

Right to Education

SUMMARY OF KEY ISSUES IN PREVIOUS UPR CYCLES

During India's II UPR cycle in 2012, more than 10 recommendations were made to India related to the right to education. India was advised to (recommendation No 52) enhance the coordination of both the central and state governments in an effective manner in order to guarantee the smooth implementation of the 2010 Right of Children to Free and Compulsory Education Act. India accepted some of the recommendations but refused to accept recommendation 149 which asked India to meet the stated commitment from the Common Minimum Program of 2004 to dedicate 6 percent of India's GDP to education.

The Indian Parliament enacted the historic Right to Education Act (RTE) in August of 2009 which provides a legal guarantee by the Government of India for a justiciable right to free and compulsory education for children between the ages of 6-14 years of age. A critical appraisal of the functioning of the Right to Education reveals that even after 6 years, for most children, this right remains a distant dream as millions of children are still out of school and high number of drop-outs including the quality of education remains a major concern. Children from Dalit, tribal, and Muslim communities in government schools still face discrimination. There is a rise in the number of fee charging profit-oriented schools that do not provide quality education. This is a direct consequence of India's decreased GDP spent on education (3.3%) as against a global average of (4.9%).

As a party to the Millennium Development Goals (MDGs) adopted by the United Nations in 2000, India was committed, inter alia, to achieving universal primary education, in terms of both enrolment and completion of primary schooling for all girls and boys, by 2015. It was also committed to eliminating gender disparity in primary and secondary education, "preferably by 2005, and at all levels by 2015." Unfortunately, these goals remained unrealised.

NATIONAL LEGAL FRAMEWORK

In 1950, India made a Constitutional commitment to provide free and compulsory education to all children up to the age of 14, by adding this provision in article 45 of the directive principles of state policy. In 1976, by a constitutional amendment (Forty-second Amendment Act), education became the joint responsibility of the Central and state government. By virtue of this amendment Act, education became a Concurrent Subject (as known in legal terminology), which enabled the Central Government to legislate in such fields as, for example, school education. In December 2002, Parliament passed the 86th Constitutional Amendment inserting a new article, 21A after Article 21 of the Constitution, making Education a fundamental Right.

Right to Education Act 2009 (RTE) Though the right to education was inserted in Constitution, it took successive governments another six years to bring the Right of Children to Free and Compulsory Education Bill, 2008, which was passed by Indian Parliament in 2009. The Act known as Right of Children to Free and Compulsory Education Act (RTE) provides a legal guarantee by the Government of India for a justiciable right to free and compulsory education for children between the ages of 6-14 years of age. This Act came into force in 2010. Both the Central and State governments are responsible for the implementation of this legislation.

Sarva Shiksha Abhiyan (SSA) The Sarva Shiksha Abhiyan (Education for All Movement) is a flagship programme of the Government of India, initiated in 2000-01 to universalise elementary education in a time bound manner. The Sarva Shiksha Abhiyan programme along with the no detention policy, has resulted in a significant enhancement both in the Gross Enrolment Ratio (to over 95%) as well as in the enrolment of girls. According to Annual Status of Education Report, 2014, India achieved close to 96 per cent or above enrolment ratio in elementary schools and almost every habitation now has a government primary school.

Mid-Day Meal Scheme In 2002, the Supreme Court directed all the state governments to implement the Mid-Day Meal Scheme by providing every child in Government and Government aided lower primary schools with a cooked Mid-Day Meal with minimum 300 calories and 8-12 grams of proteins and adequate quantities of micronutrients. According to government audit report the actual implementation of the scheme suffers from various shortcomings such as over-reporting of enrolment figures, cases of leakages, financial indiscipline, poor quality of meals and inadequate monitoring.

CHALLENGES

Discrimination

Despite India's Right to Education law banning discrimination in schools, wide spread discrimination faced by children with disabilities, children affected by HIV/AIDS, children of nomadic, semi-nomadic and de-notified tribes, children from LGBTQ, Dalit, tribal, and Muslim communities in government schools. Marginalised households with high incidence of poverty are particularly vulnerable to educational exclusion due to impacts of poverty.

Out of School Children

While enrolment figures indeed greatly increased (97%), drop-out rates continue to remain high. According to Census 2011 there are 444 million children (37%) in India under the age of 18 years. At elementary level, only 6 out of 10 children enrolled in Grade I reach Grade VIII, 47% children drop out by the time they reach Grade X. Dropout rates for SC/ST and girl students are generally higher. In 2014-15, the retention rate at primary level was 83.7% and was as low as 67.4% at the elementary level.

Compliance with RTE Norms

Right to Education Forum Stocktaking Report for 2016, suggests that across the country, less than 10% schools comply with all the RTE norms. The National and State Commissions for Protection of Child Rights (SCPCR) are responsible for monitoring the situation but only 29 States/UTs have constituted systems for monitoring RTE. Despite such efforts, children can be seen working at roadside restaurants, in homes, at construction sites and in shops. Census 2011 data shows that there are still 4.35 million children employed as child labour.

Education Outcomes

Annual Status of Education Report (ASER) 2014 by the NGO, Pratham found that nearly half of the grade V students were not able to read at grade II level; and nearly same proportion of grade V students did not have the basic arithmetic skills, which they should have learned by the end of grade II. Only a fourth of all children in standard III could read a standard II text fluently, a drop of more than 5% over five years. Teacher absenteeism, estimated at over 25% every day, has been identified as one of the reasons for the poor quality of student learning outcomes.

ISSUES AND IMPACTS

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Public Private Partnership

The Indian government proposed Public Private Partnership (PPP) as an important strategy in the Eleventh Five Year Plan (2007-2012) to invite private sector and also proposed the setting up of 6,000 new model schools under the PPP model in secondary education, affiliated to the Central Board of Secondary Education. Enrolment in private unaided elementary and secondary schools is around 33% each; and 39% at higher secondary level. Currently, approximately 51% of the secondary schools and 58% of the higher secondary schools are privately managed.

Resource Allocation

The first National Policy on Education (NPE) formulated in 1968 on the recommendations of Kothari Commission emphasized the need to raise the outlay on education to six percent of the GDP by 1992, and 'uniformly exceed this figure thereafter'. The total public expenditure for education, at less than 3.5 per cent of GDP is way below the 6 per cent commitment in subsequent National Education Policies. Accountability Initiative notes that in FY 2014-15, Rs 54,925 crore was approved under SSA, a drop of 22 per cent from FY 2012-13.

Failure to implement 25% quota for children from weaker sections of society

RTE Act provided a 25 per cent reservation for poor and marginalised children in private unaided schools. The Stocktaking Report (2014) notes that 25 states have notified norms for admission under this provision and 16 states have implemented 25 per cent reservations in 2013-14. On April 12, 2012 the Supreme Court directed every school, including privately-run ones, to give immediately free education to students from socially and economically backward classes from class-I till they reach the age of 14 years. In some states like Uttar Pradesh only 2000 seats were filled against 6,00,000 seats in the state. Even in the capital city, 32.87% of the allocated seats were vacant till 2015.

RECOMMENDATIONS

The outlay on education should be raised to a minimum level of 6% of GDP with immediate effect.

Expand the scope of Fundamental Right to Free and Compulsory Education Act from 0-18 years ensuring equitable quality, inclusion and non-discrimination.

Address major issues relating to teacher shortages, absenteeism, recruitment and transfers, teacher grievances, and professional development of teachers in a comprehensive and effective manner.

Ensure appropriate infrastructure including separate toilet facilities for adolescent girls for gender parity.

Taking the SDG Goal 4 ahead, guarantee and promote access to tertiary education, skill development and lifelong education.

Track and eliminate educational inequalities at all levels across children and communities of dalits, tribals, persons with disabilities, LGBTQI, children in conflict areas and religious or traditional minorities.

All forms of privatizations including the Public Private Partnership or franchise to corporate bodies that leads to profiteering, commoditization and weakening the public education system should be dropped.

Evolve a National policy on human rights education in line with World Programme of Human Rights Education promoting cultural diversity and age-appropriate comprehensive sexuality education in curriculum.

India should ratify the UNESCO Convention on Elimination of Discrimination in Education and promote common school system.

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