

Comments on the Right to Education Bill 2005

Dr. Madhav Chavan, Pratham

The Ministry of Human Resource Development has drafted the Right to Education Bill 2005 and put it on its website for public discussion. I understand that the Bill is likely to be tabled in the Parliament in the Winter session. The fact that the Bill has been drafted with considerable simplicity has to be appreciated. It is a Bill that is good in values but there are problems arising out of conflict with reality and some competing values that must be addressed at this stage. Following are the broad points I would like to emphasize.

1. The Right to Education Bill 2005, in its current form is entirely dependent upon whether and how the Government of India is going to provide for about Rs. 60,000 crore per annum in addition to all expenditure at the current stage. It is unlikely that GoI will make this annual allocation starting 2006, or in one go for plain economic reasons. Hence a stage-wise plan to implement this Bill becomes as critical as the provisions and the entitlements resulting from it. It has to inspire confidence in its implementation. **There is a need to outline this plan in the Bill or in attachments to the Bill.**
2. The National Common Minimum Program promises that expenditure on education will be raised to 6% of GDP in stages. It appears that one way or another unless there is a planned, phased increase in expenditure the Fundamental Right to Education will not be implemented in a desirable manner. **The Government of India should work out a tentative plan to increase annual expenditure on (elementary) education to reach 6% of GDP so that the implementation of the new law can be planned accordingly.**

3. The economic capacity of the state poses an obvious constraint in implementing the Law. However, given the neglect of government education systems in different states and specific regions of even the relatively advanced states, the limitations of managerial and technical capacities also need to be seen as constraints. The Bill requires 'local authorities' and 'school management committees' to "plan, budget, and provide" facilities while also disbursing funds, accounting, maintaining records, and monitoring work. This capacity is not present today even at the district and state offices except with the senior IAS officers. It is the duty of the Union Government and the State Governments to chalk out a system of HOW this will be done and define HOW the systems will work. This should be done in context of realistically building capacities from the district to the school level. Without thoughtfully building these capacities and related systems, increased expenditure will not lead to desired results. All that we will achieve is the creation of a system that is bureaucratically, feudally, command-control run and does not provide outcomes while demanding massive sums of money although apparently it is all decentralized and enabling. We are good at creating laws that lose all meaning when it comes down to implementation. **Assuming that the increase in expenditure will have to be in a phased manner, a serious effort at capacity building must form a critical pre-implementation exercise in existing schools and systems through a sub-mission of the SSA. The exercise cannot be limited to workshops and trainings but in actually designing systems and making them work. India does not lack talent in designing and operationalizing such systems. Each state can create a working model and demonstrate how it functions BEFORE a specified deadline.**
4. The Bill appears to make a major move towards decentralization. Section 13 of Chapter III (Planning for provision of Free and Compulsory Education) is probably the most important in this respect

but is tucked away under twelve other sections in the same chapter – “Responsibility of the State”. The entire education plan rests on the school development plan developed by the School Management Committee, yet there is no clear mention of a BUDGET APPROVAL for the SMC. My suggestion is that **every School Management Committee should receive at the beginning of the financial year a copy of an approved budget inclusive of salaries, textbooks, teaching learning materials, costs for training etc from the Appropriate Authority or its agent at the District. The SMC should have a control over its own budgets. The SMC should PURCHASE goods and services from state bodies or other vendors as per approved procedures and rates. That is, training is a service provided by the DIET or the Cluster Resource Center. These bodies should debit expenses to their ‘client schools’ and inform them how much has been spent on the services.** Similarly, each cluster-level, block-level, and district level body must have its own clear budget against a plan with localized control over planned spending. The state and union budgets can then be a sum of all such budgets and any additions. This will help in understanding what per child costs are being planned versus actually spent against planned achievement of goals. The culture of performance measurement and corrective action needs to be nurtured. Systematizing planning, budgeting, and accounting is a huge task, but in view of the historic nature of the law, this task has to be undertaken. It can be done with relative ease if information technology is used.

5. In 2005-06, the GoI contribution will amount to about 20% of total expenditure on elementary education. With an additional Rs. 60,000 cr, this component will rise to about 50-60%. The Bill proposes setting up of an Elementary Education Commission as a monitor, ombudsman, and a body with the power of a civil court. This is a good provision. However, considering the large share of the Union government in the

expenditure, it should have the right to pro-actively intervene through special mechanisms in a state or a district where progress is slow. There are references to such interventions in different sections (III, 9, V; however a clear spelling out is necessary.

6. The proposed School Management Committees have to perform many tasks but excepting the Head Teacher, no member of the SMC is full time and the functions listed include maintenance of accounts, monitoring, reporting, managing assets, disburse salaries, utilize grants received and 'other functions as may be prescribed'. However, there is no mention of any paid technical support personnel to help in these matters! There is a need to create a cadre of "**School Management Assistants**" who will be shared by schools in one or more clusters consisting of about 20-25 schools. Equipped with one laptop (custom-made for the government at a lower cost) and a custom-developed software, one young person can help with technical functions and cut down the burden that is sure to fall on Head-teachers, then passed on to teachers with obvious consequences. The cadre of school management assistants could be outsourced to private agencies so that a non-performing group can be removed from service.
7. The Bill proposes teachers to be a school-based cadre. After the commencement of the act the State Government will permanently assign teachers to a school and they will not be transferred. As far as appointments go, the SMC or the Panchayat does not have the responsibility to appoint or recruit but the state will deploy after recruitment. There is a contradiction that arises out of the desire to provide a well-trained teacher while also recognizing that such well trained teachers may want to move closer to towns where life is better. Making a teacher non-transferable is good, but if the teacher does not want to live in a village or a particular location for some reason, she/he will have no choice but to resign the cadre? Also, some teachers, even if they are not good could be permanently employed in

urban schools where they prefer to be while several excellent teachers, who would also like to move to the city may be stuck in small villages against their aspirations. The preferred process would be to create a DISTRICT BASED CADRE for a desired number of teachers to be licensed by the DIETS. The District Authority could then maintain a list of licensed teachers at about 110%-115% of the requirement of the district and the lists for employment could be circulated to all district schools. They can then be interviewed and hired by the SMC/ Panchayat. If the SMC does not find a licensed teacher within a specified time-frame, they may hire a non-trained person who should be in-service trained by the DIET. A teacher licensed by one DIET could transfer to another district if she/ he so desires and if there is a shortage of teachers. No authority should have the power to transfer the teacher but if an SMC finds a teacher inefficient or derelict in duties, they should return the teacher to the DIET pool of teachers. This may mean that some teachers will have to be maintained on rolls at some compensation if not regularly employed at a school. A reserve pool of this kind is required when teachers go on long leave and substitution is essential or when there are jobs to be done that are not necessarily academic but essential for educational activity.

8. Section 25 will have to include relaxation in case of villages where teachers are not willing to be employed or are not available.
9. Chapter V deals with the content of education. Section 29 uses all the good words such as "values", "identity", "express", "application of knowledge" and so on but has no reference to reading, writing, and arithmetic which are fundamental skills that are critical to all access to stored knowledge. At time when it is beyond doubt that over 50% of school going children in schools are poorest in these skills **THE LAW SHOULD REQUIRE THAT CHILDREN ARE PROFICIENT IN BASIC READING WRITING AND ARITHMETIC at appropriate levels as put down in the syllabi of each standard** and that the performance of the school will be measured based on the acquisition of these skills

among others. The United States had to make a law of "no child left behind" at the beginning of this century. We face the problem more severely today and leaving the requirement to attain basic literacy skills out is to undercut the process of learning at the very beginning.

Also, the Law should specify critical measurable learning achievement indicators that will be used to measure the performance of the school, the cluster, the block and the district.

10. In chapter V, clause 30 needs to be amended. Every child who completes the elementary stage of education must appear for a public examination and should be certified by the state. However, the child should have a choice of taking a common public exam at any time and as many times as necessary without pressure and the SMC should instruct teachers to remedy any weaknesses in the learning of the child so that she/ he can clear the exams. The examinations should not be based on textbooks but simple reading, comprehension, analysis, writing, and problem solving. Multiple attempt, anytime examinations can be organized quite easily using information technology.

11. Chapter IV deals with Schools and teachers. The proposal that no unrecognized schools will be allowed to open after the law is implemented is a good one (but then we also have a law against encroachment, which in turn conflicts with rights to livelihood and such..). However, recognition of existing schools can be tricky in states where rules of recognition are either not framed or are not implemented. The draft prepared under the previous government had a provision to recognize (but not financially assist) all existing unrecognized schools. There was some merit in that proposal. Many private unrecognized schools have come up in various locations purely because the governments did not perform their duties. Many schools have run for years and unless the governmental alternative is seen to be actually functioning, closing down these schools will cause sever

problems. Also, in many cases good people have taken initiative to start schools in the face of total neglect by the government. A lot of human capital will go to waste if they end up being not recognized. The parents must have a choice to continue their children in the private school if they so choose. The Compulsory part applies to education but a child cannot be compelled to go to a Free/government school if her/his parents want to send him to another school that is better functioning in their opinion. A government that has so far provided substandard education has not moral right to tell others to shut down purely because it has the power to do so. Let the government school prove its merit and the private schools will shut down if they do not get clients. On the other hand, the government also should be prepared to shut down its own school that does not function well and support a local school that is doing better. What should be closely watched is double enrollment of children in both the government and local private schools.

12. Finally, while the accountability of teachers is at least referred to, the accountability of the layers of non-teaching but academic cadre personnel starting from the cluster to the state level is not defined. In fact there is no mention of the whole system of SCERTs, DIETs, BRCs, and CRCs in the proposed law although it is on the strength of this system that we hope to deliver education of good quality. There should be an evidence-based performance review of the system. It may be argued that the Elementary Education Commission will do this in its monitoring function but it needs to be included in the law among the duties of the appropriate authorities. The Commission cannot monitor the performance of every block. This is why the Bill must include clear measurable outcomes against which each school, cluster, block, and district and state is measured, otherwise chances are that it will be business as usual.

These are some of the major points, which have a bearing on the whole draft and the approach adopted by the drafting committee.