

The Draft Right To Education Bill, 2005

Outline of the Presentation

- Background
- Salient Features
- Financial Implications

I. BACKGROUND

Free & Compulsory Education as Directive Principle of State Policy

Article 45:

"The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years"

Constitution (86th Amendment) Act, 2002

- Enacted in December, 2002.
- Seeks to make the following changes:
- Add a new Fundamental Right ("Right to Education") by inserting Article 21A:

"The State shall provide free and compulsory education to all children of the age of six to fourteen years *in such manner as the State may, by law, determine.*"

Constitution (86th Amendment) Act, 2002 - II

- Change Article 45 (in the Directive Principles) to:
Provision for ECCE to children below 6 years
"The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."
- Add the following (eleventh) **Fundamental Duty** in Article 51A:
(It shall be the duty of every citizen of India...)
"(k) who is a parent or guardian to provide opportunities for education to his child or as the case may be, ward between the age of six and fourteen years."

Follow Up Legislation

- First draft of follow up legislation was circulated to States in 2003
- Based on feedback received, a revised draft was circulated in January 2004
- In its meeting in August 2004, the reconstituted CABE set up a Committee under Shri Kapil Sibal, MOS Science & Technology, to suggest a draft of the legislation

Follow Up Legislation II

- The Committee suggested “essential provisions” of the legislation in its report, which was discussed by CABE in July 2005
- Based on these, and comments during the CABE meeting, a complete draft of the proposed legislation has been circulated to States in August 2005, as well as placed on the Department’s website

II. Salient Features

Chapter I – Definitions

- Contains definitions of terms used in the Bill, including:
- **"Compulsory Education"** – Obligation on the State to take all necessary steps to ensure that every child participates in, and completes Elementary Education
- **"Free Education"** – Freedom from liability to (i) pay any fee to the school, and (ii) incur such other prescribed expenses as may be likely to prevent the child from participating in and completing Elementary Education

*regular
attendance*

Chapter I (contd)

- “**Participation**” by a child in Elementary Education
 - Regular attendance in school, and effective participation in all its activities throughout the elementary stage
- “**School**” means an institution imparting elementary education, and recognised by a competent authority

Chapter II – Child’s Right To Free And Compulsory Education

- Child’s right to education spelt out as “right to free and compulsory education of equitable quality” – in turn, elaborated as the right to participate in **full-time** free and compulsory elementary education in a neighbourhood school, which fulfils prescribed norms regarding infrastructure, staffing, curriculum, etc
- Suitable provisions for non-enrolled children to enable them to join age appropriate grades

Chapter III – Responsibility Of The State

“State” includes

- Central Government
- State Government/UT Administration
- Local Authorities (rural and urban)

Chapter III (contd)

- State to make available a neighbourhood school, which fulfils prescribed norms, for every child **within three years**
- Provision of free education for each child in such a school (except where parents voluntarily send her to a fee-charging school)
- Regular monitoring and taking all necessary steps including removal of all barriers (social, economic, academic, physical, etc), so that every child completes Elementary Education

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Chapter III (contd)

Central Government responsible for:

- Provision of financial assistance to States - in accordance with such formula as may be decided after consultation with them
- Provision of technical resource support to States through appropriate institutions
- Development of a National Curricular Framework, through appropriate bodies
- Monitoring progress of various interventions and taking suitable action in case of default

Chapter III (contd)

State governments responsible for:

- All responsibilities for free and compulsory education, except those assigned to Central Government, especially
 - Provisioning of schools and facilities as per requirement
 - Financial assistance to local authorities
 - Timely provision of elements of "free entitlement" to children
 - Provision of adequate facilities for training of teachers and other personnel
 - Endeavoring to provide pre-school education facilities in State/fully-aided schools for children of 3-6 years if such facilities not otherwise available through ICDS or similar programmes

Chapter III (contd)

Local authorities responsible for:

- Maintaining database of all children of 0-14 years, especially of disadvantaged groups
- Ensuring enrolment and participation in, and completion of EE by every child
- Taking special steps for uninterrupted education of children of migrant families

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Chapter IV – Schools & Teachers

Responsibilities of schools for free and compulsory education:

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|--|---|
| • State Schools, except of "specified categories" (eg KVs and NVs) | To all admitted children |
| • Aided Schools | In proportion to recurring aid as percentage of recurring expenses (min 25% children) |
| • State Schools of "specified categories", and unaided Schools | 25% of admitted children |

Unaided schools to be eligible for reimbursement of expenditure towards 25% seats

restriction of admission

Chapter IV (contd)

- Charging of capitation fee, and screening of child or her family for admission purposes – Prohibited
- Admission to a child entitled to free education (i.e. unless voluntarily admitted to a fee-charging school) - not to be denied at any time during the academic year

Chapter IV (contd)

- Schools to seek recognition from competent authority
- All new schools to fulfill norms and standards given in the Schedule
- All existing recognised schools to fulfill above norms - **within three years**
- Power to amend Schedule to be with National Commission for EE, in consultation with Central and appropriate Governments

Chapter IV (contd)

- Deployment of teachers in State/aided schools for non-educational purposes (except Census, elections and disaster relief) Prohibited
- Private tuition by teachers Prohibited

Chapter IV (contd)

- Future appointments of teachers to be permanently for a specific school
- All existing teachers to be permanently assigned to a specific school within two years
- Once appointed/assigned as above, teacher not to be transferred or deployed/deputed on temporary basis
- Teachers' vacancies in State/fully-aided schools not to exceed 10% of total strength

Chapter IV (contd)

- Only persons possessing NCTE-prescribed qualifications to be appointed as teachers (Central Government may relax this for minimum necessary period, for States not having adequate pre-service training facilities)
- All serving teachers not having prescribed qualifications – to be enabled by their employer to acquire these at his cost, within a maximum of 5 years
- Teachers' terms and conditions of service to be commensurate with qualifications and experience, and to be prescribed by State Governments

Chapter IV (contd)

Teachers' duties prescribed, including:

- Regular attendance in schools
- Timely transaction of curriculum
- Regular assessment of each child's learning level, and provision of supplementary instruction, as necessary
- Regularly reporting of attendance and learning status of each child to the parent/guardian and SMC

Chapter IV (contd)

Constitution of School Management Committees (SMC):

- Every State and aided School to have an SMC which will
 - Monitor and oversee its working
 - Manage assets of the school
 - Disburse salaries to teachers, and withhold them where necessary
- SMC's composition to be prescribed by appropriate Government, such that at least 75% members are parents/guardians, and SC/ST/OBC, etc are adequately represented

Chapter IV (contd)

Teachers made accountable to SMCs:

- Power to grant leave to vest in Head Teacher/ SMC
- SMC/Gram Panchayat/Municipality to periodically furnish performance appraisal reports on teachers to their appointing authorities
- Even if teachers are appointed by a higher authority, power to impose minor punishment shall vest in Gram/Block Panchayat or in Municipality, as the case may be

Chapter V – Content & Processes

Academic authorities while prescribing curriculum, and schools while transacting them, to ensure that they:

- Conform to Constitutional Values
- Are child-friendly and child-centred, and
- Use child's mother tongue as medium of instruction, as far as possible, at least in Class I-V

Chapter V (contd)

- Completion of elementary education to be certified by the School
- Child not to be required to appear at public examinations, except if at all, at completion of the elementary stage
- Physical punishment – Prohibited
- State Governments to take all necessary steps to ensure adequate pre-service and in-service training facilities for teachers

Chapter VI – Monitoring Implementation of the Act

- Central Government to constitute a National Commission for Elementary Education (NCEE) to monitor implementation of the Act, submit Reports to Parliament, and act as Ombudsman
- Commission to have a Chairperson, a Member-Secretary, and five members representing:
 1. Elementary Education,
 2. Child Development/Child Rights
 3. Finance
 4. Law
 5. Development Of Disadvantaged Groups

Chapter VI (contd)

Chairpersons and Members of NCEE to be appointed by the President on the recommendation of a high-level Committee consisting of:

PM,

Speaker of Lok Sabha

Minister, HRD,

Leader of Opposition in Parliament

Chapter VII – Miscellaneous

- Redressal of grievances regarding non-implementation of school-related provisions
 - Representation may be submitted to SMC/ local authority which shall dispose of it within 90 days
 - If petitioner is dissatisfied with the above, he may prefer appeal to the prescribed authority, which shall dispose of it in 90 days
- State Level Regulatory Authority to deal with grievances remaining unredressed

Chapter VII (contd)

- Causing obstruction in a child's participation in elementary education - Prohibited
- Every parent/guardian shall enroll his child/ ward of 6-years and above, in a school, and shall facilitate her completion of elementary education
- In the event of persistent default by a parent/ guardian, SMC may direct him to render childcare service in a school
- Penalties for contravention of various provisions prescribed

Suggestions From States

- Financing of implementation—most State governments of the view that additional cost should be borne by GOI
- HP and UP have strongly opposed the proposal to make teachers a school-based cadre and to bar deputation/temporary deployment
- UP and WB not in favour of making NCTE qualifications mandatory
- Some flexibility in proposed norms and standards also sought

III. FINANCIAL IMPLICATIONS

Financial Implications Originally Estimated By NIEPA For The CABE Committee (2006-12)

Scenario	Description	Total Estd Cost, 2006-12 (Rs. Cr.)	Average Annual Cost (Rs. Cr.)	Figure in Col 3 as % of GDP
1.	PTR = 35; Teacher salary as per KVS scales	4,36,459	72,743.2	1.51
2.	PTR = 35; Teacher salary as per State scales	3,93,307	65,551.2	1.36
3.	PTR = 40; Teacher salary as per KVS scales	3,46,299	57,716.5	1.20
4.	PTR = 40; Teacher salary as per State scales	3,21,196	53,532.7	1.11

Revised Cost

- NIEPA has done another exercise to estimate costs, considering a PTR of 1:40 and State teacher pay scales
- The difference is not substantial—estimates around Rs 50000 crores per annum, additionally

Main Cost Components

- Teacher salaries
- Training costs
- Incentives/entitlements under “free” education
- Grants to schools, teachers
- Civil works
- Inclusive education
- Mainstreaming costs
- Management costs (including National Commission)

Thank You