



Inclusion in Private Unaided Schools: Has RtE Paved the Way?

Archana Mehendale and Rahul Mukhopadhyay



The Right of Children to Free and Compulsory Education Act, 2009 (henceforth RTE Act), has been, within its relatively short lifespan so far, both hailed and pilloried by educationists, policy makers, civil society actors, institutional representatives from private and government school systems, and parents' groups. The '25 per cent provision' for inclusion of marginalised children in private schools under Section 12 (1) (c) of the Act has generated considerable public debate and media attention, and led to sharply polarised positions among different sections of society. At an official level, the provision has been defended on the grounds of ensuring inclusion of the marginalised children in the private schools that are perceived as schools offering better 'quality education' and on the premise that the private schools must also contribute to the national goal of universalising education. Private schools, in particular, have challenged this provision in the Courts. In April 2012, in *Society for Unaided Private Schools of Rajasthan v. Union of India*¹, the Supreme Court upheld the constitutional validity of the Act and directed private schools, both unaided and non-minority, to implement this provision. Subsequently, in May 2014, the Constitution Bench of the Supreme Court held that RTE Act shall not apply to minority schools². Thus, the provision requiring private schools to provide free and compulsory education to 25 per cent of their grade 1/pre-primary students does not apply to minority institutions.

Karnataka notified its rules under the RTE Act soon after the Supreme Court judgment and was one of the first states in the country to also implement this provision. But there was an absence of any systematic research both on how the 25 per cent provision was being mediated by the Government, private schools, and the direct beneficiaries namely, children and families, and on what the key implementation issues were. Hence, we chose to undertake a small exploratory study³ in Bangalore and Delhi, during academic year 2012-13, to understand both the coherence in the norms and processes laid down by the respective governments to implement the provision, and the experiences of the different key stakeholders with facilitating inclusion in schools through this provision. The data for the study was collected primarily through structured questionnaires and observation schedules at the school and classroom level, and semi-structured interviews with head teachers, teachers, parents, education officials, monitoring agencies and civil society activists. In this article, we primarily focus on our main findings emerging from Bangalore.

Procedures

Accessibility: Karnataka is one of the few states where circulars and notifications are posted on the website for easy accessibility. Information about the quota of seats available in schools was not available in the form of a map but only as a list, making it impractical to identify a school in one's neighbourhood. Although a toll-free helpline

¹ See, (2012) 6 SCC1

² *Pramati Educational and Cultural Trust & Ors versus Union of India & Ors* (Writ Petition (C) No 416 of 2012).

³ This study was done by the Tata Institute of Social Sciences with the Azim Premji University and the Centre for Social Equity and Inclusion with support from Oxfam. For full report, see: <http://www.oxfamindia.org/sites/default/files/wp-inclusion-of-marginalised-children-in-private-unaided-schools-190314-en.pdf>

(1-800-425-11004) to handle RTE complaints was set up, no information was found to be displayed on the website.

Eligibility requirements: The income ceiling of Rs. 3.5 lakhs prescribed for the 'weaker sections' was challenged in the High Court by petitioners K. Nagesh and two students belonging to families below poverty line, as being too high. A Government Order was issued stating that preference would be given to those with income less than Rs. 1 lakh. However, this has not evoked much confidence as it is feared that the better off families will corner the benefits and the extent to which this would lead to inclusion of the economically most deserving remains questionable. The classification of disadvantaged children does not address the problem of multiple disadvantages and currently procedures are lacking in terms of defining, selecting and prioritising children with multiple disadvantages. While the prerequisite of certification for admissions is necessary for effective targeting, it overlooks the realities of specific sub-groups within the marginalised, such as the orphans, migrant and street children, who are unable to produce such certification. As a result, children belonging to these sub-groups were not found to be availing benefits of this provision and official records do not even capture admissions of children belonging to these sub-groups.

The regulatory discrepancies have become an easy route for fostering malpractices resulting in 'elite-capture' that characterise most targeted government interventions aimed at excluded populations. Even in this short period of its implementation, the Karnataka Private Schools Joint Action Committee has alleged that 40 per cent of income certificates provided to the schools are false while the Karnataka Lokayukta has ordered a probe into the fake income certificate racket.

Neighbourhood: The guidelines issued by the Ministry of Human Resources Development (MHRD) on neighbourhood are flexible about the definition of neighbourhood for admissions of children in private schools who apply under the general category. However, the distance norm is

strictly prescribed for those availing seats under the 25 per cent provision. In the case of private schools located in urban up-market socio-geographic locations and those located in lowly populated suburban peripheries, there is hardly any residential neighbourhood and such schools by default bypass requirements to adhere to the 25 per cent provision and thus remain exclusive.

School reports: Accountability of schools implementing the provision is sought by way of half-yearly compliance reports to be submitted to the government. However, the format (Form 3) prescribed for the report is itself discriminatory. Among other things, it requires information on children's school performance (to be specified as grade attained ranging from A+ to C), provision of special training for children securing poor grades, number of children detained and the basis of such a detention (attendance, performance or both or discipline) and any serious complaints that the school may have to the parents about 'children's schooling habits'. This presupposes that children admitted under the 'RTE quota' are likely to perform poorly and although detention is prohibited under RTE Act, a child could possibly be kept behind on grounds of poor attendance, performance or discipline. Interestingly, the format allows for schools to record their complaints to parents about children's 'schooling habits' but there is no opportunity for parents to give feedback about the school's performance on inclusion as part of the compliance report. These compliance protocols require serious reconsideration, given that they are one of the main tools to ensure accountability (other than financial reports and audits) of schools.

Question of reimbursements and high fees: Compounding such blinkered positions are the problems associated with the lack of any transparent mechanism to discern the per-child expenses actually incurred by the private schools and, therefore, the discrepancies that arise between government reimbursements and the actual per-child school costs. Many of the schools reported charging fees from students admitted to free seats for stationery, sports, uniform, maintenance and administrative charges although

the rules prescribe that the schools bear these costs. Likewise, parents claimed that they had to spend additional money for purchase of uniforms, tuition, books and textbooks in the range of Rs. 300 to 15,000 per annum. A number of parents even said they were told to pay 50 per cent of the fees, with the government paying the remaining, and some schools actually charging the parents in advance with an assurance that the fees paid would be reimbursed against the amount reimbursed by the government. Private school managements claimed that they had received much less than what they had expected as reimbursement of school fees in the first installment, a likely outcome in the absence of a transparent process for the declaration and discernment of per-child school expenses and its independent audit by governmental authorities.

The fixing of the amount for pre-primary education was arbitrary by the government's own admission and was a figure derived at by halving the amount for Grade 1. This was also due to the fact that the government had no figure on which they could base the reimbursement amount, given that the Department of Education does not run pre-schools.

Are schools becoming inclusive?

Admissions across social categories: A review of statistical data for admissions under the 25 per cent provision in 2012-13 and 2013-14 showed that among the social categories, the highest proportion of those admitted belonged to Other Backward Classes (58, 69) followed by Scheduled Castes (39, 28) and Scheduled Tribes (3, 3). For these two academic years, schools that had no children from among the Scheduled Castes were 31 and 25 per cent respectively. The corresponding figures for schools which had no enrolments from Scheduled Tribes was 86 and 77 per cent, and for Other Backward Classes 24 and 7 per cent respectively. Schools which had no enrolments from either the Scheduled Castes or the Scheduled Tribes for 2012-13 and 2013-14 were 28 and 22 per cent respectively⁴.

Social distance: It is true that classroom observations and interactions with head teachers

and teachers in the private schools covered under the study did not reveal any immediate concerns on discrimination. This was, however, attributed to social adjustments among the children in the lower grades and an apparent non-cognition of social differences due to their young age. Many teachers were quick to point out the onerous financial and material efforts that parents of the children enrolled under the 25 per cent provision had to undertake to ensure that their child would not 'feel different' from the other children in the school. In the same breath, these teachers cautioned how 'adjustment' problems are likely to surface as children move to higher grades and start recognising social differences in their immediate peer-group interactions. One of the most common refrain from private school head teachers was that of foreseeable humiliation and loss of self-esteem for families whose children were being admitted under the 25 per cent provision in allegedly totally alien school settings. For example, one of the head teacher from a private school in Bangalore, known to cater to the affluent sections of the city's population, remarked, 'Suppose there is swimming pool, canteen facility in the school, and all is paid; then what will be the mental condition of that kid when kid will see his classmates using all those facilities?'. Most respondents from the managements expressed concerns about the ability of the students to cope, and ideas of social distance and paternalism came across strongly (see Box 1).

Homogenous classes: In order to ensure classes remain homogenous, some schools had

Box 1: What some respondents from School Management said:

'I don't quite know how useful this is. We have so many extra-curricular activities like taekwondo and other sports that are conducted in our school. Many of our school children intend to take up these activities very seriously. What are the RTE children going to do with such activities? Do you think they would pursue it further? My children represent the school and also take national level exams in taekwondo –

⁴ Based on data shared by RTE Cell, Department of Education, Government of Karnataka.

would the RtE kids take it up that seriously?’

‘I don’t think this is useful for us. I don’t think we could gain anything from them. Maybe they could gain something from us. I am not sure though’.

‘RtE is good, at least those children can learn something otherwise earlier they were growing like animals’.

‘It is difficult to improve these children as they don’t know anything and are dirty’.

encouraged students who were already selected and admitted to ‘apply’ for the ‘scholarship’ under RtE. Parents of such children were counseled and requested to ‘fulfill’ the eligibility and admissions requirements. Such schools declared receiving the exact number of applications as the number of seats available in the school and thereby maintained status quo on admissions already made. Given that we studied the implementation in its first year, some of these schools admitted that they had to resort to these mechanisms as there were no applications and they did not want to falter on their obligations.

Measures for inclusion: Our study also showed that ‘inclusion’ was seen as a ‘problem’ of integrating ‘others’ into the school and the RtE an effort ‘to help poor children to study in private schools which is otherwise unaffordable’. For none of the higher-end private schools, was the potential of a socially diverse student population for a transformation of their existing homogenous education outlook ever voiced. Not surprisingly, very few schools surveyed had taken any specific measures to facilitate inclusion of children and these were also minimalistic or symbolic, rather than being comprehensive and substantive. Some of these measures included: keeping the identity of the children enrolled under the 25 per cent provision confidential, providing supplementary classes to these children after school hours, and organising

workshops on nutrition with the parents of these children. However, none of the teachers were familiar with the relevant provisions under the RtE, or had been trained or oriented to handle diversity in the class, either by the government or by the school management. Even among the parents who had managed to get their children admitted under this provision, there was a lack of awareness about the nature of their entitlements. Schools reported that parents hardly participated in the Parents-Teachers Associations.

Monitoring: Given the media publicity and awareness programmes conducted by civil society organisations, a few parents had lodged complaints with the Karnataka State Commission for Protection of Child Rights about schools not providing admission forms and schools charging additional fees. The Commission has dealt with these matters by referring them to the Department or by making recommendations through a process of public hearing. However, the Commission has not made any broad policy recommendations to the government on fostering inclusion.

Conclusion

The implementation of the RtE Act and the 25 per cent provision is in its initial stages. The larger goal of inclusion which was intended by the law makers remains distant as the bureaucracy is trying to balance contestations from private schools by first ensuring that they throw their doors open and provide admissions. Although admissions may be the first step, it cannot be seen as a proxy to inclusion which requires a fundamental change in the way schools are structured and learning takes place. The state government needs to streamline and strengthen its systems of implementing this provision, make it more accessible, transparent and open for social audit at every layer.

Archana Mehendale is a visiting faculty at School of Education, Tata Institute of Social Sciences, Mumbai. She works in the area of child rights, education and disabilities. She may be contacted at archana.mehendale@tiss.edu

Rahul Mukhopadhyay is a member of the Faculty at Azim Premji University, Bangalore. His research interests are in the area of sociology of education, education policy and sociology of organisations. He may be contacted at rahul.mukhopadhyay@apu.edu.in