

NATIONAL CONVENTION ON RIGHT TO EDUCATION

seeking equality with social justice, resisting neo-liberal agenda

organized by

PEOPLE'S CAMPAIGN FOR COMMON SCHOOL SYSTEM

(SAMAAN SKOOL PRANALI KI JAN MUHIM)

DELHI DECLARATION

(December 9, 2005)

WE, the people belonging to various political parties, trade unions, *dalit* and tribal movements, teachers' organisations, students' and youth bodies, women groups and activist groups engaged in the struggle for children's rights as well as academics drawn from different parts of India and gathered today on 9th December 2005 at the Constitution Club, Rafi Marg, New Delhi, to participate in the National Convention of Right to Education organized by the People's Campaign on Common School System declare that the so-called 'DRAFT RIGHT TO EDUCATION BILL, 2005' awaiting to go to the Parliament **violates the Constitution** and, at the same time, is both **anti-people and anti-education**.

After detailed deliberations at the Convention, It is our shared understanding that,

- As per the Constitution of India, the Right to Education becomes available to the children *only* when it is founded on the principles of **equality and social justice**.
- Notwithstanding 86th Constitutional Amendment (2002), education has always been and continues to be a Fundamental Right of every child **up to 14 years of age**. This Right can neither be constrained by the limits of the economic capacity of the State nor can be superseded by any cause that is not covered by any of the Fundamental Rights. Further, as per Supreme Court's Unnikrishnan Judgement (1993), the Fundamental Right **continues to exist even after the age of 14 years** but shall be provided within the limits of the economic capacity of the State.
- Every child in the 6-14 year age group has a Fundamental Right to receive absolutely **free** education of **equitable quality** made available through **neighbourhood schools**, be they government, local body or private (aided or unaided) which function within the framework of a nation-wide **Common School System**, as recommended by the Education Commission (1964-66) and resolved in the 1986 education policy.
- The Constitution had directed that all children up to 14 years of age should have received free and compulsory education (i.e. until class VIII) by 1960. However, all governments, at the Centre and in the states/UTs alike, have failed to fulfill this Constitutional obligation. Even after 58 years of independence, more than half of the children and two-thirds of the girls are deprived of elementary education.

- Almost 80-85% of the *dalit* and 90% of the tribal girls continue to be deprived of secondary education (i.e. until class X). This implies that a vast majority of the SC and ST population has not been able to derive any benefit under the reservation scheme as essentially no such benefits become accessible without completing at least senior secondary education (i.e. until class XII). The Right to Education shall be devoid of any meaning without guaranteeing **free education up to senior secondary stage**.
- According to the recommendations of the Education Commission (1964-66), the annual expenditure on the entire education sector should have reached the level of **6% of the GDP by 1986**. However, it has barely reached the level of 3.9% even today. This means that, during the past two decades, an **ever widening cumulative gap** has been building up which would have to be urgently filled up if Right to Education has to be concretized.
- It is **incorrect to juxtapose elementary education against higher education** under the *alibi* of lack of resources, since all dimensions and stages of education play their respective and critical roles in national development.
- The obligation of the State to provide adequate resources shall be fulfilled only when the **national economy is reprioritized in favour of the masses**. If this step is avoided, the nation will increasingly become dependent on loans/ grants from the World Bank and other such international funding agencies whose conditionalities shall be inevitably in support of the global market forces, rather than the Indian people.
- Education is universally acknowledged as a means of social development which enables the building up of a democratic, secular, egalitarian and humane society at both the national and global levels. **Education cannot be, therefore, viewed as a commodity in the market that can be traded for profit**. This makes it obligatory for the State to develop the **government school system as a powerful medium** for providing education of equitable quality.
- Every **private school is an instrumentality of the State** for the purpose of fulfilling the educational goal under the Constitution. The objective of providing education of equitable quality requires that all private schools, be they aided or unaided, participate in providing free education of equitable quality to all children of their respective neighbourhoods as part of a Common School System.

Based upon the above understanding, we are convinced that the Right to Education Bill, 2005, is replete with lacunae, contradictions and loopholes as elaborated below:

- This Draft Bill does not provide right to the citizens to go to the court of law in order to seek either enforcement of its provisions or punishment to the State or any of its authorities/ agencies for violating the provisions of the Bill. This renders the entire Bill **non-justiciable** or **non-enforceable** which amounts to denial of the Fundamental Right to education as embedded in Article 21A placed in Part III of the Constitution.

- There is no provision in the Draft Bill with respect to the Constitutional obligation of the State to provide **adequate resources** for operationalising the Fundamental Right to education. Nor does the Bill reflect any intention **to fulfill the cumulative gap** of resources not provided to education over the past few decades.
- The Bill dilutes and distorts the notion of **Fundamental Right to free and equitable quality of education** in several ways, particularly through provisions that cause further **attrition of the Common School System** and **enhance discrimination** between children in state-funded schools and private unaided schools.
- By providing for **25% free seats** in private unaided and “state schools of specified categories”, the proposed legislation **diverts public attention** from the concept of neighbourhood schools functioning within the framework of a Common School System. This provision is clearly **a device to violate the principles of equality and social justice** as enshrined in the Constitution.
- The proposed legislation provides for ways of giving **grants to private unaided schools** and **promotes privatization-cum-commercialisation** of school education through various camouflaged provisions.
- The proposed legislation frees the Central and state governments from the **obligation to regulate the private unaided schools**, thereby allowing such schools to violate the Constitutional framework.
- There are entirely illogical and unjust provisions to **punish the children, parents and the teachers**. In contrast, the Draft Bill has no provisions at all to punish the State or any of its authorities/ agencies for failure to fulfill their duties under Article 21A or non-compliance of the provisions of the proposed Act.
- The provision for **deployment of teachers** for census, elections and disaster relief duties **discriminates against the children studying in state-funded schools** (both government/local body and aided). This is because these children shall suffer loss of studies when their teachers are away on national duties while the children of the private unaided schools shall not suffer any such losses since the Bill does not provide for the deployment of the private unaided school teachers.
- There is **no guarantee** in the Draft Bill **for early childhood care** (e.g. nutrition, health) and **pre-primary education** of the children below six years of age. It also entirely ignores the need for linking elementary education with **guarantee of free education up to senior secondary stage** (i.e. class XII). This implies that the vast majority of the SCs and STs shall continue to be **deprived of the benefits of the reservation schemes**.
- The provision for making **teachers a school-based cadre** implies that they will be denied all opportunities for their transfers, promotion, deputations and other avenues of career growth.

- The excessive control given to **non-statutory School Management Committees** in the proposed legislation is in **contradiction with the vision** of decentralization, devolution of power and democratic participation of the local people in provision of education through **statutory bodies like the Panchayati Raj Institutions/ municipalities** as envisaged in the **73rd and 74th Constitutional Amendments** respectively. Further, the Draft Bill attempts to **shift the accountability of the State** with respect to infrastructure, access, quality and availability of the teachers to the school-based committees while all critical decision-making powers continue to be vested with the Central and/or state governments.
- The proposed legislation fails to deal with the rapidly increasing **role of FDI, external assistance and international examination/ affiliating bodies** in school education.

We, therefore, resolve to mobilize the people all over the country so that a **powerful democratic campaign** can be built up in order to make the Fundamental Right to education available to every child as envisaged in the Constitution. Through this Declaration, the **people are directing** the Central and state governments to,

1. undertake all necessary measures to protect India's education system from the assault of the **global market forces supported by imperialism** since, without ensuring this, the **sovereignty of the nation shall be at grave risk**;
2. create an effective regulatory framework such that the ongoing **commodification of education** is prevented; further, **resist the regimes** imposed by World Bank, World Trade Organisation, GATS and other such exploitative international arrangements on school education; and
3. **thoroughly amend** the so-called 'Right to Education Bill, 2005' in a **pro-people perspective** as per the aforesaid principles so that the Bill fulfills the requirements of the Constitution and the aspirations of the people.

Endorsed By:

A. Organisations

B. Voluntary Bodies

C. Individuals

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