



RIGHT TO FREE AND COMPULSORY EDUCATION

DELIVERING THE PROMISES OF THE LAW

In 2009, the Right of Children to Free and Compulsory Education Act (RTE) outlined the government's obligation to guarantee eight years of free, quality education to all children aged six to fourteen years. Since its enactment, the landmark legislation has promoted considerable progress, but has on the whole failed to deliver on its full promises. Political will to ensure time-bound implementation has been inadequate; and reforms are required to enforce compliance, institutionalize mechanisms of grievance redress, support community oversight, and ensure social inclusion.

Summary

Achievements in the past three years have been meaningful. Enrolment at the primary level is reaching 100 per cent among girls and boys. Transition rates from primary to upper primary have increased overall, and among girls specifically. Tens of thousands of schools have been built, more teachers appointed, and more schools equipped with toilets for girls, as well as drinking water facilities.

Despite these successes, the Right to Education Forum's Stocktaking Report 2013 shows that progress on the ground has not lived up to expectations.¹ As the country passes the three-year deadline for meeting basic infrastructure requirements, the number of schools that comply with all RTE norms has not progressed much beyond the 4.8 per cent figure of 2010 – recent media reports mention 8 per cent.² Furthermore, efforts and funds have focused on developing school infrastructures, while issues pertaining to quality have been neglected. Many states have resorted to quick fixes instead of addressing systemic weaknesses of the education system: the training of teachers has been neglected, and the growing practice of appointing para-teachers on short-term contracts aggravates the problem. Learning outcomes reflect these shortfalls: more than half of the children in class five have learning outcomes at least three grade levels below their actual grade.³

The year 2013 marks the failure to achieve the first milestone for the implementation of the act. The next milestone in 2015 will be another unfulfilled promise if the government fails to demonstrate its political will by adopting a set of concrete steps.

Recommendations

1. Implement a clear roadmap to ensure compliance of RTE norms on infrastructure and teachers' training.
2. Allocate adequate resources for the effective implementation of the act.
3. Establish a comprehensive grievance redressal system that links all levels, from School Management Committees (SMCs) to the National Commission for Protection of Child Rights.
4. Promote bottom-up planning at school level and build capacities of SMCs.
5. Address discrimination against vulnerable children – girls, socially excluded groups and children with disability.

Genesis of the act

As early as 1950, the Directive Principles of State Policy, part IV of the Constitution, called on the government to achieve children's right to education within a timeline of 10 years. However, the constitutional promise has remained unfulfilled for decades. India's public education system failed to provide quality education and social inclusion. The Global Monitoring Report 2012 ranks India a low 102 out of the 120 countries on the Education for All (EFA) Development Index, based on progress related to universal primary education, adult literacy, gender parity and the quality of education.⁴

In 2002, following concerted civil society mobilization and interventions by the Supreme Court, Article 21A on the right to education was inserted in the Constitution, as part of

the right to life. In April 2010, the Right of Children to Free and Compulsory Education Act came into effect. The law compelled the government to provide free education to children aged 6 to 14 years, but left children above and below this age group outside its purview. It also failed to address the fundamental structural inequalities in the education system, retaining different tracks of schooling for the rich and the poor.

Provisions such as the prohibition of discrimination, instruction in the mother tongue, and the implementation of continuous and comprehensive evaluation were to come into force immediately. Standards of school infrastructure were to be met within three years and teachers adequately trained within five years. The country has missed the first milestone on 31 March 2013; reaching the 2015-milestone on teachers' training will require urgent interventions at unprecedented scales.

► **Implement a clear roadmap to ensure compliance of RTE norms on infrastructure and teachers' training**

Since the RTE act came into force, 0.4 lakh schools were constructed;⁵ 7 lakh additional teachers were recruited; 5 lakh toilets were built and 0.3 lakh drinking water facilities set up.⁶

While significant, these figures are inadequate considering the gaps. According to provisional data from the District Information System for Education for the year 2012, about one-third of schools still do not have functional toilets for girls, about half of them have ramps for children with disability, playgrounds, or kitchen sheds for the midday meal;⁷ 5 per cent of households simply do not have a school within walking distance of 1 km.⁸ The percentage of schools that comply with all RTE norms on infrastructure and teacher availability was 4.8 in 2010,⁹ and has increased to 8 per cent according to recent media reports.¹⁰ At current rates, it would take another 60 years to ensure that all schools are RTE compliant.

Under-staffing and poor training of teachers is particularly worrisome. Across the country, 41 per cent of primary schools do not meet the prescribed Pupil-Teacher Ratio (PTR) of 30:1 in primary classes and 35:1 in upper primary classes; this figure is as high as about 78 and 88 per cent in Delhi and Bihar.¹¹ About one in four teachers lack basic qualifications, and the percentage of professionally qualified and regular teachers has reduced in 10 states including Jharkhand, Assam, Punjab. The permission to continue hiring unqualified teachers in the absence of training infrastructure that was granted to 13 states, including the populous states of Uttar Pradesh, Bihar, Madhya Pradesh and Odisha, may further undermine their limited efforts ahead of the 2015 deadlines. The tendency of appointing teachers on short-term contracts also contributes to undermining long-term efforts to build a qualified faculty. The implementation of less tangible provisions,

such as continuous evaluation and instruction in the mother tongue, has been even slower.

Another loophole is the failure to address the issue of out-of-school children. The absence of a homogenous definition and the lack of an effective mapping and tracking system translate in diverging data: according to official government estimates for the year 2010, 27 lakh children are out-of-school. In contrast, the Ministry of Human Resource and Development estimated their number at 160 lakh;¹² and the National Sample Survey Organization counted 49.8 lakh child labourers.¹³ Interventions to integrate these children are inadequate.

The absence of clear operational guidelines that lay down modalities of implementation at the local level is among the causes for this situation. Local administrations are left to interpret guidelines of implementation. The lack of coordination between state and central administrations and among relevant departments – Education, Tribal Affairs, Labour, Women and Child Development, and Social Justice – is another challenge. Moreover, authorities have failed to monitor the implementation of the act – no more than one in two schools were inspected during the past year.¹⁴

A concrete roadmap is needed to achieve the goals that were missed on 1 April 2013 and plan for the 2015 deadline. Centre and state governments should agree on a clear framework that lays down modalities of implementation, and is backed by robust monitoring, accountability mechanisms and adequate funding.

► **Allocate adequate resources for the effective implementation of the RTE**

Allocations towards the RTE fall short of the requirements. Overall public expenditures for education, at less than 3.5 per cent of GDP,¹⁵ is much below the 6 per cent figure committed in subsequent National Education Policies.

Financing the implementation of the act has been a cause of tension between central and states governments. In the absence of adequate and stable resources, authorities have often resorted to ad hoc financial means. To a large extent, the central government has relied on an education cess that was originally meant to cover additional expenses. State governments, which do not have access to such alternative resources, have repeatedly claimed that they lack the required resources.

Additional allocations should back a coherent distribution of financial burdens between state and central governments. At the same time, bottlenecks – such as delayed disbursement and shortage of finance staff – need to be addressed: the percentage of overall allocations that was spent under Sarva Shiksha Abhiyan (SSA), the flagship programme that has channelled most funds for the implementation of the act, was only 61 per cent in 2011, less than in the previous year.¹⁶

► Establish a comprehensive grievance redressal system

The National and State Commissions for Protection of Child Rights are responsible for addressing grievances. As of April 2013, seven states had not set up such commissions, including Uttar Pradesh, Kerala, Gujarat and Tripura; existing commissions lack adequate resources and staff. At the local level, many states have not notified authorities for registering grievances. Furthermore, procedures to deal with complaints at the district and block levels have not been defined in most states. As a result, the number of registered grievances has remained very small and redress has been slow: in 2013, the Delhi commission had registered 557 complaints over the past three years, out of which 116 had been solved.¹⁷

A comprehensive framework should define responsibilities, timelines and penalties. At the grassroots level, community structures such as the SMCs and local governments must be entitled to receive complaints and refer them to relevant bodies. At intermediate levels, personnel from education departments and other agencies involved in the implementation of the RTE must be trained to deliver support and ensure speedy resolutions of complaints. At the national level, the autonomy of state and national commissions need to be enhanced.

► Promote bottom-up planning at the school level and build capacities of SMCs

The act provides for the creation of SMCs, committees of parents and locally elected representatives involved in monitoring and planning school activities. This measure has the potential of empowering stakeholders likely to drive reforms in the best interest of children. However, in reality, the impact of the provision remains limited. In 2012, less than two-thirds of schools had SMCs in place.¹⁸ Overall, the involvement of committee members in planning and monitoring remains weak;¹⁹ instead, school teachers and administrative machineries have retained control.²⁰ The involvement of locally elected representatives has also been neglected. Panchayati Raj institutions – village-level elected assemblies – have been tasked to hold special meetings on RTE, but no provision was made to train Panchayat members.²¹ Similarly, the role of local tribal governance structures in 5th and 6th Schedule Areas has received inadequate attention.

For the RTE to gain traction among communities, the above weaknesses need to be addressed and modes of formation of SMCs need to be made more transparent. The relations between local government bodies and SMCs should be strengthened, notably by linking school development plans and village plans, which will then feed into the block and district planning processes.

► Address educational inequality and ensure inclusion of vulnerable children

Average years of schooling vary tremendously across income groups: it was about 11 years among children from the richest quintile and about 3.4 for the poorest quintile. The difference between boys and girls also varies between quintiles: it is just above 2 years for girls in the poorest quintile and about 5 years for boys. In contrast, the difference between boys and girls in the top quintile is only 0.02 year.²²

Socially excluded groups face specific challenges. Among Adivasis, 29 per cent of girls and women (aged 5 to 29) never attended school. The figure was 28 per cent for Muslims and 25 for Dalits, against the national average of 21 per cent.²³ For Adivasis, discrimination and physical obstacles to accessing schools in remote regions are among the causes accounting for this situation. Muslim children face discrimination by peers and teachers, and the lack of Urdu teachers results in their concentration in a limited number of schools, with even fewer opportunities for upward progression towards secondary schools; inadequate provisions for instruction in the mother tongue also acts as a barrier for tribal, migrant and urban poor communities. Dalit children face specific discriminations – they are often prevented from sitting and eating with others, are rarely appointed class monitors, and are frequently tasked with cleaning classrooms.²⁴

The commitment to change classrooms into an inclusive space should translate into a set of concrete measures: special bridge courses should be available to children who need it; seasonal hostels and onsite facilities should be available to migrants; recruitment and training of teachers from marginalized communities should be supported, and existing teachers sensitized to the diverse needs of children; teaching material in the child's mother tongue should be developed. Beyond this, education provisions in the 15 Point Programme for Minorities, as well as recommendations for ending discrimination in education by the National Advisory Council²⁵ and the Ministry of Human Resource Development need to be implemented. Double standards within the government education system should be addressed by bringing all schools to the standards of the Kendriya Vidyalayas catering to central government officials.

The growing number of children enrolled in private schools further deepens the divide: better-off families turn to private schools, while the poor remain confined to a neglected public system. The RTE act aims to limit this divide by providing a 25 per cent reservation for poor and marginalized children in private unaided schools. However, the RTE Forum Stocktaking Report 2013 suggests that the clause is poorly implemented. Furthermore, it reports severe discrimination against children admitted under this provision. Adequate checks and balances are needed to ensure that private schools comply with the requirement, as well as with other obligations under the act.

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This brief was written by: Shyam Singh, Research Coordinator; Anjela Taneja, Programme Coordinator – Education; Lucy Dubochet, Research Manager; with contributions from Sanjay Suman and Shirin Naseem, Programme Officers – Essential Services.

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Oxfam India, 4th and 5th Floor, Shriram Bharatiya Kala Kendra, 1, Copernicus Marg, New Delhi 110001
Tel: +91 (0) 11 4653 8000 www.oxfamindia.org

For comments and questions, please write to: policy@oxfamindia.org; for further information, visit our website: www.oxfamindia.org.