

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY
BANGALORE

PROJECT ON
ACCESS TO SOCIAL AND ECONOMIC RIGHTS

SUPPORTED BY NOVIB

REPORT ON THE STATUS OF
RIGHT TO EDUCATION

By

Dr. N.R. MADHAVA MENON

RIGHT TO EDUCATION

CONTENTS

1.	INTRODUCTION		
2.	Right to Education in Kerala	.....	2
3.	Status of Right to Education in Andhra Pradesh	.....	6
4.	Right to Education : The Tamil Nadu Scene	.....	10
5.	Right to Education in Karnataka	.....	14
6.	Public Report on Basic Education : A Summary	.....	18
7.	Future of the Right to Education	.....	22
8.	Primary Education in the Union Budget 1999-2000	.....	24
9.	Tasks before the NGOs	.....	25

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BANGALORE

NOVIB Supported Project on

ACCESS TO SOCIAL AND ECONOMIC RIGHTS

1. RIGHT TO EDUCATION

March, 1999

This is a brief report on findings of a study on the subject conducted in four Southern States with a view to know the government policies and practices on Education in terms of the commitments under the Constitution and International Treaties on Human Rights and Development. The object is to seek empowerment of the people with legal knowledge and skills necessary to access whatever services now provided by State and to build on them for better protection of social and economic rights in future.

Report by : N.R. MADHAVA MENON

RIGHT TO EDUCATION

Introduction

Making generalisations on the status of any human rights-related issue for the whole of India is difficult and risky in view of the vastness and diversity of the country and the varying standards of governance obtaining in different States and even in Districts within the same State. The laws governing social and economic rights are mostly State legislations which vary in content and scope. Similarly the priorities differ in terms of allocation of resources and goals set for administration. To the extent that they are constitutionally or legally enforceable rights, one can discern a core minimum content which is what the citizen can seek to access from the State.

In view of the difficulty in generalisation and in view of the prevailing confusion in some circles about the status of these basic human needs (education, health, work and environment) as legally guaranteed human rights, it is perhaps appropriate to present this report with separate statements on the situation in each of the four States studied. Thereafter an attempt is made to discover the core minimum content of the right and to figure out available strategies for accessing it effectively. Finally, some trends in policies and practices are identified with a view to mobilise social action for enlarging and enhancing the status of right to education in coming years. The assumption is that unless legal instruments and techniques are invoked as frequently as possible in the delivery of social justice, the clarity of concepts and choice of access technology will remain under-developed thereby limiting the scope and reach of socio-economic rights.

I. RIGHT TO EDUCATION IN KERALA, THE MOST LITERATE STATE

Kerala is one of the smaller States of the Indian Union with an area of about 39,000 Sq.Kms and a population of nearly 30 million. (Density of population : 750 per Sq.Km.). The State is divided into 16 Districts and 151 Taluks. 94 per cent of the people are literate with female literacy ranging between 88 and 90 per cent.

Nearly 55 lakhs of children (28 lakhs boys and 27 lakhs girls) are studying in Kerala's 12,500 Schools of which 10,000 are lower and upper primary schools, the rest being high

schools. There are two lakhs teachers employed in the schools. The schools are categorised into Government, Aided and Unaided, the unaided being a relatively small number of 517 schools. The largest category is the aided schools which are privately managed, but funded by the Government (7 400 schools). In short, the majority of schools in Kerala are in the private sector and about 35 lakhs of children out of 55 lakhs are in private (aided or unaided) schools. The State spends nearly one-third of its revenue on education of which nearly 97 per cent goes in salaries of teaching and non-teaching staff. The average enrolment in Standard I is 5 lakhs which is 6 to 10 per cent lower from previous years. It is said that enrolment is declining because of lower birth rates. The teacher-pupil ratio varies between 25 to 30 students per teacher and there are schools with teachers but few or nil students. This decline in students has led to a phenomenon called "protected teachers" who continue in service without having to teach in the absence of students. The cost of expenditure per pupil in primary education is about Rs.2,300 (national average Rs.950) and the primary school budget is about Rs.1,000 crores per year. The drop out rate is 1.3% in lower primary classes, 4.5% in upper primary school and 15% in high school classes. The drop out rate for SC/ST students in all stages is almost double that of other communities. (Source : Selected Statistical Information on Education in Kerala, 1996-'97 Published by DPI, Trivandrum).

On the basis of statistical data and in comparison to similar data from other States, it appears that in terms of access and retention, the school system in Kerala does guarantee substantial right to education for children in the State. But on closer analysis several factors appear which make the claim hollow and tend to erode the real availability of the right. If universalisation of primary education is the only content of the right, Kerala is close to that objective. But in terms of quality, utility and achievement levels there is much to be desired yet. In fact, educationists argue that the static curriculum and outmoded methods of teaching forbid the students from attaining higher levels of creativity out of school education. (Dr. P.K. Pokker, The Hindu, 2nd June 1998). Another educationist put it differently when she said that one-third of the schools particularly in backward districts are so hopelessly poor compared to the rest, that the right to education of children in these schools is a "total farce". It is only the mid-day meal which keeps the drop out rates down and not the education one gets in school. In fact, a high percentage of children after completing 6 to 9 years of schooling do not achieve the nationally prescribed minimum level of learning (MLL) leading to colossal educational wastage

each year. Two thirds of all children appearing in SSLC examination in the State fail every year and most of them are children from backward sections of society.

In Kerala there is a flight of students from Government and aided schools to private non-aided schools within and outside the State where the cost of education is very high. The students who can afford, spend considerable sum by way of private tuition in each and every subject making the instruction in schools almost irrelevant in their learning and development. Many teachers are active in local politics and are being elected members of Panchayat raj institutions which tends to result in the neglect of teaching. The head of the school is involved in multiple activities and there is practically no academic supervision of performance of teachers either at the school level or at the district level. With widespread party-based political activity among a good section of students, the number of teaching days get increasingly reduced. The cumulative result of all these factors is the poor level of achievement and the consequent non-empowerment or disempowerment of the child passing through the system. It raises the question whether the right involves the duty to impart some basic level of competence or achievement after certain number of years of schooling? If the system does not do it what is the remedy available to the aggrieved party assuming that it is a case of violation of the right?

There is evidence to suggest that the school system is not only inhibiting the creative talents of gifted students but is promoting a cult of mediocrity perpetrated in terms of curriculum, teaching methods and examination system. In a sense, the new experiment of DPEP being introduced in selected schools admit this serious shortcoming of the system and seeks to remedy it by child-centered, activity-based, class room transaction with a revised scientific curriculum and study materials.

The teacher is the dominant academic input in the learning process of the student in primary school. Importance of teachers is not adequately recognized in primary school education (DPEP reportedly is addressing this central issue). Primary school teachers in the State are the lowest paid in the whole country even less than their counterparts in the neighbouring State of Tamil Nadu. Teachers organized on political party lines devote considerable time in agitational politics depriving the children of what Kerala High Court called "right to uninterrupted education". According to unconfirmed reports, to get a job as a teacher in

school, one has to pay bribe of Rupees three to seven lakhs to managements or political brokers as a result of which, those who get into the teaching profession are not necessarily those who are the best available in terms of qualifications and aptitude. Training and re-training which the Government conducts regularly have little impact on them. Their political clout has grown so much over the years that no government official can displease them, much less dislodge them. When such undesirable elements in the teaching community increase in numbers and dominate over the majority of responsible teachers, the decline in quality of teaching naturally sets in. Many well-intentioned initiatives and investments by educational authorities of Central and State Governments are unable to arrest the decline in standards. Parents and students get alienated from the official school system and seek refuge in high cost private tuitions or education in good boarding schools outside the State. Those economically weak continue in the system which turns out thousands of "educated illiterates" unemployable in the job market. Many of them swell the ranks of political parties and criminal gangs.

Kerala's school system is characterised as a "high cost-low performance" model which violates the right to equality and the principle of equity besides denying the right to quality education which alone enables one to live with dignity. Right to education, the Supreme Court declared, is part of right to life guaranteed in Article 21 of the Constitution in the sense that without education no one can live a life with dignity. If that is the measure of the right, school education in Kerala has to improve considerably before it can be acknowledged to exist in the State.

II. STATUS OF RIGHT TO EDUCATION IN ANDHRA PRADESH

Andhra Pradesh, the fifth largest State in the Indian Union (270,000 Sq.Kms) has a population of 67 million of whom nearly two-third are illiterate (62.5%). In fact, the State ranks 25th among the States in terms of literacy though in terms of economic development it is ranked in the 5th position. While male literacy is 46%, female literacy is a dismal 20% (all India literacy rate is 52% while for A.P. it is only 37.5%).

According to the World Bank Report on primary education, A.P. has the dubious distinction of having 75% of children of school going age being out of school ! Out of 77 lakh children enrolled in primary schools, 37 lakh drop out every year! The drop out rate of SC/ST girls in primary schools is as high as 75%. Out of every 100 children enrolled in Class I, only 48 children complete Class V in primary education. (ie. 52% drop out). The number of primary schools in the State is 43,000 and over 90% of habitations do have a primary school within one kilo metre radius. There is one teacher for every 55 students. Most of the schools have only two teachers for all the five classes. 90% of primary schools do not have toilet or drinking water facilities and are housed in just two rooms in all. Even when there is a school available, teacher absenteeism makes education not available. Only less than one percent of the annual outlay on school education is allocated for quality improvement. Thus the primary education scenario in Andhra Pradesh presents a dismal picture of neglect and non-accountability. It is problematic to situate the discourse on educational rights in the prevailing scheme of things.

Legal Framework

The Andhra Pradesh Education Act, 1982 and the A.P. Compulsory Primary Education Rules, 1982 demand enrolment and attendance of all primary school children in local schools to be set up within 1 Km from the residence of the child. The law expects the local authorities to provide adequate accommodation and play grounds for all children admitted, adequate number of trained teachers, mid-day meals, free supply of stationery and books, free clothing and attendance scholarships to poor. The legal framework on education was further strengthened by the Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and

Control of Schools under Private Management) Rules, 1993 and the A.P. Educational Institutions (Parents-Teachers Association) Rules, 1987.

Schemes and Campaigns

Several Centrally-sponsored and State-initiated schemes, campaigns and programmes have been undertaken by the Government from time to time and lot of money spent with a view to universalise primary education and improve the quality of education imparted. From the statistics noticed earlier, it must be admitted that the impact of the schemes and campaigns has been far from satisfactory. Comparing the situation between A.P. and Kerala, one scholar attributed the difference to the level of political activity and participation of the people in governance. It is argued that politics does make a difference in resource allocation and utilisation. Another comment advanced was that the style of governmental administration in the social sector emphasises only "how much it spends and not on how much it gets out of it". Yet another comment offered during the study was that people opt out of education because the so-called educated persons are anyway unable to find employment and in the bargain are alienated from their traditional occupations in the village. Vocationalisation and partnership with community are suggested as possible alternatives to remedy some of the defects in the system of school education.

An interesting point advanced by human rights activists in the course of the study was that laws, instead of empowering the people, tend to increase the powers of the State and its functionaries. The rules and regulations which the executive government make further tighten the grip around the people ostensibly for enabling them to enjoy the rights. They play the rule game with command over varied information not available to the beneficiaries of the laws. The information revolution now under way in Andhra Pradesh is supposed to generate demand for computer-aided rural education assuring relevance and quality at least in the future.

As in Kerala, the quality of education in terms of content and methods is equally bad in A.P. The alarming dropout rate is directly linked to quality of primary education. Added to that more and more children are reportedly falling into the disability trap because of environmental and nutritional factors. This, in turn, brings down achievement levels further.

Policy Drift and Bureaucratic Structure

It is alleged that there is policy level confusion on what is to be achieved by primary education. Is it to teach the reading-writing abilities only or to create critical awareness about life, livelihood and society. Is it to cater to local needs or to larger national goals? What are the roles and responsibilities of parents, managements, local-bodies and community groups in the matter of primary education? In designing the instruments of learning and in measuring achievement, the conceptual ambiguities seem to have driven the system to a meaningless examination-oriented operation socially irrelevant and individually unproductive of livelihood abilities. Furthermore, whatever policies have been evolved and articulated by expert committees and commissions the system failed to reach them at the implementation level because of transmission losses in the highly bureaucratic educational administration.

Lack of competent and committed teachers is said to be the single most important factor for all the ills of the educational system. The system of selection and conditions of service are said to be partly responsible for this situation. There is no system of accountability in teacher performance and there is no proper supervision or correctional arrangements in place.

Back to School Programme

Alarmed at the extremely low levels of achievement particularly of SC/ST children in school education (over 80% dropout and do not reach VII Std.) and at the increasing spread of child labour, the Social Welfare Department of Government of A.P. has started residential summer schools for school dropouts. It is said that an experiment by an NGO (MV Foundation) in this regard had yielded results in Andhra Pradesh. The Government adopted the model and the expertise of the NGO for institutionalising an innovative system of imparting education to children who have dropped out or have never been to school. Highly motivated and skilled teachers in each district are identified and invited to participate in the "back to school" programme. With the help of a carefully prepared teachers' manual the teachers are prepared to do a thorough job of motivating the students and preparing them to join an appropriate standard at the end of the programme. The activities during the summer school camp are rich and varied to cater to the needs of every child which are designed to withdraw the child from labour and put back in education.

The Back to School programme started as a pilot project by the Government in 1997 is said to be a path breaking experiment in protecting the right to education particularly of the socially and economically disadvantaged sections of society. The programme initiated with great enthusiasm and full support of several departments of the Government in all the 23 Districts of A.P. is quite unlike the usual bureaucratic exercises and, if it succeeds, would be a breakthrough in the otherwise depressing destiny of thousands of out of school children in the State.

Welfare approach V. Right approach

A section of scholars ventured to suggest that in matters of health and education, "the welfare route" is more beneficial to the consumers than the "human rights route" particularly when the consumers are illiterate and the transaction costs are high. Taking the State as *parens patriae*, depending on the good sense of public servants and adopting a conciliatory approach in grievances redressal, this view cautions against pushing human rights advocacy in social sector at the present stage of development. When civil society gets organized, social capital gets consolidated and legal institutions become more people-friendly, they say the 'Rights' approach may bring better results than now.

Should this line of argument is to be followed, social and economic rights are mere aspirations and are not individual rights in the sense civil and political rights are. They are group entitlements for which there are no enforceable correlative duties on anyone. One wonders whether the primary education scenario of Andhra Pradesh substantiate such an approach. The language of rights does not have the technology for its access. In whatever way one looks at it, the fact remains that every second child in Andhra Pradesh is today denied right to education in whichever sense the right is perceived or articulated.

III. THE RIGHT TO EDUCATION : THE TAMILNADU SCENE

Tamil Nadu covers an area of 1.4 lakhs Sq.Km and has a population of 56 million with a ratio of 95 females for 100 males. Literacy rate among male is 75% whereas with females it is 52%. The combined literacy rate is 64%. Among Scheduled Castes and Tribes the literacy rate is only 30%. Of the 23 Districts in the State, the disparities in terms of literacy and gender equality are quite pronounced though they have slightly narrowed over the years. Kanyakumari district is at the top with Madras and Dharmapuri remains at the bottom. There is a contiguous low-literacy belt consisting of the districts of South Arcot, Thiruvannamalai, Dharmapuri, Salem and Periyar. These are the bottom five districts in terms of literacy rate. Over one-third of the total illiterates in the State reside in these districts.

Universal Elementary Education (UEE) means universal provision of facilities, universal enrollment and universal retention. Universal provision of facilities, however, may not necessarily ensure universal enrollment and universal enrollment may not guarantee universal retention. Providing schools within easy reach everywhere does not guarantee equality in access to education which can come only when facilities include universal supply of teaching/learning materials and maintenance of desired standards of quality instruction in all schools. Availability of basic minimum of resources, academic-friendly management, adequate number of competent and committed teachers and a relevant curriculum are other factors which go to make UEE a reality.

While universal provision of above facilities may ensure liberty to exercise the right to education, the real ability to avail oneself of the right, depend on many other factors such as socio-economic conditions of a learner, educational background of parents and relevance of education for livelihood of prospective learners.

Access to Education

In Tamil Nadu in 1997 there are 31,000 primary schools with 6.7 million children and another 5,500 middle schools (upper primary schools) with 3.5 million children. Besides, there

are 3,500 high schools with an enrolment of 1.5 million children and 2,700 high secondary level institutions with 0.7 million children.

There are primary schools all over the State near habitations with population of 5,000 and above. Nearly 97% of all habitations in Tamil Nadu have schools within one Km distance. Only 280 habitations in the State are yet to have a school. Children living in hilly or forest areas and children of migrant workers may still have problems of physical access because they need to walk some distance (2 to 5 Kms) to be able to attend school.

The number of teachers working in the 36,500 primary and middle schools is around one lakh and fifteen thousand of whom nearly 50,000 are women. The teacher-pupil ratio is 1:40 both at the primary and middle levels. However, the teachers are not rationally distributed across all the schools. There are 460 schools with single teacher and over 50% of the schools have 2 to 4 teachers. While some schools have a teacher-pupil ratio of 1:10, there are other schools which show the ratio as 1:150.

Wastage in Primary Education

Wastage in education includes not only dropping out and stagnation (repetition in same class) but also non-achievement of skills.

At the primary level (1-5 stage) the current drop-out rate is around 15.5% while it is over 32% in the middle school (1-8 stage) level. It goes still further at the high school level (1-10 stage) which is as high as 65%. This means that less than one-fourth of children enrolled in primary schools reach the stage of high school. Only 10% of them reach the higher secondary levels. This is explained partly in terms of the fact that it is in the middle school stage that children seek entering the labour market. The drop out rate among girls is slightly higher than boys in all stages though not significantly higher. However with S.C. students, the drop out rate at primary level is double that of combined rates for other communities. There is evidence to suggest that initiatives like noon meal scheme and free book supply did reduce drop out initially and any further reduction would be possible only by quality improvement resulting in real achievement of skills which will provide a base for further development. It is also noted that the drop out rate increases the moment there are opportunities for child employment. It is reported

that with the starting of waste paper recycling units in Coimbatore district, there was a sharp increase in drop out among children as the industry employed children for collection and sorting of waste paper before it is recycled.

According to one study in the State more than half the children in class 4 and 5 fail to meet the basic requirements of literacy. A study done by World Bank (1994) show that the total achievement level (arithmetic, reading and language) is only 44% in Tamil Nadu and the State ranks 12th on this score. Two thirds of drop outs are doing so for reasons other than family economic needs. Poor quality of education is largely responsible for this. Some of the factors which contribute to this situation are :

- uneven capability of teachers to cope with the syllabus
- uninteresting and dull teaching methods
- inadequate in-service training of teachers
- multi-class teaching and over-crowded classes
- poor infra-structural facilities
- lack of involvement
- lack of academic supervision and monitoring etc.

The situation in respect of quality is said to be as alarming as in Kerala and A.P. despite several Central and State sponsored schemes to correct the decline.

While enrolment figures for the State are satisfactory (95% of all children in the age group of 6-11), statistics reveal that nearly 22% children (nearly 3 million children) are out of school in the age group of 5-14.

A New Legal Framework in Tamil Nadu

The Tamil Nadu Compulsory Elementary Education Act, 1994 is a pioneering effort to put the right to education of every child in the State on a statutory footing. This should make access more real by compelling the State to start schools within reasonable distance of every hamlet and to appoint adequate number of teachers in each one of them. However in respect of retention and achievement, the strategies are yet to be developed. The coercive measures have

proved to be counter productive beyond a point and as such, quality improvement has to receive greater attention in future. Given the fact that at present only 44% of children alone at the primary stage have achieved the minimum level of learning, the task appears to be formidable. The DPEP programme is a modest attempt in this direction. However, the thrust of the programme being on infra-structure development, curricular reform and teacher training, the impact on quality improvement cannot be ascertained immediately.

There is a view that even elementary education is highly centralised which takes away local initiatives and involvement. Even DPEP is not district based in respect of curriculum planning and administration. There is over-bureaucratisation and top-down approach which makes the individual teacher not central to child development. Monitoring and evaluation by bureaucratic machinery is not facilitating but inhibiting quality development. Domination of politicians and bureaucrats in education is not conducive to quality control. Academic freedom at the school level has deteriorated to freedom not to teach; it is not available to experiment, innovate and communicate in ways considered appropriate by the individual teacher. If educational services were to cover health, nutrition, sanitation, drinking water, building facilities and transport, how is it to be co-ordinated at the school level. Perhaps only Panchayat raj institutions alone can manage primary education facilities in an efficient way. This calls for substantial administrative reforms in the elementary education sector. Local teachers and control of local panchayats can deliver better results in terms of quality and achievement.

IV. RIGHT TO EDUCATION IN KARNATAKA

Karnataka is a State with an area of 1.9 lakh Sq.Kms and a population of 45 million. The literacy rate in the State is 67% in the case of males and 44% in the case of females. There is wide disparity in literacy rates when urban population is compared to rural or South Karnataka is compared to North, or SC/ST population is compared to other communities.

Educational Profile

There are about 6 million children enrolled in the School System and another 4.5 million children are out of school. The total number of children of school going age in the State is a little over 10 million. The maximum number of children in school is of the age group 6-11 of whom 82% are in Government schools and 18% in private schools. The school structure consists of four years of lower primary, three years of upper primary and three years of high school or secondary school education. Karnataka is yet to adopt the 5+3+2 pattern of school education recommended by the 1986 National Policy on Education.

The drop out rate as usual is the lowest in the lower primary level (16.5%) and far higher in the upper primary level (43%). So much so, only less than half the number of children enrolled complete Class V. The "push and pull factors" are said to be responsible for this phenomenon, push factor being inadequate or irrelevant learning provided and pull factor being economic hardship.

The total number of schools in the State in 1996-'97 is a little over 50,000 of which 46,000 are primary schools (23,000 lower primary and 23,000 upper primary). The High Schools are about 5,000. 77% of the primary schools and 87% of the middle schools are reportedly having reasonably good physical infra-structure by way of buildings, toilet and drinking water facilities etc. There is a school practically in all rural habitations in the State within a distance of 1 Km.

There are nearly 1.8 lakh teachers in the School System in Karnataka. The teacher-pupil ratio is about 1:42 though it varies between 1:28 in Chikmangalur and 1:53 in Bangalore. About 35% of teachers in primary schools are women and it is noticed that enrolment of girls increase with increase in the number of lady teachers. There are very few single teacher schools. On an average there are 3.6 teachers per Government School and 8 teachers per aided school and about 5 teachers per unaided school at the primary level.

About 22% of the State budget is spent on education of which nearly 52% is on primary education alone (lower and upper levels).

As in many other States, the State manifests low achievement levels for students of the primary classes. This is the major reason for high rate of drop out as well. Whether in terms of content of syllabus or in terms of methods of teaching, the system does not provide even the minimum prescribed levels of learning. MLL consists of a list of basic abilities which every child should acquire after a certain number of years in school.

There are number of schemes introduced from time to time for increasing access, retention and achievement. Some of them are sponsored by Central Government while others are by the State itself. It included nutrition schemes, scholarship and cash incentives, providing better training and infra-structural facilities etc. Many schemes were not sustained after its initial duration. The schemes did not reach all sections entitled to the benefits under them.

The Karnataka Primary Education Act, 1961 compels parents to send children to school unless there are "reasonable excuses". It was replaced by Karnataka Education Act, 1983 which provided for free and compulsory schooling upto Standard IV for children of age 6-11. The Karnataka Compulsory Primary Education Rules under this Act were notified in 1996. The Act expects the local bodies to come up with schemes for the implementation of the Act. The Act provides for penalties to the parents and employers for not sending their school going age children to the school. Poverty, need to help parents etc. are legitimate excuses for non-attendance under the Act. The enforcement is with Attendance Authorities to be notified by the Government. Generally BDO at the Taluk level and Headmaster at school level are notified as Attendance Officers.

The Karnataka Educational Institution (Classification, Regulation and Prescription of Curricula etc.) Rules, 1995 deal with matters pertaining to the regulation of the facilities to be available with schools, admissions, fee collection in private schools etc. The Grand-in-Aid Code for Primary Schools provides the criteria for providing grant-in-aid to schools managed by private bodies.

The Karnataka High Court in 1998 ruled that right to education being a Fundamental Right, the State Government is under an obligation to re-imburse the educational expenditure of the children studying in private schools upto the age of 14 years.

There are many issues being debated as to what constitutes the content of the right. At present it appears that free education is intended to mean only exemption from paying tuition fee and not entitlement for support in respect of related educational costs. The State Government keeps the discretion to notify the Act in relation to particular areas where primary education is to be compulsory. This leaves out large parts of the State from the compulsory application of the provisions and consequent obligations of the State.

A legal framework which is fragmentary and incomplete, policies which are seldom seriously taken because of lack of political will and commitment of resources to support them, and Schemes which keep on coming and going according to the fancy of the ruling parties have not provided the climate for taking right to education seriously either by the parents or by the Government. Existing schemes are over-bureaucratic with a long gap between promise and performance. Quality improvement is largely paper plans and are driven mostly by finances available from outside sources. The child labour market is continuing with vigour.

Two systems of education, one for the rich which is qualitatively superior and another for the poor where because of lack of quality and relevance, children drop out of education, co-exist in the State. Added to this is the continuing controversy on the medium of instruction at the school level. While the official policy is to allow only Kannada medium schools, English medium schools are growing by leaps and bounds. A number of good schools started in the private sector where education is costlier than even of Universities have started attracting students even from neighbouring States. Those with boarding facilities attract children of NRIs

in large numbers; so much so, in Karnataka it is said that education is an industry prospering with official patronage. It is interesting to note that most litigations in the Supreme Court pertaining to education had their origin in Karnataka where educational enterprise has assumed commanding heights of the entire range of educational spectrum. The bright side of the situation is that given political will, Karnataka is better poised than all other States in the South, to make a meaningful break through on the implementation of right to education in the foreseeable future.

PROBE REPORT ON STATE OF ELEMENTARY EDUCATION

Public Report on Basic Education (1998) : (A Perspective from Northern States)

One of the latest reports on status of school education in India is from a group of researchers published recently by the Oxford University Press and released by Prof. Amartya Sen. Instead of relying on official statistics, the PROBE team claims to have directly spoken to school children, including dropouts and their parents. It is said to be the result of extensive field work in more than 200 randomly selected villages in Uttar Pradesh, Bihar, Madhya Pradesh, Rajasthan and Himachal Pradesh. These States together account for 40 per cent of the country's population and more than half of the out of school children.

The report is summarised here because it provides contrasts not only between South and North parts of India on facets of elementary education, but also questions many assumptions and theories for the disappointing situation obtaining in the country despite laws, policies and allocation of resources for Universal Elementary Education by Central and State Governments.

The report challenges, inter alia, the following "myths" : (a) poor parents are not interested in sending their children to school; (b) most out of school children don't attend school because they have to work; and (c) elementary education is free. PROBE team reportedly found parents invariably wanting their children to get good education, though they attach greater importance to the education of sons rather than daughters. Most parents have no faith in the ability of the school to impart good education. The magnitude of child labour, according to them, is vastly exaggerated. In fact only a small percentage of children of school going age are full time labourers. The report does not believe that there is a direct link between child labour and the phenomenon of drop outs. It suspects that most children take up employment after they drop out of schools for a variety of reasons, rather than the other way round – that children don't go to school because they have to work.

There is no such thing as an absolutely free schooling. It may be that government schools do not charge admission or tuition fees. But it does not mean that for educating children at the elementary level, parents have not to incur any expenditure. The report finds that the costs involved coupled with the quality of schooling the child obtains dissuades parents of poor families in sending their children to school. According to the report, parents spend more than Rs.300 a year per child for maintaining her in primary schools. If there are several children of school going age it is indeed a serious problem for poor families. Still children do go to school "in scanty clothes and with depleted school bags". The report confirms some of the worst impression about school education in terms of quality, gender disparities, regional variations, poor pupil-teacher ratio, poor infra-structural facilities, unimaginative teaching material and lack of public and political commitment to universal elementary education.

Some of the other points raised in the report in the context of education being treated as a fundamental right are :

1. If the right to elementary education is to become a reality, a massive effort is required to bring the schooling system in line with this goal. And as things stand, there is little sign of such an effort being undertaken.
2. The successful universalisation of elementary education depends on the positive involvement of teachers, parents and other members of the community. Whenever a teacher absconds from the classroom, or a parent withdraws a child from school or an employer exploits a child labourer, the fundamental right to education stands violated. Upholding the right is, ultimately, a social responsibility.
3. Learning to read and write can do a great deal to liberate children from the tremendous sense of powerlessness expressed by illiterate persons in modern society. Children often benefit from associating with other children in a learning environment, even when the content of teaching activities themselves is of limited interest. The socialisation experience in school has much greater educational value than the formal curriculum.
4. Schooling is not the only means of acquiring education, but the two are closely linked. Right to education is usually understood in terms of a certain number of years of

schooling (eg. eight years according to the standard understanding of Article 45). Education, however, is more than schooling and a lot of schooling activity has very little to do with education.

5. In most literature, 'education' is equated with 'literacy' though literacy is just one of the skills attained through education. Literacy rate is an indicator of the levels of educational achievement. Free, compulsory education cannot therefore be limited to 'total literacy'. Education for all was a much broader social goal.
6. Teachers are the key actors in the village school. Their skills are vastly under-utilised because of a demotivating work environment and lack of accountability.

Apart from the many 'myths' which surround the debate on elementary education in India, the Report identifies four facts which plague UEE :

Firstly, elementary education remains far from universal. Half of the country's population was unable to read and write. Less than 30 per cent of all adults had completed eight years of schooling. One third of all children aged 6-14 years (about 23 million boys and 36 million girls) were out of school. Thus, only a small minority of the population has attained the constitutional goal of eight years of schooling.

Secondly, educational achievements are highly uneven. Literacy rates, for example, vary a great deal by region, class, caste and gender. Literacy rates tend to be higher in South and Western India than in North or Eastern India. Bihar, M.P., U.P. and Rajasthan are the worst performers where majority of children in the 10-14 age group are illiterate. Within a given region, literacy rates are usually lower among those who are economically under privileged, SCs, STs and Muslims. Another crucial problem is that literacy rates are much lower for women than for men in most regions.

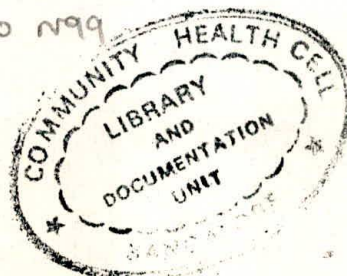
Thirdly, the poor state of elementary education is largely a reflection of State inertia in the form of under provision of education facilities, inadequate supervision of the schooling

system, neglect of disadvantaged regions and communities. Most of the schemes like Total Literacy Mission, Operation Black Board, DPEP etc. are of ad hoc nature and at best of supplementary character.

Two significant reasons for lack of quality in elementary education brought out by PROBE team are lack of teacher accountability and gaps in educational management. The available mechanisms of accountability are weak in practice. For example, teacher promotions are based on seniority rather than performance. Transfer and punitive measures are resisted successfully by teachers' organizations. Inspection system has no follow-up action. Supervision by head teacher is ineffective as in some cases head teacher himself may be non-accountable. Concern for reputation seem not to bother many teachers any more. With a diluted work culture and subversive political connections, there is no effective system of peer group pressure. With little power left with parents or local communities, there is little that communities can do to make teachers accountable. An over-centralised administration makes the problem still more difficult. Teachers have lot of political clout because of the size and strength of their organizations and the statutory membership given to them in the upper houses of State legislatures and panchayat raj institutions. They had many strikes and agitations which had in the past substantially reduced the number of days available for teaching. The agitations were mainly on the issue of salaries and work conditions. The report of the National Commission on Teachers (1986) does not shy away from mentioning this problem (p.71); "we must invite attention to the need to promote actively parents' organizations all over the country.... We feel that such organizations are desperately needed to promote and safeguard the educational interests of their wards and to counteract the negative and unhealthy political pre-occupations of some of the teachers and their organizations".

EDU-100 299

05747



FUTURE OF THE RIGHT TO EDUCATION

The picture that emerges on the status of implementation of the right to free, compulsory primary education from the NLSIU survey of South Indian States and from the study of PROBE team in North Indian States is one of lack of political will on the part of ruling and opposition parties, public apathy or indifference, over-bureaucratisation and centralisation of the management apparatus, poor supervision of performance and non-accountability on the part of teachers, slow progress towards universalisation and fast deterioration of levels of achievement of students in primary classes.

The introduction of the 83rd Constitutional Amendment Bill in the Rajya Sabha by the National Front Government in July 1997 showed some promise of brighter future for the realisation of the goal of free, compulsory primary education for all children. It seems to be out of the agenda now. State legislatures have been promulgating primary education laws though the legal framework fell short of putting in place the required mechanism to realise the goal.

Lack of funds is always an excuse for governmental inaction towards implementation of the Constitutional obligation. Over 95 per cent of the available funds go in salaries of teachers and staff with little left for quality improvement and infra-structure development. Lot of funds are spent in special schemes and programmes the impact of which is noted more in official statistics than in ground realities. It is not a story of inadequate number of schools or teachers though there is still scope for further improvement in this sphere too. The real problem is the inability of the system to provide a level of education which will enable the children to develop abilities to live life with dignity. Committees appointed by the Department of Education of the Government of India estimated that implementing the fundamental right to education would require an additional annual expenditure of around 0.5 per cent of India's GNP over the next five years. This means the resource requirement for free, universal primary education will cost only a marginal increase over the current levels of expenditure.

Explaining the implications of the proposal to make elementary education a Fundamental Right, the Committee of State Education Ministers (Saikia Committee) in 1998 proposed that a

State-wise approach in regard to free education should be adopted in keeping with the local requirements and constraints. However, in order to ensure uniformity, free elementary education should mean exemption from tuition fee, provision of free text books for all primary school children, provision of essential stationery to all children and mid-day meals programme. State Governments may provide other incentives such as free school uniforms, cash incentives, scholarships etc. in accordance with their economic capacity and priorities. (According to National Sample Survey Reports (52nd Report) only 77 per cent of the primary school children get free primary education – meaning no tuition fee is paid to the school by the students. Only 35 per cent of children in primary schools receive free/subsidized books, 5 per cent receive free/subsidized stationery and mid-day meal is available only to 25.9 per cent of the students. Only 3.9 per cent of the students get financial incentives/scholarships). State should delegate authority and decentralise management of elementary education to local bodies in urban and rural areas in consonance with the spirit of the 73rd and 74th constitutional amendments.

The Saikia Committee recommended certain basic educational facilities, which if not provided may become justiciable on the right becoming a fundamental right. These include (a) at least two rooms when enrolment is less than 100 with verandha and separate toilet facilities for boys and girls; (b) at least two teachers for 100 students; and (c) essential teaching/learning material for Rs.10,000/- per school. For Upper Primary School, it was proposed that the guideline should be at least one room for each class, a headmaster-cum-office room, contingency grants of Rs.1,000/- per annum, library facilities and study equipment costing Rs.40,000/- per school.

The Committee was of the view that the primary responsibility to promote elementary education should remain with the State Governments which should authorise local bodies to raise revenue (educational cess) for improvement of facilities in schools. The Central and State Governments should allocate 50% of budgetary allocations for education to elementary education and ensure that the funds are not diverted to any other sector. The requirement of additional finances are tentatively estimated to be Rs.40,000 crore. The Committee did see the need for private participation in primary school education particularly in remote and inaccessible areas.

PRIMARY EDUCATION IN THE UNION BUDGET OF 1999-2000

The Finance Minister in his Budget speech spoke about an Education Guarantee Scheme with the aim of providing an elementary school in every habitation which does not have one within a radius of 1 Km. Initially, the local community would provide the premises and select a local person as a part time teacher. Teaching material and other assistance will be provided by the Central and State Governments while Gram Panchayats will mobilise contribution from the local community in cash and kind for running the school for at least two years after which it will be upgraded on a permanent basis. 1.8 lakh such schools are to be started in the next three years of the Ninth Plan.

TASKS BEFORE THE NGOs

It is for the Consultation Meeting to reflect on the prospects and strategies for realisation of the right for every child in the immediate future in the context of the above facts and developments. What is lacking and where in UEE? What is available to whom and how good is it? Does the right promise anything more than what obtains at present? If so, what more and from whom? On whom does the obligations lie and are they justiceable? When do you say that right to education is violated?

One of the objects of the Consultation Meeting is to seek the views of NGOs on how available information on educational entitlements should be presented for use by NGOs if a Manual on the subject were to be prepared. The Manual, it is assumed, should not only give the nature and scope of the right as it obtains today, but also suggestions on what it can comprehend if the State and society are disposed to give it the status of a Fundamental Right. The Manual hopefully would carry information on Policies, Institutions and Structures managing the system, Resources and levels of Public Participation. The idea is to empower NGOs with information and skill for effectively mobilising people to influence policies and decision making in order to progressively take the right to its intended goal of Universal Elementary Education.

In short, the expectation is that discussion at the National Consultation Meeting would reflect on not merely the content and status of right to education as it is today. More importantly the meeting seeks to have inputs on strategies for legal information empowerment of individuals and institutions towards achieving better access to education for all and to ensure that education imparted is of the kind that promotes "life with dignity".