

Azim Premji Foundation's Position on the Right of Children to Free and Compulsory Education Bill, 2008

The Right of Children to Free and Compulsory Education Bill 2008 seeks to give effect to the 86th Constitutional Amendment. It details the responsibilities of the central and state governments, teachers, parents, and community members in ensuring all children between the ages of 6-14 years receive free and compulsory elementary education

The bill was introduced in the Rajya Sabha on December 15, 2008 and was referred to the Standing Committee on Human Resource Development (Chairperson: Shri Janardan Dwivedi)

The Standing Committee submitted its report of recommendations on 18 February, 2009

In 1950, the Constitution of India articulated its commitment to education under the Directive Principles of State Policy, a set of articles meant to serve as guidelines while framing laws and policies, but not enforceable in any court. Then in 2002, in the wake of a number of landmark Supreme Court judgments on the issue and vigorous civil society campaigning, the 86th Constitutional Amendment made education a fundamental right of all children in the age-group of 6-14. In the same year, the government circulated a draft Right to Education bill, which went through several iterations thereafter, until the most recent version of it, upon receiving approval from the Union Cabinet, was introduced in the Rajya Sabha in December 2008.

Thus it has taken 55 years from Independence to make education a fundamental right of children and a further 6 years for the Right to Education Bill to be introduced in Parliament.

The Bill admittedly has shortcomings and there are some who will say that it is wholly inadequate. Given that the Right to Education has traveled a long and arduous journey to the point of legislative sanction, which will be the most substantive declaration of the government's responsibility towards ensuring universal quality education, we believe that the bill even in its present form must continue on its current legislative course to the eventual passage, despite its shortcomings. Once an Act, amendments to it could be sought through concerted effort by education practitioners, civil society and parliamentarians to address gaps and fortify strengths.

Strengths:

The Right to Education Bill is landmark legislation in the history of Indian Education, since for the first time, India will admit that the right to education is a fundamental right which ensures that each child gets education irrespective of caste, class, gender, etc.

The following are some of the most important strengths of the Bill:

1. The Bill clearly makes the state responsible for ensuring that every child, in the age group of 6-14, receives schooling for eight years, instead of merely shifting the onus for this to the parents, a majority of who are illiterate and mired in poverty.
2. The Bill reiterates the role of the state, along with private and aided schools, to satisfy certain basic norms in terms of infrastructure, learning facilities and the

academic calendar. This is important since a major problem with the current education system is inadequate support for infrastructure both within the school as well as in the academic support system. If basic 'hygiene' requirements are not taken care of, we cannot expect the system to be able to be effective.

3. The Bill mandates a minimum Pupil-Teacher Ratio and explicitly requires the same to be maintained in each school, rather than as an average over a block or a district.
4. By enlisting the participation of private schools in the process of implementing an equitable system of elementary education, the Bill attempts to reduce the widening social divide between the education of the rich and the poor by ensuring that they sit together and learn in the same classroom.
5. The Bill prescribes the minimum qualifications of teachers and their academic responsibilities along with the minimum quality of the content and process. Further, by clearly articulating the need for norms for recruitment of teachers and provisions for teacher training, the bill seeks to address, in a major way, the actual quality of education provided within our schools.

Shortcomings that need to be addressed:

Though the Bill, for the first time, has sown the seeds for viewing education from a rights' perspective, it is not without loopholes. In this regard, it may be of merit to consider the following shortcomings that it carries, and whose consideration might hasten the delivery of universal quality primary education in the country:

1. The Bill **needs to bring into its ambit all children in the age group of 3-16 years**. It ignores children who are below 6 yrs. of age. Several studies on early childhood have shown that 3-6 yrs. is the time when children need to be exposed to literacy-rich environment to enhance their literacy growth, and children who experience schooling for the first time at the age of 6 yrs. are clearly at a disadvantage. In the face of such evidence, it is necessary that RtE talks of Pre-School Education and its convergence with mainstream education. The Bill also ignores children who are above 14 yrs. and have had no access to education. It is widely known that children drop out of education to become wage earners because of poverty. If the Bill is serious about the intention of making all children literate, it is necessary to bring children below 16 into the realm of education. This will enable the child to pass Grade X.
2. **All the components of the Bill should cover all categories of schools and not just State or Aided Schools**. While some provisions apply to all schools, some apply only to aided/State schools, such as the constitution of a School Management Committee. The Bill leaves out a large chunk of unaided schools and high-end private schools which really defeats the purpose of an equitable education.
3. While the clause requiring private schools to reserve **25% seats for free quota** is significant, the **basis on which one can get admission** in this quota is not mentioned.
4. Unlike for private schools, the **process of attaining recognition for state schools** is not prescribed. The bill does not mention the course of action that State schools will have to face, in case of failure to adhere to minimum norms for quality mentioned in the schedule. There does not seem to be any penalty on the government specified for failing to meet its obligations.
5. While the Bill lays down minimum criteria for teacher qualifications, it may be hard to expect quality improvement, in a true sense, unless the very foundations/principles, content and methodologies of **pre- and in-service training of teachers are re-looked at and changed**. In addition to this, there needs to be a tight mechanism to

- prevent mushrooming of innumerable sub-standard private teacher training colleges and institutes in the country.
6. While the bill specifies a PTR of 1:30 for primary schools whose enrollment is within 120 students, it arbitrarily lowers standards for schools whose enrollment exceeds that limit. There should be a **uniform PTR for all primary schools which should not exceed 1:30**.
 7. While ensuring that every child who traverses through the elementary education system acquires a certificate of completion, the Bill **fails to guarantee that a child has acquired competencies deriving from said education process**. No standards are set for learning outcomes. **A case of guaranteeing graduation but not education**. Failure of the child to attest to acquisition of competencies is also not flagged for remedial action and/or systemic enhancements. The bill should also define a framework to measure the quality of education imparted.
 8. The Bill draws no attention on the existing shortcomings of the institutional structures for teachers' training and innovation. There should be more **clear and strict provisions for capacitating the educational support structures, like the SCERT, SIEMAT and DIET**. Formation of a separate cadre of these organizations would greatly contribute towards professionalizing teaching. However, the RtE hardly talks of interventions required for the academic support structures themselves.
 9. **Vulnerable groups of children such as those of migrant laborers**, an ever-burgeoning section of urban populace these days, require special facilities to consummate their education. Residential hostels and linguistically and culturally appropriate curricula need to be formulated for their consumption. However, the Bill only makes a weak and passing reference to them, and the fact that they too need to get education. It is silent on the special measures that need to be taken to ensure the same.
 10. The Bill is silent on the aspect of **actual competence of and quality of monitoring** by the national and state commissions for protection of child rights. While the provisions provide that an aggrieved person may lodge a complaint with the local authority, there is an obvious problem in this clause, since the very same body that is responsible for ensuring protection of the rights of the child is also made responsible for deciding upon a complaint against it.
 11. The bill is silent on the state parties that will be held responsible if its implementation is found lackadaisical. It also does not specify **the financial obligations** of the Centre and State Governments for its implementation.

Like many other bills and laws, the intentions of the RtE Bill as well, are very noble; but the most critical issue will be its implementation and enforcement. While the Bill does have a number of limitations and is not fool-proof, it may infact be more detrimental to stall passage of the bill till every loop-hole and all provisions are made absolutely tight and acceptable to all. Sticking to the latter may just ensure that the Bill never gets passed, and the hope of free and compulsory education reaching the last child in the country, continues to remain merely a distant dream. Therefore, it may be more worthwhile to advocate for passage of the Bill to an Act, while simultaneously pushing for amendments and modifications in some of its provisions.

Other documents that provide views and opinions on the bill:

- PRS Legislative Research Analysis of the Bill
- Shiksha Adhikar Manch's Memorandum to the Standing Committee
- Right to Education, Vinod Raina, Seminar
- Centre for Civil Society analysis of the Bill