



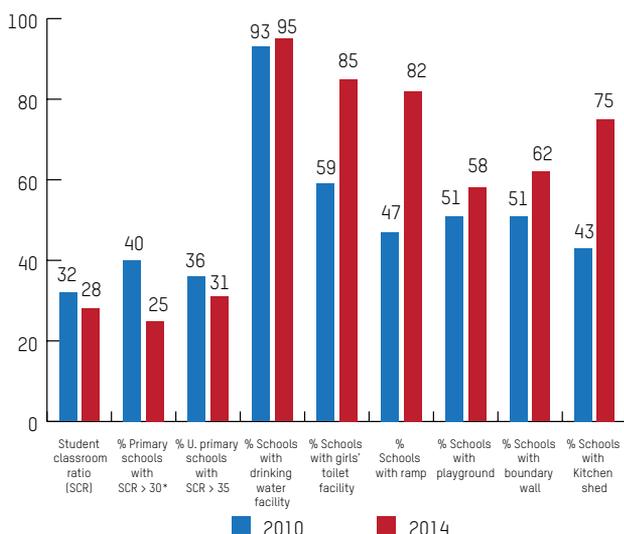
RIGHT TO EDUCATION ACT: CLAIMING EDUCATION FOR EVERY CHILD¹

A conscious neglect of school education in the initial decades of independent India is termed by Dreze and Sen (2013) as a 'home-grown folly'.² Public services like education are key to nurture participatory growth as well as to ensure that growth improves peoples' living conditions. However, India's highly privatised and compartmentalised education system - largely unaccountable to the public- offers very different opportunities for various social groups and perpetuates social inequalities, instead of reducing them.³ Three out of four children currently out of school in India are either Dalit (32.4%), Muslim (25.7%) or Adivasi (16.6%).⁴ Enactment of the landmark RTE legislation has triggered significant improvements, but evidence shows that quality has often been neglected. While concerns regarding privatisation of education remain, RTE Act offers a first step towards an educational system in India that offers access, equity, and inclusion of all children.

Experience of inequality manifested through caste-based discrimination shaped Dr B. R. Ambedkar's philosophy of education. The idea of education as a means to social change and equality informed his vision as he drafted India's Constitution. Equality of opportunity as outlined in the preamble of the Indian Constitution has been widely interpreted to include equality in provision of education and seen as a crucial factor in securing equality of status.⁵

Translating this vision, the Right of Children to Free and Compulsory Education Act (RTE) in 2009 put the onus on the government to guarantee eight years of free, quality education to all children aged six to fourteen years. This landmark legislation also marks decades of activism by peoples' movements. Since its enactment, the legislation has brought about steady, if slow, progress. **Figure 1** outlines progress under RTE in terms of school infrastructure across the country.

FIGURE 1: PROGRESS UNDER RTE



Source: http://ssa.nic.in/rte-docs/Final_RTE_4th_Year.pdf

Latest ASER statistics show that 96.7 per cent of children in the age group 6-14 years are enrolled in school in rural India. This is the 6th year in a row that enrolment rates have been 96 per cent and above⁶. Latest District Information System for Education (DISE 2014) statistics show that about 94.9 per cent schools in 2013-14 had drinking water compared to 83 per cent in 2005-06.⁷ Further, the schools have been able to attract a significantly higher number of differently-abled children (2.49 million enrolled in 2013-14).⁸

Educational inequalities in India show a strong class gradient: the National Sample Survey reveals that in the year 2007-08, about half of the people in the bottom 10 per cent population in terms of monthly spending are literate, as compared to almost 90 per cent literacy rate for the top 10 per cent of the population.⁹ Poorer children are shown to have lower educational participation indicators like enrolment and attendance, and it follows that a higher proportion is out of school¹⁰. Marginalised households including Dalit, Adivasi, Muslim and female-headed households, and households with persons with disabilities, which have high incidence of poverty, are particularly vulnerable to educational exclusion due to impacts of poverty.¹¹ The Global Monitoring Report 2012 ranked India a low 102 out of the 120 countries on the Education for All (EFA) Development Index, based on progress in universal primary education, adult literacy, gender parity and the quality of education.¹²

In this context, drawing on existing research and recent policy debates within civil society, Oxfam India suggests the following to improve the implementation of the RTE Act:

Recommendations

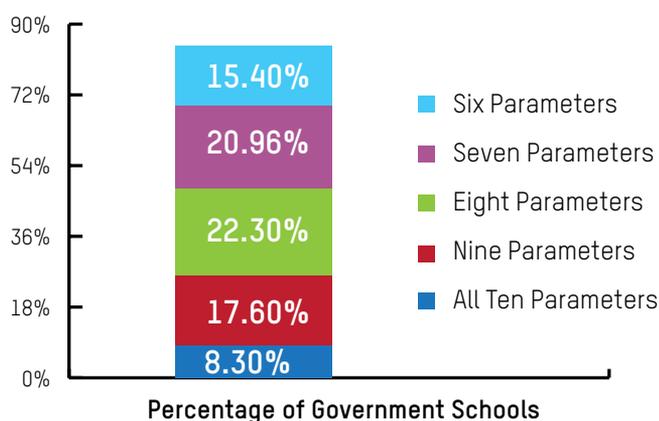
- ▶ Provide a roadmap to ensure compliance to RTE norms within three years
- ▶ Ensure accountability to RTE through effective quality monitoring
- ▶ Address educational inequalities by ensuring community involvement

Context

In 2002, following concerted civil society mobilisation and interventions by the Supreme Court, Article 21A on the right to education was inserted in the Constitution, as part of Right to Life. In April 2010, the Right of Children to Free and Compulsory Education Act came into effect. Provisions such as the prohibition of discrimination, instruction in mother tongue, and implementation of continuous and comprehensive evaluation (CCE) came into force. Standards of school infrastructure were to be met within three years and teachers were to be adequately trained within five years.¹³ The country has missed both the milestones.

The Right to Education (RTE) Forum Stocktaking Report (2014) suggests that across the country, less than 10 per cent schools comply with all of the RTE norms (Figure 2). The missing of deadlines laid down for implementation is reflective of the fact that radical transformation of schools and the educational system that was expected to have set in motion with the enactment of RTE has not happened.¹⁴ As shown in **Figure 2**, a large proportion of schools continue to be non-compliant to norms and standards for a school stipulated by the RTE Act, 2009.¹⁵

FIGURE 2: COMPLIANCE OF GOVERNMENT SCHOOLS WITH PARAMETERS STIPULATED IN THE RTE ACT



Source: Government of India (2014), Education for All: Towards Quality with Equity, NUEPA, New Delhi.

As the UN Special Rapporteur on the Right to Education Kishore Singh cautioned, the global rise of privatisation and lack of regulation further deepens inequalities in education.¹⁶ Recent Oxfam research has shown that universal public services are one of the strongest weapons in the fight against inequality. They mitigate the impact of skewed income distribution and redistribute wealth by putting 'virtual income' into the pockets of the poorest women and men.¹⁷

As is well-known, access to free education is a key determinant to well-being in the short as well as the long term. A study from rural Uttar Pradesh estimated that for an average family in the bottom 40 per cent of the income distribution, educating all their children at a low-fee school would cost around half of their annual household income.¹⁸ Various government-appointed commissions have made radical recommendations such as the Common School System (CSS)¹⁹ to reduce inequalities considerably and transform the landscape of education in the country.²⁰

While political will to bring in these sweeping reforms was found lacking, proper implementation of RTE Act will help substantially reduce existing educational inequalities.

Recommendations

- **Provide a roadmap to ensure compliance to RTE norms within three years**

While there are improvements, DISE figures point towards major gaps as well. In terms of infrastructure, some figures are worth noting. About 53.2 per cent of schools have water hand-pumps and only 26.9 per cent have tap-water facility. The percentage of schools with boys' toilet is 94.5 out of which 92.7 per cent are functional compared to 84.6 per cent of schools have girls' toilet out of which 91.6 are functional. Still, only less than half of total schools have hand wash facility available near toilet. Only 84.1 per cent of schools that require it actually have ramp. In 2013-14, out of government and aided primary schools where mid day meal is being provided and prepared in school premises, one out of three schools do not have a kitchen shed. When we account for all schools, the proportion is one out of four.²¹

UNESCO's latest EFA Global Monitoring Report (2014) paints a picture of a widespread learning crisis in India. Out of the total 85 countries analysed, 21 countries had only less than half of children learning the basics. Of these, 17 are from sub-Saharan Africa; the others being India, Mauritania, Morocco and Pakistan.²² Contributing to this are problems of under-staffing and poor training of teachers. In India, 5 lakh sanctioned teacher posts are vacant and 6.6 lakh in-service teachers are untrained. Around 37 per cent of primary schools do not conform to the national pupil-teacher ratio (PTR) norm of 30:1. The average PTR ranged from 10:1 in Andaman and Nicobar Islands to 53:1 in Bihar. Moreover, around 10 per cent of schools across the country are single teacher schools.²³

Financing for RTE remains woefully inadequate. Total public expenditure for education, at less than 3.5 per cent of GDP,²⁴ is way below the 6 per cent commitment in subsequent National Education Policies. Accountability Initiative notes that with the launch of RTE, the total SSA budget including Government of India (GOI) and state shares increased over two-fold from Rs 27,552 crore in FY 2009-10 to Rs 69,937 crore in FY 2012-13. However, the total approved budget shows reductions. In FY 2014-15, only Rs 54,925 crore was approved under SSA, a drop of 22 per cent from FY 2012-13.²⁵ The fund sharing pattern emerging from 2015-16 Union Budget indicates that the central government is shifting the fiscal responsibility towards State Governments as 90 per cent of the SSA allocation is now coming from the 'Prarambhik Shiksha Kosh' and only 10 per cent from the government's Plan Budget.²⁶

Global Monitoring Report 2014 notes that India is among the few middle income countries with potential to mobilise domestic resources for education through improved taxation.²⁷ Systemic inefficiencies in tax collection impede effective taxation. For instance, majority of tax revenue foregone is due to exemptions from custom and excise duties to the tune of 5.7 per cent of GDP. If 20 per cent of this is earmarked for education, which amounts to an additional US\$22.5 billion, it would increase education funding by almost 40 per cent.²⁸

► **Ensure accountability to RTE through effective quality monitoring**

While efforts and funds have focused on developing school infrastructure, evidence shows that quality has been neglected. Many states have neglected teacher training and the growing practice of appointing para-teachers on short-term contracts aggravates the problem. Learning outcomes reflect these shortfalls: in 2014, more than half of the children in class V could not read a class II textbook²⁹.

Lack of accountability to RTE Act is a systemic challenge and the existing checks and balances seem to have but a limited impact. Teacher absenteeism particularly affects disadvantaged students; absenteeism varied from 15 per cent in Maharashtra to 42 per cent in Jharkhand.³⁰ Moreover, authorities have failed to monitor the implementation of the Act – across the country, no more than one in two schools were inspected³¹. Further, understanding of CCE has been unclear among staff leading to improper implementation. Rollout of special training has been poor. Compounding this has been delayed supply of textbooks as also need for expediting curriculum and textbook reforms.³²

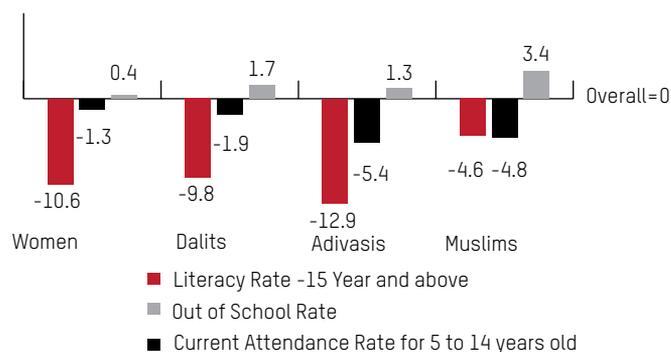
The National and State Commissions for Protection of Child Rights (SCPCR) are responsible for addressing grievances emerging out of such situations on the ground. A total of 29 States/UTs have constituted systems for monitoring RTE. A recent analysis of RTE rules by Oxfam India showed that all state rules provide for the formation of either an SCPCR or a Right to Education Protection Authority (REPA) except in Madhya Pradesh, Punjab, and Tamil Nadu. Ironically, Madhya Pradesh had an SCPCR at the time of the rules' drafting (albeit fairly understaffed). Himachal Pradesh does not mention the need for an SCPCR but intends to set up a REPA in its rules³³.

NCPCR itself is mired in court battles: the latest RTE Forum stocktaking report observes that Supreme Court stayed the appointment of NCPCR members, after criticising the government's failure to put in place norms and guidelines for the members. At the same time, the number of cases with the Commission has declined drastically over the years; there were 1,177 in 2010-11 and 174 in 2013-14. There is also a backlog of cases - there are still 484 open cases from the 2010-11 batch of complaints.³⁴ A recent study in Karnataka showed that the redress procedures under RTE in Karnataka are perplexing and poorly designed and have not led to enforcement of the right. The authors noted that with faltering administrative accountability, many complainants find themselves with unresolved grievances leading to unenforced or improperly enforced rights.³⁵

ASER surveys have triggered a national conversation on the quality of education. While ASER surveys claim that children who attend government schools perform worse than those in private schools, evidence from academic studies to the contrary is emerging. A study by Azim Premji Foundation in rural Andhra Pradesh which explored learning achievement levels over five years showed that while private school children performed better than government school ones in the first year; in subsequent years, government school-going children performed just as well, if not better.³⁶

► **Address educational inequalities by ensuring community involvement**

FIGURE 3: DIFFERENCE IN EDUCATIONAL INDICATORS FOR WOMEN, DALITS, ADIVASIS AND MUSLIMS RELATIVE TO THE NATIONAL AVERAGE (%)



Source: Centre for Equity Studies (2014), India Exclusion Report 2013-14, Books for Change, New Delhi.

As DISE relies on information provided by teachers, with a focus on enrolment levels rather than actual school attendance, it is said to provide a highly inaccurate estimation of access to education vis-à-vis vulnerable children.³⁷ Enrolment figures tend to ignore the 'invisible' children. Very few reliable estimates exist but a 2011 study found 50,000 street children in Delhi alone and only one in five had received any formal education.³⁸

A major loophole in the RTE Act is the failure to address the issue of out-of-school children. According to estimates from UNICEF (2014), 17.8 million children in India remain out of school.³⁹ These children belong to the most marginalised sections such as Dalits, Adivasis, urban poor and girls⁴⁰. The absence of a homogenous definition and lack of an effective mapping and tracking system translate in diverging data. According to government estimates, in 2014, 60 lakh children were out-of-school.⁴¹ National Survey on Estimation of Out of School Children, 2014 supported by the Ministry of Human Resource and Development estimated their number at 60.4 lakh⁴² and the National Sample Survey Organisation counted 49.8 lakh child labourers. Interventions to integrate these children remain inadequate.

Absence of clear operational guidelines that lay down modalities of implementation at the community level contributes to this situation. The lack of coordination between state and central administration and among relevant departments, such as Education, Tribal Affairs, Labour, Women and Child Development, and Social Justice, is another challenge.

While the Act defines roles and responsibilities, the intent is not fully translated into actual decision-making powers to the communities. The performance of the School Management Committees (SMC⁴³) remains varied and uneven across states. According to DISE data, 88.4 per cent schools had an SMC in 2012-13, which improved to 91.1 per cent in 2013-14.⁴⁴ There is inadequate representation of marginalised communities in SMCs and steps to enable linguistic minorities, women and persons from marginalised communities to engage with processes of the SMCs remains weak. Thus, in Delhi, only 18 per cent surveyed schools reported to have proportional representation of

disadvantaged groups⁴⁵. Instances of gendered division of labour – with women’s roles relegated to managing mid day meals and distribution of uniforms, with rest of the roles being given to men abound.⁴⁶

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. RTE Act provided a 25 per cent reservation for poor and marginalised children in private unaided schools. A study conducted in the cities of Delhi and Bangalore by Oxfam India on the 25 per cent reservation in private schools showed that certain disadvantaged groups such as children with disabilities have been left out in both the cities. In Bangalore, orphans, street and migrant children and children affected by HIV are not included. On the contrary, children from SC, ST and OBC/BC have benefitted from this quota.⁴⁷

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 2013-14⁴⁸. However, due to lack of awareness, procedural

difficulties and parental choice, a large number of seats were vacant during academic year 2013-14.⁴⁹ Most private schools have found this provision against their interests and many have started litigation. Two schools in Pune who refused to provide 25 per cent seats had challenged Pune Zilla Parishad in court and the Bombay High Court held in 2014 that unaided minority schools are outside the ambit of RTE Act and such schools are free to conduct admissions as per their own rules.⁵⁰ The Supreme Court also has interpreted the privilege for minorities to run their own educational institutions in a rather narrow sense, resulting in minority schools opting out of the requirements of RTE. This has dealt a blow to the idea of ‘inclusion’, which is an important aspect of the RTE Act.⁵¹

Despite limitations in its implementation, the RTE Act which came about as the result of a long struggle by peoples’ movements remains a remarkable achievement. While concerns regarding privatisation of education remain, RTE Act offers a first step towards an educational system in India that offers access, equity, and inclusion of all children.

Notes

- 1 ‘Claiming Education for Every Child’ is a campaign launched in 2014 November by the Right to Education Forum demanding full implementation of the RTE Act.
- 2 Reflecting an upper-class – and upper-caste – bias against the education of the masses.
- 3 Drèze, Jean and Amartya Sen (2013), *An Uncertain Glory: India and its Contradictions*, Princeton University Press, NJ, USA.
- 4 National Sample Survey on Estimation of Out of School Children (2014), accessed at <http://ssa.nic.in/pabminutes-documents/NS.pdf>
- 5 Centre for Equity Studies (2014), *India Exclusion Report 2013-14, Books for Change*, New Delhi
- 6 Pratham (2015), *Annual Status of Education Report 2014, Main Findings*, ASER Centre, New Delhi
- 7 NUEPA (2014a), *District Information System for Education Flash Statistics 2013-14*, National University of Educational Planning and Administration, New Delhi.
- 8 NUEPA (2014b), *District Information System for Education Analytical tables 2013-14*, National University of Educational Planning and Administration, New Delhi.
- 9 National Sample Survey Organization (2010), ‘Education in India, 2007-08: Participation and Expenditure’, NSS 64th Round (2007-08), Ministry of Statistics and Programme Implementation, New Delhi, cited in CES (2014) op cit.
- 10 CES(2014), Op cit.
- 11 *ibid.*
- 12 UNESCO (2012), *Education for All Global Monitoring Report, United Nations Educational Scientific and Cultural Organization*, Paris.
- 13 Singh, Shyam et al (2013), *Right to Free and Compulsory Education: Delivering the Promises of the Law*, Oxfam India Policy Brief 7, Oxfam India, New Delhi.
- 14 RTE Forum (2014), *Stocktaking Report: Year Four (2013-14)*, Right to Education Forum, New Delhi.
- 15 Government of India (2014), *Education for All: Towards*

- Quality with Equity, NUEPA, New Delhi.
- 16 <http://www.opensocietyfoundations.org/voices/childrens-right-education-must-prevail-amid-privatization>
 - 17 Seery, Emma (2014) ‘Working for the Many: Public services fight inequality’, Oxfam Briefing Paper 182, Oxfam International, Oxford.
 - 18 *ibid.*
 - 19 CSS is a long standing demand in India, where neighbourhood schools would ensure access, equity, and inclusion of all children. The CSS was first suggested in the Kothari Commission report (1964-66) and then in 2007 by a Bihar government commission that was set up to review the mechanics of implementing it. The vision of CSS as outlined in the report of the Bihar commission in 2007 recommends replacing multiple tiers of schools with a common system that will provide a level playing field to children from every socio-economic background. It is often said that the best way of ensuring the RTE is providing a good quality CSS.
 - 20 Jha, Praveen and Pooja Parvati (2014), *Assessing progress on universal elementary education in India: A note on some key constraints*. Economic and Political Weekly, XLIX (16), pp 44-51.
 - 21 NUEPA (2014a), op cit.
 - 22 UNESCO (2014), *Education for All Global Monitoring Report 2013-14*, United Nations Educational Scientific and Cultural Organization, Paris.
 - 23 Rai, Ambarish (2014), ‘Implementation of the RTE Act: RTE Forum’s Stocktaking Report’, *Social Change*, Vol (44), No (3), New Delhi.
 - 24 Available at: <http://data.worldbank.org/indicator/SE.XPD.TOTL.GD.ZS>
 - 25 Accountability Initiative (2015), *Sarva Shiksha Abhiyan, GOI 2015-16, Budget Briefs*, accessed at http://www.accountabilityindia.in/expenditure_track
 - 26 http://www.cbgaindia.org/files/updates_on_ub15/Analysis%20of%20Union%20Budget%202015-16.pdf
 - 27 UNESCO (2014), op cit.
 - 28 *ibid.*
 - 29 Pratham (2015), op cit.

- 30 UNESCO (2014), op cit.
- 31 NUEPA (2014a), op cit.
- 32 RTE Forum (2014), op cit.
- 33 Kaur Randeep and Anjela Taneja (2014), *Federalism and Fidelity: A Review of the Provisions under RTE Act*, Oxfam India, New Delhi.
- 34 RTE Forum (2014), op cit.
- 35 Bhattacharjee, Malini and Dolashree Mysoor (2015), ‘Unredressed’ Grievances under RTE: Navigating the State Labyrinth, *Governance Journal*, Wiley.
- 36 Chowdhury, Shreya Roy (2015), *Private schools are not adding value: Study*, Times of India, February 27, accessed at <http://timesofindia.indiatimes.com/home/education/news/Private-schools-are-not-adding-value-Study/articleshow/46392725.cms>
- 37 CES(2014), Op cit.
- 38 *ibid.*
- 39 http://www.unicef.org/education/files/SouthAsia_00SCI_Study_Executive_Summary_26Jan_14Final.pdf
- 40 RTE Forum (2014), op cit.
- 41 Rajya Sabha unstarred question no. 3212, 22nd December, 2014.
- 42 National Sample Survey on Estimation of Out of School Children (2014), op cit.
- 43 These are committees of parents and locally elected representatives involved in monitoring and planning school activities.
- 44 RTE Forum (2014), and NUEPA (2014a), op cit.
- 45 *ibid.*
- 46 *ibid.*
- 47 Padma M. Sarangapani et al (2014), *Inclusion of Marginalised Children in Private Unaided Schools under the Right of Children to Free and Compulsory Education Act, 2009 An Exploratory Study*, Oxfam India, New Delhi.
- 48 RTE Forum (2014), op cit.
- 49 *ibid.*
- 50 <http://timesofindia.indiatimes.com/city/mumbai/Private-unaided-minority-schools-not-under-RTE-HC/articleshow/27870599.cms>, cited in *ibid.*
- 51 CES(2014), Op cit.

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