

Policy Brief
Right To Education Bill (India) 2005

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Abstract

As per the constitution of India (86th Amendment-2002) all children in the age group 6 to 14 years have a fundamental right to free and compulsory education as will be detailed in law by the government. Formal and structural aspects Right To Education (RTE) bill was introduced in October 2005. RTE makes the government accountable to provide and guarantee this fundamental right. This act differs from previous policies on education, as it is not a '*directive principle*' to frame policies but an obligatory commitment to ensure free and compulsory education to the children in the prescribed age. The bill with all its grandeur and promises has some severe drawbacks. In this policy briefing we will discuss the highlights of the bill, analysis and suggested amendments. Our suggestions mainly stress the need for decentralized administration, autonomy to school management committee's (SMC) and ensuring '*equitable quality*' of education.

Context:

Minoo, a 10 year girl from a remote village of Barandaga, few hundred miles from Calcutta, spends her day in doing household duties and helping her father in farm. She, like her parents and most of the villagers, never had the fortune of attending school. The economic conditions of barandaga are dismal, with than 70% of the population below poverty line and hardly 18% of them could read and write. When the Government failed to provide the basic amenities of life like education and health care to these villagers, Nanrithm, an NGO (Non-Governmental Organization) stepped up to do its best to take their responsibilities on its shoulder. But in spite of years of struggle, it could not get the 'Government License' for running school here.

Minoo represents one of the millions of children in rural areas and urban slums, whose need and the *right to basic education* still remains a distant dream. This situation persists, in spite of numerous policies and bills on education tabled in Parliament of India since time of Independence in 1947. Government claims that its "revolutionary", '*Right to Education Bill*' (RTE), will solve the problem of providing every child between age group of 6-14 years, the right to free and compulsory education. RTE bill was introduced in October-2005, amidst all its hopes, has some intrinsic flaws both in its formulation and implementation schemes. In this policy brief paper, I will discuss the RTE policy formulation, key features and drawbacks, and suggested amendments. My policy proposal will stress **decentralized administration, deregulation, assessment and provision of "equitable quality"** of education for all.

Background

Constitution of India in 1950, in the 'directive principles of state policy', stated that "All states shall endeavor to provide within 10 years of commencement of constitution free and compulsory education to children till they reach the age of 14 years" (Constitution, 1950). At that time the literacy rate in India was merely 16%. The states had the primary responsibility of improving literacy rate and elementary education, whereas the centre dealt mainly with higher education. With time, it was evident that due to the diversity of socio economic conditions and limitation of resources, states couldn't take up the whole burden of educating all its citizens. In 1976, education became a concurrent subject i.e. a joint responsibility of state and center. Another major policy change came in 1986 through National Policy on Education (NPE), which defined and recommended Universal Elementary Education (UEE) embodying the concepts of universal access, universal retention and universal attainment. In order to address the widening class distinctions, and social segregation, NPE also recommended Common School System, where *"children from different social classes and groups come together under common public school and thus promote the emergence of an egalitarian and integrated society"*.

Most of these policies were neither enforceable nor justiciable and remained far from achieving their targets. The literacy growth India has been steady but slow. The Fig. 1 shows that the literacy growth rate has been roughly 10% per decade (reaching about 66% in 2001), hinting that new policies have not drastically altered the elementary education scenario over time. In India there are about 205 million children in the age group of 6 to 14 years, out of which about 49 million are out of school as shown in Fig 2 (Arun Mehta, 2005). About 85% of the schools are public schools or government

funded schools and remaining 15% are private schools. There is huge urban-rural disparity in quality and quantity of the school system. Roughly 75% of the children in the above age group live in rural areas (Ref. Fig 3).

In 1993, due to public interest litigation '*Unnikrishnan versus state of Andhra Pradesh*', the supreme court of India ruled that, "*Education is a fundamental right that follows from the Right to life in Article 21 of the Constitution*". This judiciary verdict was not followed by legislative bill to amend constitution for many years. In 1997, a constitutional amendment was proposed in the parliament to make education a fundamental right. But this was not passed due to changing political power. Various Non Governmental Organizations (NGO's) under the aegis of NAFRE (National Alliance for Right to Education & Equity) started pressurizing the government to pass a legislation making 'Education a fundamental right'. As a result in 2002, the 86th Constitutional amendment of India added Article 21A stating that, "*The state **shall provide free and compulsory education to all children of the age 6 to 14 years in such as a way as the State may, by law, determine***". This set up the policy window for Right to Education bill, which was later drafted by CABE (Central Advisory Board for Education). The RTE bill was passed in parliament during Oct 2005 session.

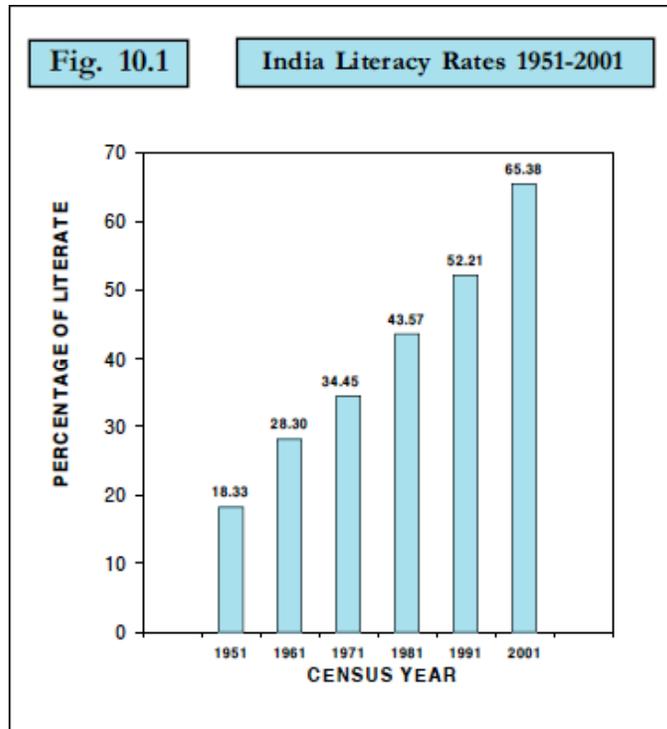


Fig 1: Growth of literacy rates in India from 1950 to 2001.
 [Source: <http://indiabudget.nic.in/es2001-02/chapt2002/chap106.pdf>]

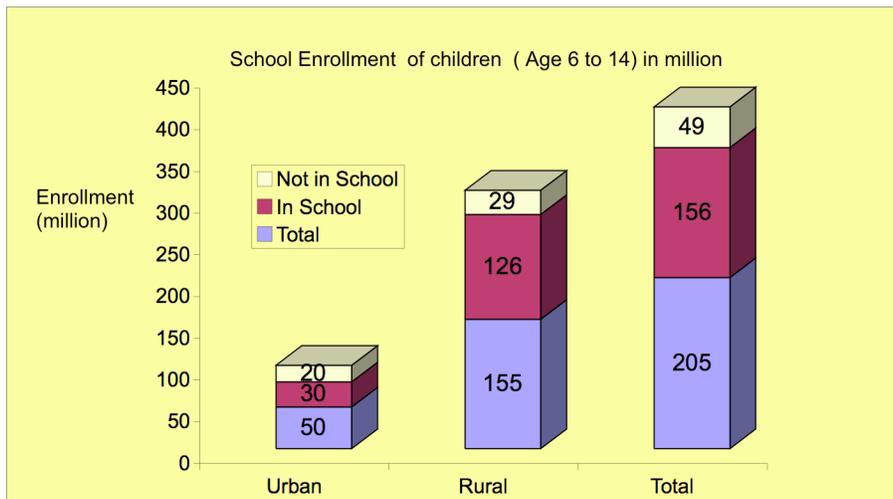


Fig 2: School enrollment figures in the age group of 6-14 years based on 2001 Statistics.
 Rural urban division is also given for comparison (Source: Arun C Mehta-2005)

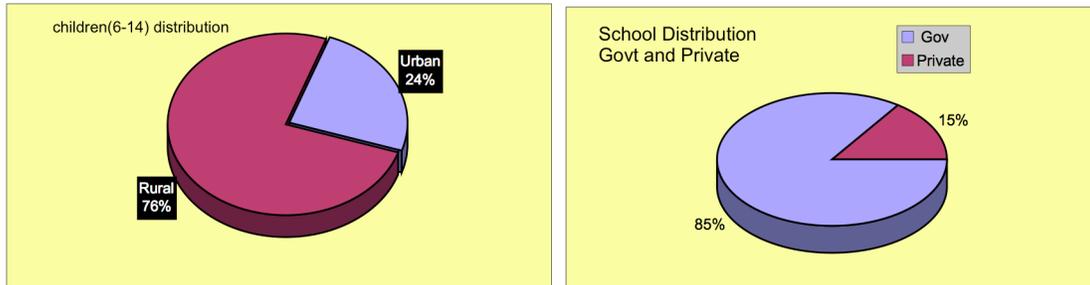


Fig 3: (a) Children distribution between age group of 6-14 years. (b) Distribution of schools in India: public and private. (Source: Arun C Mehta-2005)

POLICY HIGHLIGHTS

Primary objective of RTE bill is to secure every child between the age of 6 and 14 years, the right to full-time free and compulsory education in a neighborhood school. Bill has the following features to achieve its objective (Department of Education-GOI, 2005):

- State shall ensure a school in every child's neighborhood within three years. In case of non-availability, free transport or free residential facilities shall be provided.
- Every school shall conform to certain minimum standards defined in the Bill.
- The State/Union territories shall determine the requirements of the schools, infrastructure and location of school.
- Appointment of the teachers will be state responsibility.
- Government schools will be managed by School Management Committee's (SMC) mainly composed of parents.
- All non-government schools have to be recognized by a Competent Authority or shut down. Certain norms specified by the bill have to be satisfied for non-government schools.

- A child cannot be held back in any grade or expelled from a school till Class VIII.
- The State shall develop a mechanism to monitor enrolment, participation and attainment status of every child, and take corrective steps wherever required.
- The National Commission for Elementary Education shall be constituted to monitor all aspects of elementary education including quality.
- No person shall prevent a child from participating in elementary education.
- It is the responsibility of every parent/guardian to enroll his child/ward who has attained the age of 6 years and above in a school and facilitate her completion of elementary education (till Grade VIII).
- The central government shall provide financial assistance to state governments in accordance with such formula regarding sharing of costs as determined in consultation with state governments

KEY ISSUES AND ANALYSIS

Age Group

The age group benefiting from RTE bill is far beyond the UN standards of 0-18 years. According to Anil Sadagopal (member, CABE), the exclusion of 0-6 years and 14-18 years from RTE means neglecting the interests of 17 million children and contradicts the norms of UN Convention on Rights of Child, of which India is a signatory (Deepa A, 2005). Karan Tyagi of NAFRE says “The 0-6 age group is very important from the pre-school point of view particularly for the marginalized and vulnerable sections of the society, ignoring it may lead to the promotion of child labor”. With 14 years of

education, a child would not have completed even 8th grade of education, without passing 12th grade a child wouldn't be eligible even for low paying Jobs.

From the perspective of financial gains and value addition, the education till the 12th grade is highly desirable. We recommend the inclusion of the age group 0-6 and 14-18 years in RTE. This will put pressure on the government to invest more in the human capital and thereby creating more active citizens playing a dominant role in economy and democracy.

Administration: Autonomy

Although the bill provides partial autonomy to SMC's in managing schools, the state retains the power to determine and provide school requirements such as, location, infrastructural needs, teachers etc. This adds many layers and powers to the existing bureaucracy in education sector. Appointment of the teachers is also controlled by the state. Sometime the delay between recognizing the need and appointing teachers is as long as two years. Since, state has the authority to deploy teachers, most often elementary teachers end up being placed in a school far away from their hometown. Getting a transfer is often a tedious process, making teachers to bribe at various stages of the hierarchy. RTE maintains and adds many layers to the current tightly coupled hierarchical education sector, thus breeding delays, corruption and inefficiency at every level.

We strongly recommended that the RTE should decentralize the administrative structure of elementary education. The bill should provide more structural and financial autonomy to local bodies. Administrative structure should create a 'government funded,

locally managed autonomous neighborhood schools'. Degree of autonomy and distribution of power has to be based on expertise of the local bodies in handling the issues. There is mixed evidence on the ability of SMC's in improving quality of schools and learning outcomes of children. Where as one could assert that SMC's can make decisions on infrastructure and teachers requirement, they might not be able to decide best curriculum practices, learning assessment methods. In such cases power has to be granted to taluk's (a group of about 100 villages) or districts as per their evidence of credibility in making good decisions. District bodies should have the power to appoint teachers, since in a district one can easily find people with the expertise to teach at the elementary schools level.

Curriculum framework is still done by the state government. Most often they fail to maintain the quality and neutrality in curricular content. Social sciences and language books are politically and religiously biased. In order to address this, private parties should to be encouraged to write books satisfying certain minimal standards. The district boards with consultation of schools and teachers union should have the authority to select the textbooks needed.

Deregulation

RTE maintains that all non-government schools have to be recognized by a competent authority or shut shown. Current regulatory measures on opening and maintaining private schools are too prohibitive. They are more so based on fee structure and infrastructural needs than the educational outcome of children. Imposing strict licensing tag and license renewal system discourages many private parties, NGO's and

local bodies to set up schools. It encourages corrupt practices to procure and renew license. It also imposes additional burden on government to set up and maintain schools in those localities where private parties couldn't set up schools. In the past decade there is substantial evidence that private schools have contributed significantly to the cause of literacy and education. Between 1991-2001, the decade of liberalized economy, literacy rate increased by about 13 percent. This is the highest increase in any ten-year period in India's history. This happened in spite of marginal increase in average government spending on primary education from 1.78 to 1.92 percent of GDP (CCS, Nov 2005). Dismantling this infrastructure may be undesirable and impractical (Madhavan and Manghani, 2005). Measures or motives to curb the growth of private schools with strict regulatory measures will give rise unintended consequence of defeating the very purpose of RTE.

We strongly recommend deregulating the strict licensing on opening and maintaining schools. The process of licensing has to be decentralized, relaxed and speedy. The objectives of some regulations like non-discriminatory admission process, fire safety measures, prohibition of screening tests at elementary school level etc are credible and necessary. Market can itself regulate the structure of tuition fee, teacher qualification, infrastructure needs etc, and government intervention in these areas are unnecessary and undesirable. Due to competitive nature of the private schools, they have the advantage of providing better quality education in general. This issue will be addressed in the next section.

Equitable Quality

RTE bill includes ‘provision of **equitable** quality of education’ as one of its objective, but fails to define the term ‘equitable’ unequivocally. The term ‘equitable’ quality should refer to fulfilling certain minimum infrastructural (including those relating to teachers, library), financial, curricular, pedagogic, linguistic and socio-cultural norms (Anil Sadagopalan, 2005). The Bill specifies norms for physical infrastructure (number of rooms, teachers, toilets etc) but does not outline expectations on learning outcomes (Madhavan and Manghnani, 2005). Some of the mandates like “*A child cannot be held back in any grade or expelled from a school till Grade 8th* ” contradicts its objectives of ensuring that child is learning well. A recent nation wide survey ASER-2005 (Annual Status of Education Report) conducted by NGO-Pratham (with alliance of about 500 NGO’s nationwide) reports that 60% of the students aged between 7-14 couldn’t read a story at grade 2 level, about 41% of children couldn’t basic subtraction and division. Their surprising finding is that some states with high enrollment and literacy had poor learning level (ASER, 2005). National Advisory Council comments: “*Basic reading, writing, arithmetic, comprehension, and analytical skills as an essential outcome of elementary education: It is necessary to lay down in the law that basic reading, writing, and arithmetic skills including comprehension and analysis independent of textbooks, with defined levels at the end of primary and elementary level should be essential minimum outcomes of education*” (NAC recommendations, 2005). RTE doesn’t formally include learning level assessment and improvement schemes, it leaves it to the states to define it and is not obligatory.

We recommend that the access-attainment trade off have to be addressed critically. The assessment and learning enhancement schemes have to be based on thorough research and should take into account local socio-economic conditions. Working with local NGO's should prove to be useful. Implementing learning enhancement programs (LEP) crucially depend on the participation of the teachers. Teacher training programs should be started by district boards to train them in LEP. Competition is crucial for breeding quality in education and is clearly lacking in public schools in India. Incentives schemes like pay hike, best teacher awards etc should be started for encouraging teachers to participate in these programs. The teachers have to be made answerable (by means of disincentives for underperformance) to the parents, students and community at large. Community monitoring is more effective than by state appointed school inspectors.

Competition among schools to perform significantly enhances the quality of education and hence should be encouraged. Encouragement by means of economic incentives to private parties should be provided to set up schools in rural India. Parents should have a choice to choose schools providing good quality education. A **school voucher** system is possibly a good means to achieve this. This would create market forces to enhance quality of private schools.

Who is responsible?

RTE states that if a parent or guardian fails to enroll his child in school, the SMC may impose a penalty by way of compulsory childcare. The bill creates an escape route to government by making parents/guardian's primarily responsible child's education. It fails to take into account the primary reasons for parents not sending kids to school- "Poverty

and Child labor". Illiteracy, poverty and child labor are interlinked problems and cannot be addressed independently. In many poor families, a child working in a farm/small shop adds significantly to the family income for survival. Also it is seen that completion of primary education is insufficient for better economic prospects. Studies conducted by NGO's shows parents feel that even if they send the kids to school, they are not learning well and contents are not useful to their immediate livelihood. This discourages them to send their kids to school.

We recommend that the statement of making parents primarily responsible for child education should be withdrawn, and instead devise incentive based methodologies to ensure child enrollment and retention. The district board/SMC's should have the responsibility to plan various incentives for ensuring parents to send their child to school. The mid day meal scheme (introduced in 2001), which provides free lunch to all children in public schools, has proven to be successful in significantly increasing the enrollment in primary school. This scheme should be continued and strengthened. Charitable trusts and local communities voluntarily come forward to assist in midday meal program. Such private participation makes the program effective and self-sustaining. Inclusion of practical curriculum and vocational training programs in addition to the existing syllabi proves to be a strong inducement for sending their kids to school. State government in partnership with NGO's and philanthropists, should ensure steady funding for such incentive schemes. Implementation of these schemes should be left to local bodies with periodic supervision. Long-term vision of such schemes should be coupling rural economy growth with education.

Bridging Social Inequality- Common School System

RTE bill in its current form does not have provision for an effective implementation of **Common School System (CSS)**, which has been stressed by many educationists for decades to bridge the socio-economic gap. Back in 1966 the Kothari commission on education recommended CSS with the objective “*to bring the different social classes and groups together and thus promote the emergence of an egalitarian and integrated society*”. The Commission warned, “instead of doing so, education itself is tending to increase social segregation and to perpetuate and widen class distinctions.” It further noted that “this is bad not only for the children of the poor but also for the children of the rich and the privileged groups” since “by segregating their children, such privileged parents prevent them from sharing the life and experiences of the children of the poor and coming into contact with the realities of life. also render the education of their own children anemic and incomplete” (Anil Sadagoplan, 2005). The CSS does not imply a uniform school system, but instead it intimately ties the schools to the local community with provision of sufficient academic freedom to explore and innovate.

Implementation of CSS needs steps of affirmative action to bring children from different social backgrounds under one platform. Incentive schemes for children marginalized sections like Dalits, tribals, linguistic minorities should be provided in government schools. Provision of adequate quality is absolutely essential in order to bring children from different economic classes. This requires empowering the public schools and raising their standards on par with the better performing private schools. In public schools it is easier to mandate affirmative actions, where as in private schools strict mandate could be detrimental to their functioning. Systems like CSS exists, ‘in

different forms and to varying degrees' in many developed countries like USA and France. Ideas could be derived from the success of diversity initiatives in public and private educational institutes in US. Private schools can be induced (but not forced) into this system by giving incentives like tax rebates, cheaper land, grants for children from low income group and backward classes etc. Awareness programs in media to educate public highlighting the importance of diversity in school could serve as an effective tool for success of CSS.

Evaluation and adaptability

The current bill with all the suggested amendments should be treated as a large-scale experiment for the first three years. There should be adequate scope for the public feedback at every stage of implementation. Implementation has to be annually evaluated. Various non-governmental groups working on educational and statistical issues should do the impact assessment. Based on the results of evaluation, necessary changes in the policy should be carried out. Role of local variations, socio-economic conditions should be taken care during evaluation.

Financial Commitments

Achieving the objectives present in the current RTE bill and the numerous suggested improvements needs substantial funding. The CABE estimates that the draft bill 2005 implementation needs an increase of 1.1% to 1.5% of GDP (2005 GDP: \$3.3trillion), in addition to the current government expenditure of about 2% GDP on primary education. Implementation of the suggested reforms shuffles monetary

requirements in some areas and demands more financial commitment from the center in some other cases as discussed below. Where as decentralization and deregulation measures reduce the expenditure, Increasing the education right till 18 years requires substantial additional funding. Removing strict licensing requirement would increase private participation, thereby reducing the governmental burden of educating all economic classes. Planning incentives for parents to send their children to attend schools, experimentation with Voucher system, inducements for private participation etc requires some additional funding. Efficient distribution of financial resources and timely availability has to be ensured by minimizing the channels for financial transactions. With the economy growing at an enormous pace of more than 8%, the government should have substantial money to invest more in education.

A strong public-private partnership (PPP), (involving government, philanthropists, charitable foundations, NGO's) is not only essential, but also practically feasible in the light of growing economy. Transparency in administration essential for PPP and is easily achievable in schemes like 'school voucher system' where money is directly handed over to the parents which eliminating multiple layers of bureaucracy.

Suggested timeline of implementing the amendments:

Following yearly plan could be used to achieve the desired goals

Year -1:

- Decentralization: Distribute financial powers to local bodies and SMC's.
- Remove the strict license tag to open schools and operate.
- Allow private participation in curriculum framework abiding some minimal standards.
- Plan economic incentives for private parties/industries to participate in elementary education.
- Seek public feedback in all planning.

Year -2:

- Initiate a robust assessment plan based on previous research
- Introduce practical curriculum and vocational training programs as an economic incentive for parents to send kid to schools.
- Let SMC's/district boards to choose Textbooks subject to satisfying minimal standards.
- Make teachers directly answerable to the parents and community, and device incentives for performance.
- Move towards Common Schools Systems in public schools

Year-3:

- Continue reforms for year-1 and year-2!
- Stress on greater public-private participation in elementary education
- Introduce School Voucher system to give school choice

Conclusion

Making education a fundamental right is surely a step in the right direction to address the anomalies and disparities of elementary education in India. It gives a legislative framework through which we can question and improve the education system in India. The draft of current RTE bill has some novel provisions like neighborhood schools, school management committees etc, but it fails to address many structural reforms needed to achieve its objectives. It adds many layers of power and bureaucracy to public schools and restricts the role of private players in elementary education. The stress is mainly on inputs to the education system than the outcomes i.e. equitable quality and learning achievement. Our suggested reforms include decentralization, deregulation, prioritizing attainment, and inducement through economic incentives, private participation, school choice, and common school system. The suggested reforms, upon proper implementation should help in improving quality of public schools, increase private participation, provide access and adequate quality of education to all children, and thereby achieve the goals of Universal elementary education.

End Note

The above policy reforms were suggested under the assumption that government will consider amending the RTE draft bill. However due to changing political motives, the RTE bill was shelved in July 2006 (The Hindu 2006, The Times of India 2006). The alternative model bill, an optional bill for the states, is diluted and its contents so far not available to public.

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