

KEY QUESTIONS : RIGHT TO EDUCATION BILL, 2005

Context: The Ministry of Human Resource Development, Government of India has proposed a draft Right to Education Bill 2005. This is a follow-up to the 86th Constitutional Amendment passed in 2002 making education for every child between the ages of 6-14 years, a fundamental right.

Your detailed responses to the questions below, will be critical in shaping the content of the Briefing Note that Parliamentary Research Service will prepare and send to all Members of Parliament, a number of civil society organizations, the corporate sector and the media. On receiving your responses, and those of a select group of experts who have been requested to provide inputs on this Bill, PRS will work towards producing a Briefing Note which presents a balanced view of the feedback from the experts.

We therefore urge you to

- (a) Cite evidence, to the extent possible, to support the arguments that you are making. Solid evidence will strengthen your arguments immensely.
- (b) List in detail all the sources that you have referred to, or quoted from (including author, title of paper/ publication, publisher, date, etc.).
- (c) Make use of data, tables, graphs that are easily understandable, to support or substantiate your arguments.

Key questions for your consideration**Equity and Quality**

1. The Bill seeks to provide elementary education of “*equitable quality*” to all. However, the terms ‘equitable’ and ‘quality’ have not been adequately defined. What implications does this have for the both equity and quality of elementary education? [Refer: Preamble; Chapter 1, Clause 2 (p); Chapter 3, Clause (5)(iv)]
2. The Bill makes it possible for out-of-school children to enter into the age appropriate grade, no later than three years of their joining school. The Bill proposes a policy of no detention irrespective of learning outcomes of children. Is there any evidence (Indian or international) on the effect of such ‘automatic pass policy’ on learning outcomes? [Refer: Chapter 2, Clause 3 (2), (3) and (5); Chapter 4, Clause 26]
3. The Bill states that “*If a school other than a State or fully-aided school, fails to comply...*” with the prescribed standards, then such school will forfeit its recognition. By design, State schools are allowed to get away with lower standards – where is the question of ‘equity’ in such a situation? [Refer: Chapter 4, Clause 18(4)]
4. The pre-primary stage is not covered under the right to education and the State is not obligated to ensure access to education at this level. However, partly aided and unaided schools with a pre-primary section are obligated to allocate 25 per cent seats to weaker sections (with funding support from the government). Does this create inequity between children fortunate to obtain admission in such schools and others who have no access to pre-school at all? [Refer Chapter 4, Clause 14 (1) and (2)]

5. The Bill states that “*No court shall take cognisance of an offence under this Act, except on a complaint made by a person authorised by the Appropriate Government in this behalf.*” Does this mean a parent cannot seek legal recourse for her child, or a concerned citizen/ group cannot approach the courts directly? [Refer: Chapter 7, Clause 51(k)]

School Management

6. The School Management Committee (SMC) is expected to gain substantial leverage on the functioning of the school. Several variants of this have been tried out in India (such as the Village Education Committees in several states, School Development and Management Committees in Karnataka) and in other countries. What is the evidence on the capability of such committees to perform the duties assigned to them? Are there tasks that they are able to perform relatively easily, but face difficulty in discharging other tasks? [For example, the SMC is required to “*disburse salary to teachers*” and “*deduct payment for any unauthorised absence*”. By any yardstick, this can be a highly technical task, given the relatively complex nature of government leave and salary structures.] [Refer: Chapter 4, Clause 22 (4)(iv)]
7. The constitution of SMC does not at this time mention the presence of women members or the compulsory retirement of every member after a fixed term in office. Are these elements significant for the performance of the SMC? Is there any evidence in this regard? [Refer: Chapter 4, Clause 22 (2)]
8. The Bill states that if a parent/guardian persistently does not enrol his child in school, “*the SMC may direct such parent/guardian to perform compulsory community service by way of child care in the school, in such manner as may be prescribed.*” Since the SMC is formed for a particular school, it is not directly responsible for children not enrolled in the school. According to the Bill, it is the responsibility of the local authorities to ensure that every child residing in its jurisdiction participates in elementary education [Clause 12 (ii)]. Who should deal with parents who do not send their children to school – the SMC or the local authority? What are the implications of such a measure? [Refer: Chapter 7, Clause 50(2)]

Minority Schools and Children with Special Needs

9. Children with “*severe or profound disability,[who] cannot be provided elementary education in a neighbourhood school, shall have the right to be provided education in an appropriate alternative environment as may be prescribed*”. What are the implications of this commitment? What are the logistics that will need to be taken into account for such cases. [Refer: Chapter 2, Clause 3(1); Chapter 3, Clause (5)(v)]
10. Do minority community schools come under the purview of this Bill? Is there any conflict with Articles 29 and 30 of the Constitution? What are the implications for the curriculum, other standards on teacher pupil ratio, etc. and governance structures in these institutions under the new law? How does the clause dealing with 25 percent seats for weaker sections in unaided schools apply to these schools? [Refer: Chapter 1, Clause 1(3); Chapter 3, Clause 10(2)(v); Chapter 4, Clause 22 and 14 (iii)].

Private Unaided Schools

11. The State has directed unaided schools to admit at least 25 per cent of their students from weaker sections of society. What are the implications of such a move for equity, private schools, etc.? [Refer: Chapter 4, Clause 14 (1)(iii)]

12. What is the basis for the 25 percent reservation? What is the evidence on assimilation of children from weaker sections of society in unaided schools? How will such a move impact the finances of parents from weaker sections and of unaided schools? Can you cite any technical papers or case studies on this aspect? [Refer: Chapter 4, Clause 14 (1)(iii)]
13. The state proposes to reimburse to the unaided “...school at a rate equal to the per child expenditure in state school/fully aided schools and state funded pre-schools...”. What is the basis for computing the cost of education in state schools? For example, in urban areas, the per child expenditure in municipal schools is very high compared to the national average. [Refer: Chapter 4, Clause 14(2)]
14. The Bill seeks to allow the opening up of private schools only after “certification from a Competent Authority”. This form of ‘licensing’ has hitherto resulted in rent-seeking opportunities for those who provide the license. Can there be other governance structures that can be developed that not only ensure standards in educational institutions, but also minimise rent-seeking opportunities? [Refer: Chapter 4, Clause 17(2)]
15. The Bill stipulates as a principle that schools shall “use the child’s mother tongue as the medium of instruction as far as possible, at least during the first five years of the elementary stage”. What are the implications of such a move for unaided schools? [Refer: Chapter 5, Clause 29(ii)(c)]

Finances

16. How will the Centre and the States coordinate and be held accountable, with respect to both educational outcomes and finances? If either the central or the state governments fail in fulfilling their obligations, what recourse is available according to the Bill?
17. What are the implications of the Bill on the finances of the central and state governments? How will adequate provisions be made for the expected increase in expenditure?
18. Government estimates with regard to the **additional** cost of realising the fundamental right to education have varied over the years: the draft 83rd Amendment bill of 1997 indicates average annual expenditure of Rs 8,000 crore per year over five years. The Tapas Majumdar Committee 1999 pegs this figure at Rs 13,700 crore per year over 10 years, while the 93rd Amendment Bill of 2001 lowers this to Rs 9,800 per year over 10 years. The estimates of the CABE Committee on this proposed Bill range between Rs. 53,500 crore and Rs. 73,000 crore per year over a six year period starting 2006-07. What is the basis for the differences between the various estimates?

There are various views among educationists on making ‘a common school system’ compulsory for all children to ensure better equity in education. This Bill makes no mention of this.

There may be other important elements that need to be clarified or included in the Bill to achieve the objective of elementary education of “equitable quality” for every child. You are free to raise these or any other key issues about this Bill that have not been listed in the above questions.

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