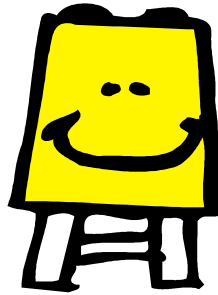


PRATHAM RESOURCE CENTER

"Every Child in School and Learning Well"



Notes on the Draft of

" The Free and Compulsory Education for
Children Bill, 2003"

In 1997-98, when the 83rd amendment bill was proposed in the Rajya Sabha, Pratham had welcomed the move to amend the constitution and had constructively responded to persuade the authorities to amend the draft bill. We are pleased that many of our suggestions were accepted and our contribution was acknowledged.

These notes are in continuation of our constructive effort to point out the gaps in thinking and suggest changes within the framework of the now existing amended constitutional provision.

General comments:

The proposed act directs the states to provide school facilities to every child within one year of the notification (4.2) . This is a welcome step and we appreciate the urgency shown by the government.

The draft seems to emphasize the immediate concerns of education and the short term solutions but leaves a lot to be desired in terms of a long term view consistent with principles of equity and non-discriminatory scenario that needs to emerge.

There is a danger that provisions, machinery, and systems created for the short term may continue well beyond their utility and adversely affect future progress. Hence the short term and the long term need to be defined and a time limit on the short term should be imposed.

There is no mention of the qualitative aspects of achievement and accountability of the appropriate authorities in delivering these as a part of right to education. Enrollment and retention do not automatically imply achievement. There is a need to ensure minimum number of days that the teacher attends classes and materials needed for teaching and learning are provided in each classroom in adequate quantity. This is a glaring gap that needs to be filled. This is one example of the long term provisions that are needed and are completely missing.

We feel there is a need to develop simple indicators that can be monitored easily by elected representatives and administrators so that we know that the right to education is being realized for every child. These indicators must include (1) availability of schools, teachers, rooms (2) attendance of children and teachers in classes (3) achievement in literacy-numeracy at primary stage and subject knowledge at upper primary along with basic literacy and numeracy at a higher level. Thus, in all no more than about 10 parameters can generate a 'status of education' report at each local authority, state, and national level every year. It should be binding on each level authority to publish this report every year around June, allowing at least two months since closure of academic year across the country.

Extending the fundamental right to education:

We are of course of the view that the right to education needs to be expanded to cover the pre-school age group as also the higher age group, at least until the child can acquire a school leaving certificate. In the current provision the right to education ends two years before a child can acquire any state certification. This leaves a large number of children without formal certification. This is a glaring inequity that has to be corrected first in the short term, and second in the long term.

In the short term, as a provision of the current act:

1. The state must make provisions to certify completion of compulsory education at grade VIII
2. The state should also create mechanisms for those who dropout of formal education to enter vocational and such other continuing education.

In the long term, there is no choice but to extend the right to at least the completion of school leaving certificate after completing grade X.

Many of the provisions of the proposed act are aimed at the short term. There is a need to take a long term perspective of the kind of education system India wants to create.

Definitions:

Definition of 'education' :

The term 'education' has not been independently defined. It is taken for granted. Clauses 2.g and 2.i define 'compulsory education' and 'free education' only in terms of enrollment and retention. The new act must go beyond these terms so that authorities concerned are held accountable to learning among children.

The following definition could be added:

3. "Education" – The term education, on the one hand, involves learning of skills such as listening, speaking, reading, writing, numeracy, analysis, and expression. It involves training of the mind and body for an all round development and healthy, productive participation in the society. On the other hand it involves acquiring information while also learning to appreciate and analyze it.
4. These aspects of education shall be taken into account while preparing prescribed curricula and also in monitoring whether 'education' has indeed been provided to the child.

Further implications of this definition are discussed in the section on Free and Compulsory Education:

Definition of the 'school'

The proposed act directs the states to provide school facilities to every child within one year of the notification (4.2) . This is a welcome step and we appreciate the urgency shown by the government.

We would like to believe that the definition of the 'school' has been diluted to include EGS centers and 'alternate' schools in light of this urgency. However, there is nothing in the act that indicates that these are provisional arrangements that need to be upgraded over a period of time, say 5 years, to bring them on par with 'regular' schools. Unless this is done, the state will be creating a permanently discriminatory

structure on top of the existing layers of varied private and public systems which do not give equal access to education.

5. A time duration for upgradation of all EGS and 'alternate' schools to bring them on par with 'regular' schools is needed.

Considering the VERY WELCOME provision 12 (forbidding employment or engagement of children..), there is no reason why there should be 'alternate' schooling since all children should be free to go to school. All EGS and alternate schools can be same as the 'regular' schools except that they may not have proper premises and in some cases qualified teachers may not be available to teach in remote areas. These deficiencies cannot be permanent, and have to be countered by building school rooms and by training partly educated youths in remote areas to grow up to be teachers. Strategies to generate local teachers through training can be worked out with NGO's assistance.

Approved vs. recognized schools:

It appears from the definitions given that 'approved' schools will be those that benefit from government grants (at least substantially). It is not clear if all such approved schools will be barred from charging any kind of fees. Tuition fees is the least of the burden (if any) in most government aided schools. It is the charges for all other expenses that make education in private-aided schools unaffordable for the poor.

The government managed schools are notorious for the shortage of INDIVIDUAL teaching learning materials such as worksheets, drawing material and so on that government-aided schools insist on by charging the children for it. The same is true of excursions arranged by the school.

While teachers' and officers' salaries are determined by law, there is no law that ensures spending on teaching learning materials in adequate amounts.

6. Minimum expenditure on essential teaching learning materials for children need to be fixed.
7. Expenditure on essential activities such as excursions, laboratory work, library needs to be directed.
8. Failing to deliver teaching learning materials and other required materials should be considered an offence. In the absence of these, education delivery loses all meaning.

Basic Education Authority:

Uniformly ensuring that the Panchayati Raj institutions are responsible for delivering education, as seems to be the intent of this section, is a welcome step.

Once again here the draft stops at preparation of plans to get all children in school. A clause 3.(3) needs to be added:

9. The basic education authority shall, at the end of every academic year review the status of achievement of children in the previous year and

table a report on such achievements and gaps to be filled before the general body. The BEA will submit a plan to improve achievement levels of children along with the review of the previous year.

Free and Compulsory Education:

Particular emphasis is needed in relation to some categories of children. Children of nomadic tribes who still roam the land, children of migratory laborers who seek seasonal jobs (this number grows in times of famines, and is high in drought-prone areas), and children of slum dwellers who live on encroached land where municipal authorities have not recognized the slum and not provided essential services. The latter category often goes without education because the municipal authorities claim that they cannot provide facilities on land that is encroached upon since it might amount to providing a sanction to the unauthorized settlement.

10. Every state shall prepare a special plan for the education of children who migrate with parents seasonally or otherwise. Such a plan shall include provisions of additional finances to village and city schools in order for them to accommodate such children even if they live in the area for a short duration. The additional finances are needed to appoint extra teachers to take care of the needs of these children in whatever small or large numbers who may or may not be able to fit into the ongoing pattern of the school. The attendance authority shall monitor movement of migratory population and notify schools, approve financial arrangements on quarterly basis.
11. A child of a person in conflict with the law, whether lodged in a prison, engaged in criminal or illegal activity, or living on encroached land is not a criminal and has an equal right to education as the rest of the children. Hence, local authorities shall make special arrangements to either open schools where the children are or shall make arrangements to transport the children in safe vehicles to nearby schools so that they can access education.

The following could be inserted in section 4 (3) or as additional clauses following it to define 'education' and the accountability of delivering it. For example:

12. The appropriate government shall ensure that all children enrolled in school acquire competencies expected of them as prescribed in the appropriate curriculum. A child who has attended school but has not acquired these competencies shall be deemed as not having received the education guaranteed to him/her by the Constitution of India and this act.
13. The appropriate authority shall create a list of simple monitoring parameters and ensure that parents or guardians of children receive simply worded progress reports of each child that describe her/his progress in each competency as proficient, average, poor, none, rather than in numerical marks which do not adequately describe the real achievement. As long as the parent ensures that the child attends school regularly, the parent cannot be held responsible for the lack of

progress of the child although the parents' help shall be sought to improve the child's achievement.

The role of the attendance authority seems to be limited to the attendance of the children. However, presence of teachers in classrooms is also important. School teachers' positions are sanctioned but not filled, or teachers report to duty and go on long leave, teachers are often called away 'on duty' or have to attend to any number of non-classroom work. This seriously cuts into the days that a child has a teacher available to teach.

Hence a clause may be inserted here:

14. The local authority and the attendance authority shall ensure that every teacher attends students in classroom work for a minimum number of days and minimum number of hours per month. A teacher-pupil ratio computation is insufficient since it does not reflect if every classroom is being adequately attended to. Hence, a teacher-pupil interaction should be measured at every school. This is equal to the sum of number of teacher days spent in the classroom divided by product of number of divisions in a school multiplied by working days of the month. The number of days spent by the teacher in training, and for any other reason away from the classroom shall not be included in the computation of teacher days spent in classroom. The desired ratio is about 0.9 as against an ideal of 1.0
15. In order to attain and sustain the desired ratio, the head-teacher shall be empowered to hire at a rate fixed by the local authority stand-in teachers from a panel of such teachers created by the VEC or a parent teacher association, or another appropriate school-level authority.
16. The appropriate authority and the state government authorities shall plan for long absence of teachers from classrooms for training, and other non-classroom duties and make adequate provisions for payment to stand-in teachers when required.

Compulsory recognition of schools:

It appears that all 'schools' will be recognized. This will reduce the risk of license-raj type controls. However, there is a danger that anyone will set up schools in whatever surroundings.

17. In areas where approved schools exist and have enough capacities, at least primary schools which are not approved will not be recognized. Previously recognized schools may be upgraded to approved schools if government is satisfied that the school can come up to the standards of approval. Similarly, a recognized school may be derecognized if an approved school comes up nearby providing fee education and if the achievement levels of children in the recognized school are low.
18. If the parents of 30 or more children in a recognized school (which does not provide education free of cost) write to the local authority

that their children should get education free of cost, the local authority will be obliged to start an approved school nearby within a span of 3 months of such a request.

Preparation of list:

In addition to preparing a list of children who are not in school, the authorities need to prepare lists of schools who fail to show achievement of competencies among all of their children and those that have less than adequate teacher-pupil interaction ratio.

19. The local authority and the attendance authority shall together prepare and publish every year a list of schools which fail to deliver basic learning competencies to the children and every three months a list of those in which the desired teacher-pupil interaction ratio is not attained.

20. The local authorities will take punitive action against officers up to the level of the headteachers who fail to act to improve the situation and simultaneously take corrective action to improve both indicators.

Employment or engagement of a child preventing attending school not permissible:

While the one line statement is clear and strong, it needs to be qualified further to apply to young children being employed as domestic help or working in restaurants etc.

It is not enough to say 'preventing attendance in school', because the child may in fact end up making up for the lost time. Hence,

21. A child who is employed but still attending school shall be registered as such by the employer in the school register. The headteacher or a person appointed by the headteacher shall be responsible for ensuring that the child gets adequate time to study at home and has enough time to rest in order that the child completes her or his education appropriately.

22. A child who is currently employed but loses means of support due to the provisions of the act shall be in the care of the appropriate authority as per the provision in clause....

Obligation of recognized schools:

The assumption here seems to be that all such schools will have enough funds and can accommodate more children. In urban areas there are schools which cater to the poor people just because the government does not start schools where they are needed. In such cases, the government must arrange to pay a reasonable fee for a child who has to attend such a school if the child's parents are not to be charged.

This is a major issue in many urban regions and must be given a serious thought considering that private schools are increasing by the day.

Pratham's recent survey shows that in cities other than Mumbai and Pune in Western Maharashtra, private schools that cater to the poor population do not perform better than government schools in terms of delivering basic literacy and numeracy.

These are some preliminary notes prepared for discussion by the Pratham Resource Center. This is not a final document.