal system where central intervention may not be welcome and where the educational provisions have been delivered through a particular mode for over 60 years, it is not surprising that there may be inertia in the face of the necessity to implement the provisions. Systemic change in an education bureaucracy takes time to bring about where existing ways of working need to be altered. The central legislation appears to not have been adequately owned by several of the state systems leading to a rather superficial process of adaptation of the provisions. However, the time bound nature of the Act makes it necessary to implement the provisions in accordance with the legislation's mandate. The lack of urgency and frequently thought on the operational aspects of the Act's provisions has rendered implementation difficult.

There are also instances where the Rules violate the parent Act. Thus, the heavy reliance on standardized testing and the development of an effectively new set of school recognition criteria in Gujarat is an example where the provisions

violate the parent Act. There are several others.

The reference to Gujarat rules as having both positive and negative provisions is illustrative of the fact that there are no real RTE champion states where one can say that all the provisions are exceptional in nature. Similarly, there are no States whose rules can be described as being bad in all respects. The picture that emerges is complicated and probably is reflective of the overall complexity of education programming across the country. The need to recognize this diversity and address the multiplicity of factors in order to overcome the implementation gap for this legislation is one of the critical insights of the exercise.

The preceding pages of the document highlight several specific issues. Given the wide variety of the content and the number of states, it is easy to drown in the minutiae of the specific provisions on specific issues. However, some major cross cutting issues emerge that have wider implication for the implementation of the RTE Act, or indeed any other legislation of similar nature.

- ***Problems with the modalities of delegation of powers to the community.***

- While paying lip service to the principle of community participation, several states have brought in provisions whereby the decision making powers are left with the administration. A mechanism to empower community based structures – SMCs and Local Authorities (PRIs and ULBs) is needed to ensure that they retain decision making powers.
- SMCs have been vested with a wide range of powers and tasked with a range of tasks. Indeed, many states have added a range of responsibilities on top of the ones they are already expected to play. However, only two states explicitly speak about building their capacity to take on these enhanced roles. While doing so may not have been explicitly expected under the model rules, the current experience of the implementation of the RTE Act has been that processes of SMC capacity building have not really changed drastically from the way they were implemented for the VECs and other pre-RTE structures. SMC should be provided the

training and support required to allow them to play the role expected from them.

- Several states place financial powers in the hands of the SMC. Given the literacy levels of SMC members and the overall lack of capacity enhancement efforts, this is something that requires particular attention. Measure should be taken to build their financial literacy and increase transparency and accountability through social audits notably.
- A corollary of the above issue is the fact that several tasks hitherto vested with the government have been delegated to community representatives that are neither empowered with the necessary skills or the funds or the rights within the administration. Thus, it is unclear how the SMC in Uttarakhand would actually identify children with disability and provide inclusive education to the same or how its neo-literate parent members would immediately review the CCE (continuous and comprehensive evaluation) practiced in schools. These are tasks that are usually performed by the administration, not parent volunteers. Consequently, additional tasks assigned to the community should be reconsidered to ensure the government's adequate involvement for areas requiring professional expertise.
- Fourteen states make provision for child participation in the SMC in some form. It would be essential to see how the unequal power dynamics of adults and children would be negotiated and whether these nascent beginnings to children's voices being heard becomes a practical aspect of work across India. MHRD needs to provide clear national operational guidelines in this regard.
- ***Unclear lines of responsibility and operationalization of provisions***
Several sections of the State rules continue to refer to assorted unnamed bodies – local authorities, appropriate authority or concerned academic authority. These have not been defined in the overwhelming number of cases, either in the state rules or in subsequent government orders. This makes it difficult to ascertain who is tasked to do what in

tangible terms for the implementation of the Act. The ambiguities and lack of detail make implementation difficult since there is no individual accountability has been laid down within the system. A majority of States have notified Local Authorities through government orders and circulars which are current domain. However, these are also fairly vague in terms of laying down specific responsibility and accountability for delivery of key provisions. At the same time, a concerted process of building awareness about the provisions under the Act and the specific roles to be played by these structures has also not been undertaken. Consequently, the State notifications need to be reviewed to ensure individual responsibility. This could be anchored by MHRD. At the same time, greater focus needs to be put on building capacities of local authorities and government officials in the concerned appropriate governments and academic authorities to enable them to undertake the roles expected. Budget for this would need to be set aside under SSA in its capacity of being the vehicle for delivering the RTE Act.

- ***Grievance redress remains a critical area of weakness in the Rules.***
One would have wished the State Rules to address the issue of lack of redress mechanisms in the Parent Act or model rules. However, this does not appear to have happened. A corollary of the lack of clear lines of responsibility is the lack of a mechanism for approaching concerned officials in case entitlements have not been delivered. While SCPCRs and REPAs are expected to be formed and take on a whole range of tasks, 11 states fail to mention any additional support will be extended to these structures. Only six rules mention the setting up of special RTE cells in the SCPCRs and REPAs and where these exist, there are issues of adequate staffing and financial outlays. In the absence of effective support systems, it is unclear what outputs can be delivered by these structures once set up. At the same time, the modalities of movement of complaints and indeed administrative action itself, is unclear at tiers intermediate between the SMC/LA and the SCPCR/REPA. Administrative redress mechanisms need to be laid down to facilitate the process. While a degree of detailing of some of these questions has been done under

specific state circulars and an advisory on the issue has been issued by MHRD, the roll out of these provisions has been particularly lackluster. Greater focus on institutionalizing grievance redress mechanisms is needed.

- ***Definitional issues of out of school children and detailing of implication for their special training.***

A critical issue of concern is the absence of a clear definition backed by a reliable figure of out of school children in India. The problem persists in a majority of states. The mention of attendance criteria in four states is a step in the right direction and needs to be emulated in others.

- ***Inadequate attention the implementation in and regulation of private providers.***

The RTE Act is expected to serve as an umbrella legislation that holds for both government and private schools. However, its application to the private sector remains weak. This is a critical omission given that by conservative estimates a fifth of all schools are in the private sector and that the extent of private schools is on the increase. At the same time, the reality of middle class flight from government schools (other than the special schools variety) has led to deterioration in their quality. If common ground is to be found between middle class and poor parents, the question of the functioning and inclusion in private schools cannot be ignored forever.

- Regulation of private providers. Most of the states have avoided the question of operationalization of the mass of RTE provisions to private schools. Thus, only Maharashtra and Tamil Nadu look into the modalities of the formation of the SMC in the aided schools. The rules are largely silent on the issue of working conditions of teachers in private (especially unaided) schools.
- The RTE Act's setting up of universal standards for all schools was expected to lead to the setting up of an enabling frame for all schools to obtain recognition through the setting up of a rational system of regulation and recognition. Many states, however, have just retained the existing mechanisms or laid down highly bureaucratic procedures.

- The reliance on private providers for undertaking core functions is evident in some states. The mention of PPP in the rules is a sign of this, and marks the extent to which the states try to avoid responsibility. One example is Gujarat with its mention of PPP for material development in textbooks and the intention to set up mechanisms for mass standardized testing of students.

Greater focus on the issues pertaining to the regulation of the private sector in elementary education is needed. Thus, within the RTE frame while several states have brought out separate operational guidelines for implementation of 25% reservation in private schools, the larger issue of regulation has been relatively neglected. Approaching the issue of RTE implementation, there is a need for detailed operational guidelines on this issue. These should look at the existing experiences of regulatory failure of private schools in several states and learn from the experiences. An augmentation of the school inspector cadre- enabling the inspector to play a more meaningful supportive role would be required. Current workloads and ways of working in the government supervisory cadres are not amendable to the creation of a rational regulation system.

- ***Continued inadequate attention to the issues of teachers.***

The present RTE Act was expected to play a critical role in the setting up of mechanisms for formalization of the teaching profession. However, this does not appear to be happening. The fact that so many states have omitted the statement of intent to ensure provision of working condition in a manner to maintain permanent teacher cadres is unfortunate. So is the fairly large number of states that omit mentioning the intent of the government to set up adequate teacher training institutions and enhance its own capacity to ensure availability of adequate numbers of teachers. The serious intent to address long pending issues regarding the teaching profession appears to be missing in a large number of states. Another critical issue for the future is the fact that 12 states omit the clause of parity of working conditions of special training teachers. The concern is that this would translate into the continuation

of two tiers of teachers in some of these states. Continued lack of recognition of the professional agency of teachers is likely to result in continued poor quality of the learning environment in schools. Immediate steps to augment teacher training systems in states in line with stated national policy positions and a process to institutionalize the formation of teacher cadres in states must be taken. Parateachers should no longer be hired and the those already hired should trained.

- ***Issue of inclusion: not really mainstreamed***

A large number of states have to a greater or lesser extent adhered to the provisions of the parent Act on the provision of inclusion. However, a corollary of this is that these provisions have also not been expanded. Four states omit clauses pertaining to entitlements to children with disability. A roughly equal number omits clauses pertaining to non discrimination in classrooms. Few states mention provision for child labour and migrant children in the rules. Andhra Pradesh is alone in mentioning educational needs of children in conflict areas in their state rules. State rules need to be adapted to address issues and concerns of specific marginalized groups in each state.

APPENDIX I: ROLES OF THE SMC

SOME PROVISIONS FROM THE ASSAM STATE RULES:

The SMC shall try to improve the learning achievement level of the children by (i) taking up micro-planning, school mapping and optimum utilization of locally available resources, (ii) ensuring that the school functions as per the approved academic calendar and (iii) paying special attention to the children of disadvantaged group and weaker section of the society.

ATTENDANCE MONITORING OF TEACHING AND NON-TEACHING STAFF:

- Absentee statement: The SMC shall monitor the attendance of the teaching and the non-teaching staff of the school and approve their monthly absentee statement. Since salary of the teachers and non-teaching staff of the school shall be disbursed on the strength of the absentee statement approved by the SMC, the SMC must meet one day before the last working day of the month to consider and approve the absentee statement of the teachers and the non-teaching staff of the school. A resolution to this effect shall be adopted in the prescribed pro forma indicating the dates on which the teacher/non-teaching staff was absent, come late or left early.
- Checking attendance register: The SMC shall have the 'power to check the attendance register of the teachers, non-teaching staff as well as the students and put remarks in the registers concerned.
- Application for casual leave: Application for casual leave of the teachers or non-teaching staff of the school should not be accepted by Deputy Inspector of Schools/Block Elementary Education Officer unless it has been endorsed by the president of the SMC concerned.
- Reporting to the higher authority: The SMC shall have the power to report to the competent authority by a resolution adopted by minimum of fifty per cent (50%) members of the committee, if a teacher is found not to be following the child centric and activity based teaching learning processes and the government instruction (s) regarding various academic activities. The Authority concerned shall be duty bound to take cognizance of the report and take necessary action against the teacher concerned with intimation to the SMC.

APPENDIX II: ADDITIONAL CRITERIA FOR RECOGNITION OF PRIVATE SCHOOLS UNDER RTE

WEST BENGAL MAINTAINS THAT THE APPLICANT SCHOOL SHALL

- Be located in a relatively noise free and pollution free area, having adequate supply of drinking water and electricity;
- Have a building usable in all weathers and the plan of the building sanctioned by the *Gram Pradhan* of the *Gram Panchayat*, in case of rural areas and by the Chairman of the Municipality or Mayor of the Municipal Corporation in case of urban area;
- Have playground for the students;
- Have a barrier free access as mentioned in the Schedule of the Act;
- Have class rooms of an area minimum 400 sq ft. (25 ft X 16 ft) each which is comfortable and suitable for Imparting lesson and of not less than the number of class units;
- Have good quality of separate lavatory for students and teachers and good quality of separate lavatory for girls students, if it is a co-educational school;
- Have a girls common room, if it is a girls or co-educational school;
- Have a teachers' room;
- Have adequate furniture so that students do not have seat more than three in a bench;
- Have a library with sufficient number of books (not less than 500) on literature and other subjects but excluding text books or notes thereon;

- xi) Have students' admission procedure and fees structure duly published by the School Management Committee;
- xii) Have arrangement for periodical medical check-up of students and records thereof;
- xiii) Comply with the rules and regulations and satisfy the minimum qualification norms set by the National Commission for Teachers' Education to the teachers' recruitment for the satisfaction of the recognizing authority;
- xiv) Have recruited teachers as per the staff pattern and qualifications specified by the State govt. or the Board with which it is affiliated whichever is higher;
- xv) Have a duly published service rules and leave rules for the teaching and non-teaching staff;
- xvi) Follow the provisions relating to disciplinary proceedings in the manner as may be directed by the Board;
- xvii) Have a determined the pay structure of its teaching and non-teaching in such a manner as may be directed by the State Govt.;
- xviii) Have provisions for contributory provident fund and gratuity to the teaching and non-teaching staff;
- xix) Have a fees structure for the students which cannot be enhanced without the prior permission of the state govt.;
- xx) Have a building separate staircases for entrance and emergency exit;
- xxi) have sufficient fire safety equipment's and have trained person among the staff for using the fire safety equipment's;
- xxii) Pay respect to the Indian Constitution and observe the National Anthem, National Flag and National Emblem and National Integration.

GUJARAT

- c) Every room used or proposed to be used, as classroom shall have minimum carpet area equivalent to 8 square feet for every student plus 60 square feet additional area for teaching.
- d) Subject to condition prescribed in clause (c), the carpet area of classrooms should not be less than 300 sq. ft provided that if one or more classrooms have carpet area less than 300 square feet. The student teacher ratio of the school shall not exceed the ratio formulated on the following formulae: Student-teacher ratio= (Area of smallest classroom in square feet- sixty eight).

KERALA

- (d) the school complies with the provisions in the Kerala Education Act and Rules issued there under relating to area, location and accommodation;
- (e) Malayalam is taught as a compulsory language in all classes;
- (h) the school provides barrier-free access and adapted toilets for children with disabilities;
- (i) the bio-metric identification details along with the Unique Identification Number of each child is maintained in the school;
- (k) the school does not run any unrecognized classes within the premises of the school or outside, in the same name of the school;

MAHARASHTRA

- (8) The schools shall be recognized or granted permission if they conform to the required norms standard prescribed in Schedule and conditions mentioned in sub-rule (1) only in those places where it is found to be an actual need, on the basis of school mapping.
- 9) Non-Govt. organizations and other institutions shall be encouraged to participate in improving the quality of infrastructure and quality of education in schools run by local authority.
- 10) Comprehensive system of evaluation for teachers and schools shall be implemented. The evaluation may be done by various ways like self evaluation, peer evaluation, etc. External evaluation shall also be conducted periodically after such time and time elapsed between two such evaluation shall not exceed more than 3 years.

APPENDIX III: ADDITIONAL MODALITIES OF RECOGNITION OF PRIVATE SCHOOLS UNDER RTE

GUJARAT: STANDARDIZED TESTING AS ADDITIONAL CRITERIA FOR RECOGNITION AND DE-RECOGNITION

Gujarat has mandated a fairly elaborate process, including reliance on standardizing testing as a criterion for recognition. In case where existing recognized schools are not able to fulfill norms regarding infrastructure due to physical limitations, relaxation may have to be given to such schools to protect the education rights of children. Such relaxation may be given only to those schools who achieve a certain level of learning outcomes as specified in the table below. This would entail a mechanism for such testing to be undertaken. One of the provisions is the creation of a committee officers or an independent body appointed by the Competent Authority consisting of 3 members to conduct on-site inspection of schools within three months of receipt of the self-declaration form and submit its report to the Competent Authority indicating whether the school fulfils the norms for recognition. For every 30-40 schools, one such committee shall be constituted. Schools that do not conform to the norms, standards specified may by paying a fee of Rs. 5000/- for second on-site inspection for the purpose of granting recognition. Those schools that do not meet the criteria laid down will be assessed in the subsequent years as against the 4 year interval for schools who meet the recognition criteria

Sr. No.	Requirement in Schools	Description	Weightage
1.	Student learning outcomes (absolute levels)	Using standardized tests, student learning levels focussing on learning (not just rote) shall be measured through an independent assessment.	30%
2.	Student learning outcomes (improvement compared to the school's past performance)	This component is introduced to ensure that schools do not show a better result in (1) simply by not admitting weak students. The effect of school performance looking good simply because of students coming from well-to-do backgrounds is also automatically addressed by this measure. Only in the first year, this measure shall not be available and the weightage shall be distributed among the other parameters	40%
3.	Inputs (including facilities, teacher qualifications)	Norms and Standards of Schools as specified in the Schedule of the Act	15%
4.	Student non-academic outcomes (co-curricular and sports, personality and values) and parent feedback	Student outcomes in non-academic areas as well as feedback from a random sample of parents shall be used to determine this parameter. Standardised survey tools giving weightage to cultural activities, sports, art shall be developed. The parent feedback shall cover a random sample of at least 20 parents across classes and be complied.	15%
			100%

THERE ARE SOME ISSUES WITH THIS PROVISION.

1. Violation of the Parent Act which lays down with a set of indicators as a basis for recognition. These existing provisions are being given only 15% weigh in the new framework.
2. Almost 70% weight is being given to the standardized student learning assessment. This goes against both the National Curriculum Framework (NCF) that forms the basis for the curriculum under the parent Act. Indeed, the NCF speaks of the end of formal testing, the introduction of constructivism and the move towards continuous and comprehensive evaluation.
3. Given that the existence of the school is going to be dependent on the learning levels of children, this amounts to the introduction of high stakes testing in schools. The negative impact of high stakes testing on the teaching profession and indeed the learning of students themselves has been documented in the past and this provision is clearly counter-productive.

4. The process for actually implement the process is fairly expensive (considering the current testing rates in India and considering the international experience where similar experiments of testing was introduced). This amounts to money used for actually improving learning levels being instead spent on undertaking testing. As has been pointed out by educationists across the word, testing is not teaching.

PUNJAB

- (5) The schools, which do not conform to the norms, standards and conditions mentioned in sub-rule (1), shall be listed by the District Education Officer by an order made to this effect, which shall be notified in the Official Gazette. Such schools may remove 40 per cent of the deficiencies with in a period of one year from the date of publication of the said order; and shall send intimation to this effect to the District Education Officer. However, such schools shall have to remove the deficiencies with in a period of three years positively from the date of commencement of these rules.
- (10) Any person, aggrieved by an order of refusal of the grant of recognition, may prefer an appeal to the Director with in a period of thirty days from the date of receipt of the order of refusal.
(II) The second appeal shall lie to the State Government against the order of the Director passed under sub-rule (10).

WEST BENGAL

The Director of School Education shall within 30 days from the date of submission of report by the District Level Inspection Team place it before the State Level Committee on Recognition or Affiliation of Schools constituted by the State government for consideration for granting a 'No objection Certificate' in favour of the applicant school seeking affiliation under any Board located in West Bengal or outside, as the case may be.

The State Level Committee shall meet at least once in every English Calendar month and shall dispose of the applications along with the report of the District Inspection Team under sub rule (8) of the preceding month of such English calendar month. While considering the applications along with the report, the State Level Committee shall hear the applicant of his/her authorized representative as well as the concerned District Inspector of Schools. If the Committee is of the opinion the applicant school has compiled with requirements for recognition, it shall within 15 days from the date of the hearing, recommend 'No Objection Certificate' in favour of the applicant school seeking affiliation under any Board located in West Bengal or outside. This shall be construed as the Certificate of Recognition for all purposes.

However, if it feels that the school does not fulfill all conditions it shall provide further chance of 3 months to the school to make good the deficiency pointed out by the Committee. The decision shall be communicated to the applicant school within 7 days from the date of hearing.

If the applicant school is able to make good the deficiency and communicates the same by a written application to the District Inspector of Schools concerned within the said 3 months, the District Level Inspection Team shall again inspect the school within 1 month from the date of such second application and shall submit its report to the Director of School Education only on the points of deficiency already noted by the State Level Committee within 15 days from the date of the 2nd inspection and on receipt of such report and also after give hearing to the applicant school and the concerned District Inspector of Schools and may recommend 'No objection Certificate' in favour of the applicant school seeking affiliation under any. In case the Committee is feels that the school still does not fulfill the criteria it may reject the case.

In case the applicant school fails to comply with all the conditions and requirements for recognition as laid down in the Form to Schedule I within three months from the date of first order of the State Level Committee, the State Level Committee shall reject the application of the applicant school and its processing fee deposited shall be forfeited. An applicant school may make an appeal to the state government against the decision of the state level committee within two weeks from the date of such decision and the state govt. shall convey its decision upon considering the grievance of the applicant within three months thereof.

All schools granted a certificate of recognition by way of 'No objection Certificate' shall display a copy of such certificate at a conspicuous place in the school all the time

In case of existing schools, the District Inspector of Schools concerned may, in consultation with the REPA request the local municipal authorities to provide the applicant school with infrastructural support including relaxation of building rules, if necessary and earmarking a public park or playground to be used by the students of the applicant school during specified hours for sports and other outdoor activities, in order to enable the applicant school to comply with requirements of the Act.

KERALA: SOME OTHER MISCELLANEOUS PROVISIONS

THE GOVERNMENT AND THE LOCAL AUTHORITY SHALL:

- Provide emotional and psychological counseling for all children by professionals in co-ordination with government departments like health and social welfare;
- Ensure that the medium of instruction is as far as practicable, in Malayalam or in the mother tongue: Provided that English as a subject shall be introduced from Class 1 onwards;
- The government and the local authority shall ensure that the conduct of classes in thatched buildings is discontinued within one year from the appointed date.
- The government and the local authority shall provide adequate funds as grants for the implementation of the School Development Plan, submitted by the School Management Committee as provided under sub-clause (2) of Section 22.
- The government and the local authority shall enhance the manpower and infrastructure facilities in the office of the Assistant Educational Officer so as to enable such officer to effectively discharge his duties under the Act.
- The government and local authorities shall ensure that:
 1. no child shall be harassed physically or mentally while transporting the children to and from school by conveyance arranged by the school authorities;
 2. the vehicle shall not be overcrowded by pupils or unfit for transport;
 3. No vehicle shall be used or driven in violation of the provisions of Motor Vehicles Act and Rules thereunder.

APPENDIX IV: SETTING UP OF STATE-WIDE STANDARDIZED TESTING MACHINERY IN THE STATE

Emphasis on learning outcomes: Several states have mentioned the role of the academic authority for measurement of learning outcomes. Gujarat, Tamil Nadu, Kerala, Uttarakhand and Uttar Pradesh are some examples of states that have made specific mention of learning outcomes as a basis of school assessment. What is striking about Gujarat, however, is the detail to which the single strand of learning outcomes on a few indicators have been given weightage over and above the remaining indicators.

The state SCERT is expected to develop a curriculum and evaluation procedure. The result of various evaluations shall be used to know the progress and development of the students and performance of teachers. Given that the rules do not specify what impact on career and other progression this testing will have, it is unclear whether this testing is going to be high or low stakes testing. However, given the experience of mass scale testing has on the teacher profession in the west (without bringing any improvement in learning outcomes), it is unfortunate that a failed policy is being replicated here.

The SCERT is expected to define the learning outcomes to be achieved by the children at the end of each grade and for every subject and approve State text books or learning materials and teachers training materials based on these outcomes. The GCERT is expected to devise special training-education programmes for these children, based upon test reports, who have not been able to reach the expected learning levels. Teachers through inputs provided in in-service training shall implement these programmes. The mechanisms whereby this is going to happen are unclear.

Furthermore, periodic assessments of the quality of education in terms of learning outcomes are expected to be done to produce a report. The Government shall also set up an independent organization or wing, to undertake periodic assessments of the quality of education and produce a report about the "School Education Quality Status" in School of Gujarat State. The Government shall make arrangement to periodically grade every elementary school in the state on a point scale on a set of quality parameters, including co- and extra-curricular activities, and improvements shown over years. It is unclear where the extra costs for undertaking unproductive mass scale testing are going to be met from.

In addition, as discussed in the section on the regulation of private schools, the basis of recognition of private schools has been altered from the provisions of the parent Act to include learning outcomes as ascertained through testing using standardized tests. Agencies for such testing shall be identified as per the state rules.

APPENDIX V: DETAILS OF THE 25% QUOTA

AP	Haryana	Tripura	Kerala	Karnataka
<p>(a) <i>Disadvantaged groups (Plain Areas)</i></p> <p>Orphans, HIV affected and disabled = 5%</p> <p>SC = 10%</p> <p>ST = 4%</p> <p>(b) Weaker sections which includes others viz., BC, Minorities, OCs (whose annual income does not exceed Rs. 60,000/- per annum) = 6%</p> <p>Total = 25%</p> <p>Where orphans, HIV affected and disabled are not available or available only to a certain extent such vacancies will be filled by STs and SCs. After exhausting all applications for admission of Orphans, HIV affected and disabled, SC and ST if any seats remain unfilled such seats will be added to the percentage of weaker sections.</p>	<p>5% seats for children of Scheduled Castes 4% seats for children of Backward Classes (A) and 2.5% for children of Backward Classes (B) category shall be reserved for weaker sections and disadvantaged group.</p>	<p>(4) Admissions shall be made in such a manner that there is proportionate representation of the children belonging to weaker sections and disadvantaged groups as may be the population of the neighbourhood.</p>	<p>While filling up the seats in Class I the admission of children from disadvantaged groups and from weaker sections of the neighbourhood shall be in the ratio of 1:1. Provided that in the absence of students in any one category, such shortage shall be filled up from children from the other category.</p>	<p>The government shall notify the percentage of allocation across various categories.</p>

APPENDIX VI: PROVISIONS FOR GRIEVANCE REDRESS UNDER RTE STATE RULES

RAJASTHAN

Grievance redress for children/ parents:

- 1) Any grievances arising out of non-compliance or violation of the provisions of the Act shall be made directly to the Chairperson of the SMC.
- 2) The SMC shall make an arrangement to register every grievance received from the children/ guardian/ parents.
- 3) The Chairperson of the SMC shall take up the issues raised in the complaint in the regular meetings of the SMC and shall take appropriate actions thereupon: Provided that an emergency meeting may also be called depending upon the gravity of the case.
- 4) The applicant shall also be called in the meeting of the SMC and shall be given personal hearing.
- 5) The SMC may also call and give a persona hearing to the person against whom the complaint is received.
- 6) After giving proper hearing to both the parties the SMC shall take appropriate action if it is to be taken at its level or otherwise it shall refer the matter to the concerned appropriate authority for further appropriate action.
- 7) The appropriate authority shall take proper action and inform the applicant within a period not exceeding three months.
- 8) If the applicant is not satisfied by the actions taken as mentioned in sub-rule 6 & 7, he/she may approach the Rajasthan State Commission for Protection of Child Rights/ National Commission for Protection of Child Rights.

UTTARAKHAND

District Education Officer and shall provide a copy to the related School Management Committee within a month of the complaint. The DEO shall decide the matter within a period of two months and shall inform accordingly to the related School Management Committee. If the charges laid down against the teacher are found proper, the disciplinary action in accordance to the service rules shall be taken by the District Education Officer. If the School Management Committee is not satisfied by the inquiry of deputy Block Education Officer/Block Education Officer then it may make an appeal through Chairperson of the Executive Council, to the District Education Officer or State Commission for the Protection of Child Right (SCPCR) constituted for the effective implementation of Right of Children to Free and Compulsory Education Act, 2009 by the approval of at least 30 per cent members of the Executive Council;

UTTAR PRADESH

Initially a complaint shall be made to the Village Education Committee/Ward Education Committee through its member secretary. After decision of VEC/WEC appeal may be made to the block Assistant Basic Shiksha Adhikary/Nagar Shiksha Adhikary, as the case may be. Second appeal may be made to the Zila Panchayat under section 10 for matter related to rural areas or Municipality under section 10A for matter related to urban area of the Uttar Pradesh Basic Education Act 1972. All complaints shall be monitored by Uttar Pradesh Basic Shiksha Parishad through transparent and prompt action on line mechanism.



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