

Draft National Policy on Universal Attainment of Education and Reintegration of Out-of-School Children

Introduction

This draft national policy forms an alternative approach to the eradication of child labour by the Centre for Child and the Law, National Law School of India University. We share the goal of the Campaign Against Child Labour on the total eradication of child labour, and acknowledge the immense efforts put in by them into making their draft Bill. Unfortunately, we believe that the approach enshrined in the draft Bill - the abolition of child labour - will not work as long as the social and economic conditions of children and their families continue to incentivize child labour. Children are often pushed into labour owing to economic deprivation and lack of alternatives - and it is the creation of alternatives and strong social security that will keep them out of child labour.

We also believe that as far as possible, relying on and strengthening existing mechanisms, such as those under the Right to Free and Compulsory Education Act, 2009 (the “**RTE Act**”), would be more prudent than investing in the creation of a new alternative system. Further, some of the existing institutions relied on in the draft Bill, such as the Child Welfare Committees, rely on the punitive approach of the Juvenile Justice (Care and Protection of Children) Act, 2015. Increasing the involvement of local-level institutions instead of relying on centralised approaches could pave the way for a truly democratic shift away from child labour.

Objectives

Strengthening and expanding the right to education, along with the rights to nutrition and health, is the single most important measure we can take in the eradication of poverty, the levelling of caste and religious inequities, and the self-actualisation of the people. At present, the right to education is limited to children between the age of six and fourteen and to elementary education alone. While this in itself was an important milestone, by no means is it sufficient. The expansion of the right to education could also enable prevention of children from engaging in activities that pose a risk to their well-being and development, such as child labour, trafficking, etc. This has been observed, for instance, in the Ranga Reddy district of Andhra Pradesh, where the expansion of the right to education led to a decline in the rate of child labour in the 1990s.¹

Guided by Articles 14, 15, 21, 21A, 23, 24, 39, 45, 47 and 51A of the Constitution of India, the principles laid down in National Policy for Children, 2013, and the United Nations Convention on the Rights of the Child, 1989, this policy aims to expand the right to free, universal and compulsory education to all children under the age of 18. Further, it aims to enshrine the right to secondary education and senior secondary education in addition to the currently existing right to education. ‘Children’ under this policy are all persons under the age of eighteen. Where there is

¹ Rekha Wazir, 'No to Child Labour, Yes to Education': *Unfolding of a Grass Roots Movement in Andhra Pradesh*, ECONOMIC AND POLITICAL WEEKLY, Dec. 28, 2002 - Jan. 3, 2003, Vol. 37, No. 52 (Dec. 28, 2002 - Jan. 3, 2003), pp. 5225-5229. <https://www.jstor.org/stable/4413019>

a doubt as to the age of a child, the benefit of doubt will be given in favour of the presumption of them being a child. Special attention is to be given to the right to education of out-of-school children, children from Dalit/Adivasi communities, girl children, children with disabilities, transgender children, and migrant children/ children at risk of migration and child labour.

Along with the right to education, the policy also aims to expand the rights to nutrition, health and social security, which are equally crucial to its fulfilment. Local level institutions, who are in the closest contact with vulnerable children and the most directly accountable to the people, will be the primary institutions responsible for implementation of the policy. The policy therefore also aims to provide these institutions with sufficient decision-making power and financial resources to carry out their responsibilities effectively.

Expanding the Right to Universal and Quality Education

The right to education shall be extended to all children up to the age of eighteen years, and shall include pre-school and senior secondary education. The Central government shall pass appropriate amendments to Article 21A and the RTE Act to enshrine these rights. Further, the definition of 'child' shall be made uniform across all laws, in conformity with the National Policy for Children, 2013.

In addition to expanding the coverage of the right to education, the quality of education imparted must also be improved in government schools. The appropriate Governments, in collaboration with School Management Committees, must ensure that the norms and standards prescribed in the RTE Act are implemented, in-service trainings are provided for teachers, and the recruitment of teachers to government schools is streamlined. Early Childhood Care and Education (ECCE) must also be universalized for all children below the age of six years, with the support of *anganwadi* workers and health officers.

Reintegration of Out-of-School Children

Children are often forced out of the schooling system due to financial reasons; disability; discrimination based on caste, religion, gender or sexuality; migration; or trafficking. Once they leave the school system, they may end up in child labour systems, in conflict with the law, or in child marriages. The reintegration of all out-of-school children into mainstream or residential schooling must be prioritised by all appropriate governments. All out-of-school children shall have the right to the completion of their senior secondary education, until they attain the age of eighteen.

All children have the right to admission in the nearest government school. Children who have been out of school for less than a year shall be entitled to attend the bridge courses conducted by the government school for the duration of classes missed, up to a maximum of one year. Following the completion of bridge courses, children shall be placed in age-appropriate classes.

Children who have been out of school for longer than a year shall be entitled to admission to the nearest government residential school (Navodaya, Morarji Desai, Kasturba Gandhi, or by

whatever name they may be called). Children who have engaged in or are at risk of engaging in child labour, children without a supportive family environment, children who have been survivors of trafficking, and children of migrant parents shall also be entitled to admission in these schools. The residential school to which the child is admitted should be in the state which best aligns with the interests of the child. While for many children, this would be in the state and area closest to their place of residence, a case-by-case assessment should be made, especially in cases of migrant, trafficked and displaced children, as well as children without familial support.

Such schools shall offer round-the-clock care and support, such as medical services, mental health services, and quality nutrition. Additionally, teachers and counsellors should work together to help children identify their areas of interest, encourage their progress, and protect their life and dignity. Entrance examinations to all residential schools shall be eliminated as per the RTE Act as conducting any kind of examination for entrance to schools is in violation of RTE Act and the right to education. It is also the responsibility of the appropriate government to allocate sufficient funds to the strengthening of residential schools.

Expanding Social Security and Protection

Recognising that out-of-school children often leave schooling for financial reasons, social security in the form of stipends and scholarships must be provided to every child returning to school. In cases where the child contributed to the income of the family or has their own dependents, additional stipends must be offered to cover the lost earnings of the child.

It must also be recognised that increasing social security benefits and supports reduces incentives for children to drop out of school, especially if adults in the household are earning a guaranteed income. The scope of guaranteed employment under statutes like MGNREGA, in terms of the number of days of employment and the amount paid, should be expanded. Social security benefits such as pensions, benefits, gratuity, employees' state insurance, and employees' compensation, should also be institutionalised for the unorganised sector at the national and state level as statutory benefits, rather than being delivered through schemes. The minimum wage shall also be fixed in accordance with the actual costs of living to provide for a decent wage, and shall be tied to inflation and this needs to be revised at regular intervals.

Specific policies may also be developed for the reintegration and support of children in child labour systems, children in conflict with the law, migrant children, and disabled children. Such policies should be developed through a consultative process with the affected children and adolescents directly. In addition, special financial support shall be provided to single guardians, and children with disabilities and their guardians, to offset additional expenses that are typically faced by them.

Addressing Nutrition and Health in Schools

To ensure adequacy of nutrition, the midday meal scheme must be expanded to the maximum extent possible. States which do not already do so must be supported in including a hot

breakfast under the midday meal scheme. The nutrition provided must be culturally appropriate to the dietary needs of the relevant population, and locally consumed varieties of grains, vegetables, dairy, eggs and meat must be used as far as possible in the midday meal. In residential schools for out-of-school children, there should be a fixed menu, with daily and monthly variety, that is specifically designed to bridge any nutrients lost by them during their absence from school.

Government schools, in collaboration with local Primary Health Centres, shall facilitate the provision of free medical check ups for all children in the school for a minimum of twice a year. The Headteacher shall collaborate with the School Management Committee to ensure there is a system of referral of out-of-school children to district or *taluka* hospitals at the time of admission/ reintegration, so that any medical conditions or specific needs of these children are identified and treated. Residential schools shall employ a doctor or nurse who will be on-call on the premises of the school. At the time of admission, the residential doctor or nurse shall conduct a comprehensive medical check-up to identify and treat any medical conditions or specific needs of these children. Trained counsellors / social workers shall also be on call to identify the mental health needs of children, and refer them to further care as needed.

Role of Local Authorities and Appropriate Governments

Comprising nearly 14.89 lakh schools,² with more than 95 lakh teachers and nearly 26.52 Crore students of pre-primary to higher secondary level, the Indian education system has a reach that is far beyond any government department pertaining to children. There is no better mechanism to monitor children's well-being, and to foster a sense of community responsibility for their welfare.

Existing local authorities and statutory committees under the RTE Act are to be mobilised in the implementation of the right to education and in the reintegration of out-of-school children. The primary responsibility of identification of out-of-school children, particularly those involved in child labour, can be done by Cluster Resource Persons (CRPs) and Block Resource Persons (BRPs) as under the Samagra Shiksha Abhiyaan, in collaboration with local authorities and School Management Committees. The role of the CRPs should be formally institutionalised under the RTE Act and its Rules.

Local authorities must be responsible for the maintenance of a 'Village Children's Education Register' or a 'Ward Children's Education Register' of all children under the age of 18 living in the Panchayat/ Ward area as per the RTE Act. The register must contain details of the age, gender, caste, religion, current enrollment status, last level of education completed, health needs/ disability status, family income of the child, whether the child is a migrant from a different state, whether the child is a seasonal migrant to or from another state, and what factors are keeping the child away from school. CRPs would be responsible for the collection of this data under the supervision of the local authorities, and for the identification and contact tracing of out-of-school children.

² Number of schools, teachers and students are from UDISE+ 2021-22.

The re-integration of out-of-school children in a village or ward shall be steered by the School Management Committee. The functions of these committees shall include facilitating enrollment of children identified by the CRPs in school, monitoring re-integration efforts at the school level, and assisting the child and the family with accessing ancillary support services. For specific cases of vulnerable children, such as those previously identified as engaging in child labour, being trafficked, or migrants, the School Management Committee shall work closely with the Village or Ward Level Child Protection Committee as required by the situation. Village- and Ward- Level Child Protection Committees shall also have their composition and powers institutionalised under the appropriate legislation.

Oversight and Grievance Mechanisms

The State Government shall ensure that a systematic complaints and reporting mechanism is developed and awareness regarding the same is generated among all stakeholders and the general public to tackle the issue of child and adolescent labour. The Department of Women and Child Development, along with the Department of Primary and Secondary Education shall jointly identify/constitute the nodal agency responsible for receiving, responding, addressing and monitoring of grievances/complaints filed in the context of child labour. The State shall strengthen the existing grievance redressal mechanisms at the State and District levels for addressing the grievances under this policy. Effective and accessible grievance redressal mechanisms shall be developed through relying on existing officials of the Department of Women and Child Development at the Taluk and Panchayat/Ward levels to address the grievances at the programme level. Furthermore, the State Government shall undertake the identification and establishment of a robust grievance redressal mechanism at the village level. This institution at the village level shall be entrusted with core responsibilities including maintenance of a village children's register, mapping of children who are out of school and facilitation of reintegration of children into day or residential schools, determined on a case to case basis. The State Government may leverage School Management Committees and associated networks to file grievances/complaints on child labour. The Committees may be empowered and equipped with the necessary resources to file grievances/complaints on a suo-moto basis.

The State Government shall ensure mandatory reporting of child and adolescent labourers for all competent authorities at all levels and promote voluntary reporting for public spirited citizens. The State shall create a centralised system headed by the nodal department to bring in different functionaries and institutions receiving complaints for taking appropriate and swift action.

The nodal department shall undertake regular capacity building programmes and workshops from the local level to the State level involving all stakeholders to encourage active involvement and participation in child and adolescent labour elimination efforts and convergence. The Nodal department shall ensure that all capacity building and training programmes cover all districts of the State. A proper training module/handbook may be prepared by an eminent institution which addresses all issues regarding the elimination of child and adolescent labour. It shall also

become a process of developing and strengthening the skills, instincts, abilities of all Stakeholders and must be in a position to adapt and implement in their respective regions immediately. The nodal department shall have Training of Trainers (TOT) programmes which shall aim to create and enhance a pool of expert trainers whose expertise can be used at all levels.

Allocation of Financial Resources

The National Education Policy, 2020, calls for at least 6% of the national GDP to be dedicated to education. Even with an increase compared to the previous years' budget, the allocation for education has only been at 3.1% of the GDP for the financial year 2022-23. The implementation of the requirement of 6% shall be a core goal of policy efforts for expanding the right to education.

Every School Management Committee shall incorporate the functions assigned to it into the School Development Plan (SDP) under Section 22 of the RTE Act to ensure that adequate grants may be sought from the appropriate Government or local authority.

The Central and State Governments shall allocate sufficient funds to the expansion of the right to education as per the processes laid out in Section 7 of the RTE Act. The Finance Commission shall be responsible for the adequate allocation of funds between Central and State Governments for the implementation of the RTE Act.