

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

Clarification on Provisions

Chapter 1: Preliminary

Section 2 defines words and expressions used in the Act.

Chapter 2: Right to Free and Compulsory Education

Section 3 provides to every child of the age of six to fourteen years the right to free and compulsory education in a neighbourhood school till the completion of elementary education. The idea of neighbourhood schools can be traced to the National System of Education as elaborated in the Kothari Commission report, whereby the neighbourhood school is meant to be a common space, where all children cutting across caste, class, gender lines learn together in the best inclusive manner. It is therefore meant to be a site for inclusion, so that the school becomes a common space for education. This concept has been incorporated in the RTE Act.

In providing for the right of every child to free and compulsory education in a *neighbourhood* school, the RTE Act does not restrict the choice of the child to seek admission in a school which may not be in the *neighbourhood* of the child's residence. In other words, there is no compulsion on the child to seek admission only in the school in his or her *neighbourhood*.

The term 'free education' is explained to mean that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education. The term 'free education' must be read in consonance with the provisions of section 12(1)(a)-(c) which specify the extent of the school's responsibility for free and compulsory education.

It further provides that the provisions of the Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1996 will apply in the case of children suffering from disability as defined under that Act.

Section 4 provides children above six years, who have either not been admitted to any school or, having been admitted have not completed elementary education and have dropped out, the right to be admitted to a school in a class appropriate to his or her age for completing elementary education.

A majority of out-of-school children belong to disadvantaged communities: scheduled castes, scheduled tribes, Muslim minorities, migrants, children with special needs, urban deprived children, working children, children in difficult circumstances, for example, those living in difficult terrain, children from displaced families, and areas affected by civil strife, etc. This provision in the RTE Act enables these out-of-school children to be admitted to an age-appropriate class and complete elementary education. The overall objective of age appropriate admission for these children is to save them from the humiliation and embarrassment of sitting with younger children. When older children are forced to sit in a class younger than their age, they tend to be teased, taunted, suffer lower self esteem, and consequently drop out. The Act facilitates a child admitted to an age appropriate class to be given Special Training to enable him or her to be at par with other children. Given the varied life experiences of these children, it is recognised in the field of education that their mental capabilities are higher than that of entry level 6-year old children, and that they are indeed capable of accelerated learning. At the end of the Special Training, the child will be assessed and his/her suitability for being placed in a particular class will be reviewed. For example, if a 10-year old child was admitted to class IV, and received two years of Special Training till age 12, an assessment may be made as to whether the child could cope better in class V or VI in the formal school, and the child appropriately placed. If such child is found suitable for class V, she/he will be placed in class V, rather than mechanically being placed in class VI – because if she/he is mechanically placed in class VI, she/he might again drop out, and that would defeat the whole purpose of this provision. That is the rationale for the provision that allows the child to be provided free and compulsory education even beyond age 14. Even after a child is appropriately placed in the formal school she may continue to receive special attention by the teacher to enable her to successfully integrate with the rest of the class, academically and emotionally.

The SSA Framework of Implementation has been revised to provide support for Special Training as envisaged under the RTE Act to ensure that out-of-school children are integrated into the school system. Such support will be in the form of residential or non-residential courses, as needed and such children will continue even beyond 14 years of age to complete elementary education. The country is committed to creating an educated citizenry and environment, and therefore it would not be appropriate to impose an age ceiling for these children to complete elementary education.

The obligation under section 4 is on the schools established by the State Government and local authority. Private aided and unaided institutions have no obligations under section 4.

Section 5 provides children the right to seek transfer from a Government or Government aided school to another such school in order to complete elementary

education and for immediate issue of Transfer Certificate to a child seeking admission to another school. It provides that delay in producing Transfer Certificate shall not be a reason for denying or delaying admission in another school. This provision should lead to States instituting reform to remove procedural barriers to obtaining Transfer Certificates.

Chapter-III: Duties of Appropriate Government, Local Authority and Parents.

Section 6: The rationale of this provision is to provide all children access to elementary education. Universal access requires schooling facilities within reasonable reach of all children. If schools are not located in or near the habitations where children reside, children may not complete schooling, even if they are formally enrolled in schools, on account of distance factors. The RTE Act therefore mandates the appropriate governments and local authorities to provide for children's access to elementary schools within the defined area or limits of *neighbourhood*.

The RTE Act deliberately does not define the limits or area of *neighbourhood* as a centralised norm, but requires the appropriate Government to notify such limits or area in the RTE Rules. This is on account of the very diverse geographical, climatic terrain and the varied development requirements of the different States, and the conscious decision that States would be better placed to define the '*neighbourhood*', keeping the best interests of different children in mind.

However, the Central Government has attempted to exemplify this in the Model RTE Rules circulated to States, which provide for distance norms of one kilometre for children in classes I-V, and three kilometres for children in classes VI-VIII, as also provision for relaxation of norms in places with difficult terrain where there may be risk of landslides, floods, lack of roads and in general, danger for young children in the approach from their homes to the school. The Model Rules also provide that access of children to school should not be hindered on account of social and cultural factors. Such norms should be laid down keeping in view local contexts and requirements, rather than centrally prescribed through a law. These have also been incorporated in the Central RTE Rules applicable to all UTs without Legislature.

States /UTs need to arrive at a clear picture of current availability of schools within defined area or limits of neighbourhoods. In order to do this, State/UTs need to (i) define the neighbourhood norms keeping in view that all primary and upper primary schools and composite schools (with primary and upper primary sections), established by the State Government and local bodies would be *neighbourhood* schools for the purpose of section 3(1), and (ii) map the neighbourhoods or habitations and link them to specific schools. It is possible that a neighbourhood may be linked to more than one school.

Similarly, a school may be linked to more than one neighbourhood. The mapping exercise will help identify gaps and areas where new schools need to be opened to ensure universal access.

Section 7(1) – (5) provides for financial and other responsibilities of the Central Government and the State Governments for carrying out the provisions of the proposed Act. The Central Government has estimated a total requirement of Rs 2.31 lakh crore over a five year period from 2010-11 to 2014-15 to implement the RTE Act. Separately, the 13th Finance Commission has also provided a grant of Rs 24,068 crore specifically for elementary education. The grant of the 13th Finance Commission is released directly on an annual basis to the State Governments from the Finance Ministry. This amount is deducted from the overall estimate of Rs 2.31 lakh crore, and the balance amount of Rs 2.07 lakh crore will be shared between the Central and State Governments in the 65:35 ratio for the implementation of RTE through the SSA programme. In the case of States in the North East Region, the fund sharing pattern will be in the 90:10 ratio.

Section 7(6) provides for the formulation of a National Curriculum Framework. The Central Government has notified the NCERT as the designated authority for this purpose. The National Curriculum Framework, 2005, formulated by the NCERT has been hailed nationally and internationally as trendsetting in defining learning processes, assessment, quality and integration of various aspects of education geared towards producing a creative citizen of the country, and has been accepted as the Curriculum Framework under the RTE Act.

Section 8 assigns duties to the appropriate Government to ensure that it provides free and compulsory elementary education to every child, in a neighbourhood school. The term ‘compulsory education’ is explained to mean obligation of the appropriate Government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education. It further provides that where a child is not admitted to a school which is established, owned, controlled or substantially funded by the appropriate Government or local authority, such child or his or her parents will not be entitled to claim reimbursement of the cost of elementary education. It lays down the duties of the appropriate Government to ensure *inter alia* that children belonging to weaker sections and disadvantaged groups are not discriminated against and prevented from pursuing and completing elementary education, that admission, attendance and completion of elementary education by every child is monitored, that school building, teaching staff and learning equipment are provided, good quality elementary education conforming to norms and standards is provided, curriculum and courses of study are prescribed in a timely manner, and teachers are trained.

Section 9 assigns duties to the local authority to ensure that it provides free and compulsory elementary education to every child, in a neighbourhood school. It lays down the duties of the local authority to ensure *inter alia* that children belonging to weaker sections and disadvantaged groups are not discriminated against and prevented from pursuing and completing elementary education, maintain records of children residing within its jurisdiction, ensure and monitor admission, attendance and completion of elementary education by every child, including migrant children, ensure that school building, teaching staff and learning equipment and good quality elementary education conforming to norms and standards is provided, decide on the academic calendar.

Section 10: This provision casts a moral responsibility on every parent/guardian to admit their children/wards to school, and ensure that children are not deprived of their right to elementary education. This includes, for example, child labour, children in ecologically deprived areas where they are required to fetch fuel, water, fodder and do other household chores, children in very poor slum communities and uprooted urban habitations, children of families of scavengers and other such stigmatised professions, children of itinerant or seasonal labour who have mobile and transient lifestyle like construction workers, road workers and workers on large construction sites, children of landless agriculture labour who are required to augment family incomes. This provision should be read together with the responsibility of the appropriate Government and local authority to provide free and compulsory elementary education in a *neighbourhood* school. It is not the intention of this provision to compel parents/guardians and children/wards, who do not wish to avail of free and compulsory education, to necessarily admit their children/wards in *neighbourhood* school.

Suggestions were made to incorporate penal provisions against parents/ guardians who do not send their children to school, but the fact remains that the maximum number of children who do not attend school are children from weaker sections and disadvantaged groups. Penalising their parents would be tantamount to penalizing poverty and deprivation. Further, there are many first generation learners, who are deprived of a learning environment at home, and drop out on account of difficulties in coping with the curriculum. Inflicting penalties on parents because their children have dropped out or have been pushed out of the education system would be discriminatory. Therefore, it is a conscious decision to abstain from imposing penal provisions against parents and guardian.

Instead the RTE Act casts a duty or compulsion on the appropriate government to ensure admission, attendance and completion of elementary education. This would lead to significant systemic reform in universalising elementary education. In many instances however, the Government would have to collaborate with the civil society in persuading

parents who experience genuine problems in sending their wards to school for them to fulfil their duty to ensure that their children do attend schools regularly, particularly in the case of older girls.

Section 11 provides that the appropriate government may make necessary arrangements for pre-school education.

Chapter –IV: Responsibilities of Schools and Teachers.

Section 12 explains the responsibility of schools for providing free and compulsory education to children, namely:

(a) All Government schools shall provide free and compulsory education to all children

(b) Government aided institutions shall provide free and compulsory education to such percentage of students in elementary classes which equals the percentage of recurring aid received by it from the Government to the annual recurring expenditure incurred by the school, subject to a minimum of 25%

(c) Private unaided institutions and special category schools shall provide free and compulsory education to at least 25% children belonging to disadvantaged groups and weaker sections admitted to class I or pre-primary classes. Such schools would be entitled to reimbursement at the per-child cost incurred by the Government. It has also since been clarified that residential private unaided schools, which do not start at class I, would not be required to admit 25% children from disadvantaged groups and weaker sections in their schools.

There have been misgivings among certain groups about the admission of children from disadvantaged groups and weaker sections in class I in private unaided schools. In this context it is important to refer to the Statement of Objects and Reasons (SOR) attached to the Right of Children to Free and Compulsory Education Bill, 2008, which states:

The Right of Children to Free and Compulsory Education Bill, 2008, is anchored in the belief that the values of equality, social justice and democracy and the creation of a just and humane society can be achieved only through provision of inclusive elementary education to all. Provision of free and compulsory education of satisfactory quality to children from disadvantaged and weaker sections is, therefore, not merely the responsibility of schools run or supported by the appropriate Governments, but also of schools which are not dependent on Government funds.

The idea that schooling should act as a means of social cohesion and inclusion is not new; it has been oft repeated. Inequitable and disparate schooling reinforces existing social and economic hierarchies, and promotes in the educated sections of society an indifference towards the plight of the poor.

The currently used term 'inclusive' education implies, as did earlier terms like 'common' and 'neighbourhood' schools, that children from different backgrounds and with varying interests and ability will achieve their highest potential if they study in a shared classroom environment. The idea of inclusive schooling is also consistent with Constitutional values and ideals, especially with the ideals of fraternity, social justice and equality of opportunity.

For children of socio-economically weaker backgrounds to feel at home in private schools, it is necessary that they form a substantial proportion or critical mass in the class they join. The relevant universe in which the proportion needs to be considered is the class/section. It is for this reason that the RTE Act provides for admission of 25% children from disadvantaged groups and weaker sections in class I only. This implies that these children cannot be pooled together in a separate section or afternoon shift. Any arrangement which segregates, or treats these children in a differentiated manner vis-à-vis the fee-paying children will be counter-productive.

The rationale for 25% lies in the fact that the composition of caste/class indicated in the Census is fairly representative of the composition of children who are seeking admission under this provision. As per Census 2001, SCs constitute 16.2%, and STs constitute 8.2% (total 24.4%) of the population. Further, the Tendulkar Committee, set up by the Planning Commission to measure poverty, has estimated the below poverty line (BPL) population to be 37.2%. It is a fact that much of the population that suffers economic deprivation also suffers from social disadvantage. Thus, taken together, the figure of 25% for admission of children from disadvantaged groups and weaker sections is considered reasonable. Any lower proportion would jeopardize the long-term goal of the policy which is to strengthen social cohesion and bring out the best human resource potential inherent in our society as a whole. A smaller proportion would serve only a token purpose, and it will run the serious risk of creating the feeling of alienation among the children belonging to disadvantaged groups and weaker sections. Their participation in classroom interaction will be neither strong nor sufficiently manifest to enrich the overall experiential learning taking place in any given subject area. Only a critical mass can play such a role.

The RTE Act provides for admission of 25% children from disadvantaged groups and weaker sections in Class I, not across the whole school. As children admitted to class I

move to class II, new children will be admitted to class I, and so on till completion of 8 years of elementary education. The rationale for admission in class I only must be appreciated in human terms. Teachers who are used to a selective, homogeneous classroom environment cannot be expected to develop the required positive attitude and professional skills to deal with a diversified class overnight. The same applies to children. Children who have grown up to an age of nine or ten in a homogeneous or segregated environment have been socialized into a structure of norms and behaviour. They cannot be transformed on demand. Also, the overall school ethos cannot be expected to respond to a new policy in a positive manner all of a sudden. Education is indeed an act of faith and social engineering – but not quick-fix social engineering. In view of the fact that children take time to socialize and teachers take time to develop new attitudes and pedagogic skills, the RTE Act provides for admission of disadvantaged and poor children at the entry level, covering pre-school and Class I. With these children moving up, and a new cohort of children entering pre-school and Class I in each successive year, the school will gradually have a more diverse population spread across all classes. Progression at this pace will allow children the opportunity to grow up together and create bonds: bonds that can survive social walls. Progression at this pace can allow the school to develop the professional capacity to respond to the intellectual and emotional needs of children from diverse backgrounds. Children who are younger than eight years of age are yet to develop a stable social identity. Their values are still forming, and their motivation to derive meaning from experience, both concrete and social is very strong. Therefore, it is a valid argument that the policy of mixing children from different socio-economic strata has the best chance of succeeding if it starts from the formative years of nursery/kindergarten and Class I. Diversity enhances learning and development, while segregation impoverishes the classroom environment of all schools, private or government.

Admission of 25% children from disadvantaged groups and weaker sections in the neighbourhood is not merely to provide avenues of quality education to poor and disadvantaged children. The larger objective is to provide a common place where children sit, eat and live together for at least eight years of their lives across caste, class and gender divides in order that it narrows down such divisions in our society. The other objective is that the 75% children who have been lucky to come from better endowed families, learn through their interaction with the children from families who haven't had similar opportunities, but are rich in knowledge systems allied to trade, craft, farming and other services, and that the pedagogic enrichment of the 75% children is provided by such intermingling. This will of course require classroom practices, teacher training, etc. to constantly bring out these pedagogic practices, rather than merely make children from these two sections sit together. The often voiced concern about how the 25% children from disadvantaged groups and weaker sections can cope in an environment where rich children exist can be resolved when the teaching learning process and

teachers use these children as sources of knowledge so that their esteem and recognition goes up and they begin to be treated as equals.

Section 13 provides that no school or person shall collect capitation fee or subject a child to any screening procedure, and prescribes a penalty for contravention of these provisions. On the issue of screening procedure for admission, Government had consultation with several private school Principals, and has since issued guidelines under section 35(1). The Guidelines explain that the objective of the provisions of section 13(1) read with section 2(o) is to ensure that schools adopt an admission procedure that is non-discriminatory, rational and transparent, and that schools do not subject children and their parents to admission tests and interviews in order to decide whether they will admit a child or not.

Extensive educational research the world over recognises that children are born with equal potential to learn and become creative adults. The colonial beliefs that men have better brains than women, or whites have better brains than blacks, implying thereby that there were intrinsic differences in the potential to learn and in intelligence, have long been discarded and debunked. The most obvious proof of that is the acquisition of language, without which no learning can take place. All children acquire language without the agency of a school at around the same age of two years. This is held as an intrinsic stage of child brain development, which has nothing to do with caste, class, gender, high/low IQ and such other differentiation. What is well recognized, however, is that from infancy, it is the processes of nurturing at home and later during pre-school and school, that determines the depth and extent of learning. Therefore, tests and other screening procedures can only reveal differences in nurturing, rather than any intrinsic differences of the potential to learn. In such a situation it would be particularly necessary, and indeed the obligation of the State and society to provide for better nurturing through good schools to children from poor and disadvantaged sections of society.

The Guidelines issued under section 35(1), therefore, explicitly state that tests and interviews are generally a tool for profiling and eliminating children, and therefore screening to assess a child's 'intelligence should be prohibited. Availability of equal opportunities for children belonging to different social and economic backgrounds will reinforce the idea of equality enshrined in our Constitution, and ensure that children are not discriminated on the basis of their social and economic background. The Guidelines also refer to the importance of moving towards composite classrooms with children from diverse backgrounds, rather than homogenous and exclusivist schools: heterogeneity and diversity in classrooms lead to greater inter-learning, respect for differences, tolerance and creativity.

Thus in respect of 25% children representing disadvantaged groups and weaker sections for admission in class I, the Guidelines provide for random selection out of applications received. For admission to the remaining 75%, the Guidelines give schools the freedom to formulate their own admissions policy. Such policy should include the criteria for categorisation of applicants in terms of the objectives of the school on a rationale, reasonable and just basis. There should be no profiling of the child based on parental educational qualifications. This policy should be in the public domain, explicitly stated in the school prospectus and given wide publicity. There shall be no testing or interviews for any child/parent, and selection should be on random basis.

Section 14 seeks to provide for proof of age certificate of a child and that admission cannot be denied in its absence. The rationale for this provision is that birth certificates under the Births, Deaths and Marriages Certification Act, 1886 are often not available, and in their absence, children and their parent often have to run from pillar to post to obtain age proof. Thus, other documents can be deemed to be proof of age of the child for the purposes of admission in schools. Examples of other documents are (i) ANM register record, (ii) Anganwadi record, (iii) declaration of age of the child by the parent or the guardian. State Governments will identify documents, which may be in the form of affidavits or certificates that can be used for determining the age of the child for admission and suitably provide for them in the delegated legislation. Clause 14 (2) however, makes it explicit that since the child has a *right* to education, that *right* cannot be denied for lack of age proof. Therefore, admission would be given even in the absence of age proof, while an appropriate document of age proof would simultaneously be acquired.

Section 15 prohibits schools from denial of admission to a child, irrespective of the time in the academic year in which admission is sought. Admission of a child in school is a fundamental right and it cannot be denied at any point of time. Ideally, all children should be enrolled in school at the beginning of the academic session. However, in the case of children in difficult circumstances, including children affected by migration, displacement or ill health, etc schools may need to be flexible to allow admission at any time during the session. The Central RTE Rules provide that children admitted after six months of the beginning of the academic session may be provided Special Training as determined by the Head Teacher of the school to enable him/her to complete studies. Private unaided schools need not be concerned about this provision, especially with respect to the 75% admission, because if they have filled all seats at the beginning of the academic year the question of any-time admission would not arise.

Section 16 prohibits holding back and expulsion of a child from school till the attainment of elementary education. There have been some misgivings on the provisions relating to 'no detention' and 'no expulsion'. The 'no detention' provision is made because

examinations are often used for eliminating children who obtain poor marks. Once declared 'fail', children either repeat grade or leave the school altogether. Compelling a child to repeat a class is demotivating and discouraging. Repeating a class does not give the child any special resources to deal with the **same** syllabus requirements for yet another year. Parents and friends of such children also tend to view them as being 'fit for failure', thereby reinforcing the perception which the school has already used for declaring a child 'fail'. The 'no detention' provision in the RTE Act does not imply abandoning procedures that assess children's learning. The RTE Act provides for putting in place a continuous and comprehensive evaluation procedure – a procedure that will be non-threatening, releases the child from fear and trauma of failure and enables the teacher to pay individual attention to the child's learning and performance. Such a system has the best potential to improve quality, rather than punishment, fear of failure and detention. Consistent with the arguments provided under section 13 that each child has the same potential for learning, a 'slow', 'weak' learner or a 'failed' child is not because of any inherent drawback in the child, but most often the inadequacy of the learning environment and the delivery system to help the child, realise his/her potential, meaning thereby that the failure is of the system, rather than of the child. This requires addressing the improvement of the quality of the system rather than punishing the child through detention. There is no study of research that suggests that the quality of the learning of the child improves if the child is failed. In fact, more often than not the child abandons school/ learning altogether.

As regards expulsion, there are many who give examples of deviant and aberrant behaviour of some children, adversely influencing other children, and that such deviant children should be 'expelled' in order that the others may be protected. But the implications of expulsion are that the education system has *refused* to serve the child. The notion of 'expulsion' is not compatible with the concept of 'right'. No civilized country in the world expels children from elementary school for any reasons: there are no valid grounds for doing so. If the child – and remember we are talking about 6-14 year olds, not older children – does not respond to the existing system and resorts to 'deviant' activities, then the education system must address the child differently – through counselling or by providing different curricular and co-curricular activities, which enable the child to develop self awareness, address deep rooted fears and problems and consequently change patterns of behaviour.

Section 17 prohibits any child being subjected to physical punishment or mental harassment.

There is a mistaken notion that 'discipline' of children comes from punishment and fear. Educationists the world-over are clear that what matters for creating a mature citizen is the provision of a 'learning environment' in the formative years, which is what the school must become, and not a 'correctional' centre, which has the connotations of a jail.

Physical punishment and mental trauma are counter-productive, and may cause a child to become even more defiant and rebellious than before.

The concept of childhood implies a period of impressionability and vulnerability. Both these attributes of childhood enjoin upon the adult society to treat childhood as a part of life, which requires protection and nurturance. Children's bodies are tender and vulnerable. A minor punishment can result in injury: even a slap may result in a child going deaf. There are many examples of grievous injury to children on account of physical punishment. Physical punishment is invariably accompanied by mental trauma. All physical punishment and mental trauma is potentially unsafe and injurious to health.

Article 39 (f) of the Constitution of India states:

Art 39 (f): '*The state shall ensure that children are given opportunities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment*'. There is explicit use of the word 'dignity' in Article 39(f). It is not conceivable for dignity and punishment to co-exist.

Further, the National Policy on Education (NPE) 1986/1992 also prohibits corporal punishment. It states: *Corporal punishment will be firmly excluded from the education system.*

| India is a signatory to the United Nations -Convention on Child Rights (UNCRC). Article 19 of the UNCRC states: State parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, legal guardians or any other person who has the care of the child. Thus the provisions in the RTE Act banning corporal punishment and mental harassment are in consonance with the spirit of Article 39 ((f) of the Constitution, the National Policy on Education, and the UNCRC.

Section 18 stipulates that no private school should be established or can function without obtaining a Certificate of Recognition, and that such Certificate of Recognition would be issued to schools that fulfil the prescribed norms and standards. The Act does not have a provision for recognition of Government schools, since that would amount to Government giving recognition to its own schools, however section 19 clearly states that Government schools must meet the requirements of the schedule.

Section 19 lays down the norms and standards for schools. Any school, whether Government or private that does not fulfil the prescribed norms and standards shall do so within a period of three years from the date of commencement of the proposed Act. There appears to be a misconception that Government schools do not require to meet the norms and standards prescribed under the Act on account of a wrong insertion of a comma in the RTE Bill when it was introduced in Parliament. This has since been corrected and the provision for meeting norms and standards is applicable to all schools, ensuring that these schools also meet the norms prescribed will be monitored by the NCPCR.

Section 20 provides power to Central Government to amend the schedule on norms and standards.

Section 21 provides for constitution and functions of a School Management Committee in certain categories of schools. The setting up of such Committees has been a recommendation of nearly all previous education commissions and policies. The reason is that if the community has to be involved in the vast school system of the country, and if the parents are to be recognized as primary stakeholders in the education of their children, they must be involved in a meaningful manner in the monitoring and management of schools. The RTE Act therefore envisages that parents would form a majority in the School Management Committees, which would also include elected members of the Panchayat and school teachers. There is reason to believe that like the mother's committees that have functioned exceptionally well in some parts of the country, the parent-dominated SMC's will lead to overall improvement of the schooling system.

Private unaided institutions are exempted from the constitution of School Management Committees. Government has also introduced an Amendment Bill in the Parliament, which provides that the School Management Committee in respect of private unaided and minority institutions will only have an advisory role.

Section 22 provides for preparation of a School Development Plan (SDP) by the School Management Committee. The SDP is visualised as a comprehensive plan focusing on all aspects of school e.g. protection of children's rights, infrastructure, teacher availability, classroom transaction and child assessments, inclusiveness, etc. Private unaided institutions are not expected to prepare SDPs envisaged under the RTE Act. Further, the Amendment Bill referred to in previous paragraph provides that private unaided and minority institutions will also not be required to prepare SDPs.

Section 23 provides for qualifications and terms and conditions of service of school teachers. The Central Government has notified NCTE as the academic authority for

prescribing teacher qualifications. NCTE has laid down the requisite teacher qualifications as per its notification dated 23rd August 2010.

Section 24 provides for duties of teachers. This includes *inter alia* -that teachers attend school regularly and transact the syllabus in a timely manner, that they provide supplementary support to children who need such support, that they make an assessment of children's learning, and interact with parents.

Section 25 seeks to provide for maintenance of pupil teacher ratio, by the appropriate government and local authority. An apparent contradiction between this provision, which requires that the pupil teacher ratio shall be maintained within a period of six months, vis-à-vis the provision under section 19 mandating that the norms and standards prescribed in the Schedule should be met within three years, is proposed to be corrected through the Amendment Bill introduced in the Parliament.

The proviso to this section also provides that teachers shall not be deployed for non-academic work, barring those specified in section 27, viz., (i) decennial population census, (ii) disaster relief and (iii) elections to Parliament, State Legislatures and Local Bodies.

Section 26 provides that vacancies in schools should not exceed 10% of the teacher strength for that school. This provision will ensure that States take steps to fill up existing teacher vacancies as also rationalise deployment of teachers in schools to remove urban-rural imbalances in teacher deployment.

Section 27 prohibits deployment of teachers for non-educational purposes, other than decennial population census, disaster relief duties or duties relating to elections to local authority, state legislatures and parliament. This provision will ensure that more time is available to teachers for school/ classroom transaction, and that teachers are not deployed for work that takes them away from their classroom responsibilities.

Section 28 prohibits private tuition by teachers. Private tuition is one of the ills affecting Indian education, which needs to be addressed. This provision will ensure that teachers do not use their position for commercial gain through private tuition, which is a source of harassment to children and parents.

Chapter-V: Curriculum and Completion of Elementary Education.

Section 29 provides for curriculum and evaluation procedure in elementary schools. State Governments are required to prescribe the academic authority to lay down the

curriculum and evaluation procedure. In doing so the academic authority must ensure adherence to eight factors stated in the RTE Act These eight factors are:

- 1.Conformity with Constitutional values;
- 2.All round development of the child;
- 3.Building the child's knowledge, potentiality and talent;
- 4.Development of physical and mental abilities to the fullest extent;
- 5.Learning through activities, discovery and exploration in a child friendly and child-centred manner;
- 6.The child's mother tongue serving 'as far as practicable' as the medium of instruction;
7. Making the child free of fear, trauma and anxiety and helping the child to express views freely and
8. Comprehensive and continuous evaluation of the child's understanding and knowledge and the ability to apply it.

These factors, which have become part of educational legislation, provide comprehensive coverage of the indicators of child-centred curricular policy for the elementary stage of education spelt out in the National Policy on Education (NPE), 1986/92 and elaborated in the NCF – 2005.

Section 30 provides that no child shall be required to pass Board examinations till completion of elementary education. Board examinations induce tremendous stress and anxiety among children – especially young children. The National Curriculum Framework, 2005, while emphasising the need for flexibility in assessment, states: *“Under no circumstances should board- or state level examinations be conducted at other stages of schools, such as class V, VIII or XI.”* Indeed, Boards should consider, as a long- term measure, making the Class X examination optional, thus permitting students continuing in the same school (and who do not need a board certificate) to take an internal school exam instead”.

Chapter-VI: Protection of Right of Children

Section 31 provides an institutional mechanism for protection of rights of the child through the National/ State Commissions for Protection of Child Rights. For children in-school, monitoring will involve the following issues:

- (i) Provision of neighbourhood school
 - 1. Requisite number of classrooms and infrastructure facilities
 - 2. Appropriate PTR
 - 3. School hours
- (ii) Access to school: physical and social
- (iii) Admission process
 - 1. Denial of admission
 - 2. Capitation Fee
 - 3. Screening procedure
 - 4. Demand for Affidavits
 - 5. Any time Admission
- (iv) Entitlements
 - 1. Textbooks
 - 2. Uniforms
 - 3. Library with books, newspapers, magazines
 - 4. Sports equipment
 - 5. Play material
 - 6. Mid-day Meal
 - 7. Special Training for age-appropriate education
 - 8. Transfer Certificates
 - 9. Completion Certificates
 - 10. Other expenses
- (v) Classroom Transaction
 - 1. No discrimination
 - 2. No corporal punishment
 - 3. Appropriate Teaching methods
 - 4. Appropriate Evaluation Systems
- (vi) School Management Committee
 - 1. Appointments as per rules
 - 2. Regular meetings
 - 3. Teacher Accountability
 - Preparation of School Development Plan
 - ~~4.~~ Other Responsibilities

For Children in Private Aided and Unaided Schools

1. Admission of children from Weaker Sections and Disadvantaged Groups

In addition NCPCR/SCPCR would monitor out-of-school children to facilitate their access and participation in the schooling system. This would include children who have never enrolled or have dropped out, children who are temporarily absent, children who are permanent migrants, who migrate seasonally with their parents.

Section 32 provides a mechanism for redressal of grievance relating to rights of the child under the proposed Act.

Section 33 provides for constitution of a National Advisory Council to give expert advice to the Central Government on implementation of provisions of the proposed Act. This Council has since been constituted and has commenced its work.

Section 34 provides for the constitution of State Advisory Councils to advise the State Governments on the implementation of the Act.

Chapter-VII: Miscellaneous

Section 35 provides for the Central Government to issue guidelines and directions to the appropriate government or local authority for effective implementation of the proposed Act. It also provides for the appropriate Government to issue guidelines and directions to Local Authorities, and for Local Authorities to give guidelines to School Management Committees.

Section 36 provides for previous sanction of an authorised officer for prosecution of offences.

Section 37 provides protection, against any legal suit or proceedings, to appropriate government, local authority, etc for any action taken in good faith.

Section 38 provides powers to the appropriate Government to make rules, and for laying of Rules and notifications made, before each House of Parliament.