

Proceedings of the Centenary National Seminar on

Implementation of Right to Education in India



Editors

Khagendra Kumar

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Monitoring the Child's Right to Education Commission for Protection of Child Rights

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Abstract

On the 1st April 2010, The Right to Free and Compulsory Education Act (RTE) was passed by the UPA government making primary Education a fundamental right for children between the ages of six and fourteen. The Right was a breakthrough attempt to universalise primary education thereby giving thousands of children the opportunity to avail free and accessible education while the National Commission for protection of child rights(NCPCR), state commission for protection of Child Rights(SCPCR) and Right To Education protection authorities are entrusted with monitoring the implementation of the Act, the Ministry of Human Resources Development(MHRD) is the implementing agency responsible for bringing the Act into effect. This divorce between monitoring and implementing agencies governing the RTE is unique to India's manner of executing Acts passed by the parliament.

Key Words

♦ RTE, ♦ NCPCR, ♦ SCPCR, ♦ PQCSO

Introduction

The most important means of Development of any nation or society is human. NO nation can prosper until it gets the best opportunity for every human being in the nation. The basis of development of mankind is Education. Through Education, the development of man's innate powers is increased in his knowledge and skills.

Sunita Singh
Principal

Education transforms the behavior of the person. Through education a child becomes cultured, makes him a useful citizen of society and the nation. Education has an immense impact on the human society. One can safely assume that a person is not in the proper sense till he is educated. Through education that knowledge and information are received and spread throughout the world.

It is universally accepted that education empowers the people for the full development of human personality; it strengthens the respect for human rights and helps to overcome exploitations and traditional inequalities of caste, class, and gender.

Without knowledge you can't be informed nor can you truly understand the meaning of many topics. It is important to have the knowledge that the next generation of education open doors of brilliant career opportunities. It teaches better prospects for career and growth. It is a preparation for living in a better way with an ability to participate successfully in the modern economy and society. Education is empowerment for socio-economic inequalities, and equipment to trigger growth and development. It is through education that knowledge and information are received and spread throughout the world. There has been a paradigm shift in this sphere from education as a transcendental and value to education to cast recovery system.

The linkage of the right to Education to right is dignified life, equality, freedom and cultural and minority rights have made it highly intricate and the extent of regulations relating to it from different quite complex. The right to Education originates from the apparent motion that it is obligatory for the state to provide education to its citizens. The core of the right to Education relates to its substance, which differs from education itself effective and transformative education should be the result of the exercise of the right to education, which, is universal human right. The right is about the substance of it. It relates to the possibility of demanding the right to education and making justified.

Free and Compulsory Education Bill, 2009

The free and compulsory education bill, 2009 is a bill passed by the Indian parliament in Education in 2009. Having this bill, the children have got the Fundamental Rights to free and provide compulsory education. In Article 45 of the constitution, mandatory and free education has been arranged for children from 6 to 14 years and by the 86th amendment. Primary Education in 21(a) has been made the citizenship of all the citizens. It came into effect all over India on 1st April 2010 except Jammu & Kashmir.

Monitoring of RTE

Under section 31 of the Right of children to free and Compulsory Education (RTE) Act 2009, National Commission for Protection of Child Rights (NCPCR) has been mandated to monitor the children's Right to Education.

For the purpose of performing its function under section 13(1) of the commission for protection of a child rights act 2005, NCPCR enjoys all the powers of a civil court trying a suit under the code of civil procedure 1908 (Judgement of 1908) and in particular in respect of the following matters, namely ¹

- i. Summoning and enforcing the attendance of any person and examine him on oath.
- ii. Discovery and production on affidavits
- iii. Receiving evidence on affidavits
- iv. Requisitioning any public record or copy thereof from any court's office; and
- v. Issuing commissions for the examination of documents.

The states and union territories (UTs) which have not set up the commission for protection of child Rights are 1. Andhra Pradesh, 2. Arunachal Pradesh, 3. Gujarat, 4. Himachal Pradesh, 5. Jammu and Kashmir, 6. Kerala, 7. Manipur, 8. Andaman & Nicobar Islands, 9. Mizoram, 10. Nagaland, 11. UP, 12. Daman and Diu, 13. Pondicherry, 14. Chandigarh, 15. Lakshadweep, 16. Nagaland, 17. Tripura and 18. Dadra and Nagar Haveli etc. Since the CPC Act, 2005 does not extend to the state of J & K: This state is not required to constitute the state commission under the Act.

Rule 27(2) of the Rights of children to free and compulsory Education rules 2010 provides that till such time the appropriate government sets up the state commission for protection of child rights. It shall constitute an interim authority known as the Right to Education protection Authority specified in ²subsection (1) of section 31 of the right to children to free and Compulsory Education Act 2009.

Monitoring the Right to Education : Who Does What ?

In theory, the idea of different monitoring and implementing agencies allows for accountability to exist one party make sure that the other is doing its jobs and vice versa. But too many cooks spoil the broth, seems to be operative when it

comes to the NCPCRs monitoring policy and its super flowsdelegations of responsibilities.

On 1st April 2010, The Right to Free and Compulsory Education Act (RTE) was passed by the UPA Government, making primary Education a fundamental right for children between the ages of six and fourteen. The RTE was a breakthrough attempt universalizes primary education thereby giving thousands of children the opportunity to avail free and accessible education.

NCPCR & SCPCR

While the National Commission for protection of Child Rights(NCPCR) And Right to Education protection authorities are entrusted with monitoring the implementation of the Act, the Ministry of Human Resources Development (MHRD) is the implementing agency responsible for bringing the Act into effect. This divorce between monitoring and implementing agencies governing is unique to India's manner of executing Acts passed by the parliament.

Responsibilities

The NCPCR & its Arms under section 31 of the RTE Act:

NCPCR is responsible for monitoring the provisions of the Act and its functions include

- Examining and reviewing safeguards for rights provided by (or under) this Act and recommend measures for their effective implementation.
- Inquiring into Complaints relating to the child's right to free and compulsory education.
- Taking necessary steps as provided under section 15 and 24 on the said commission for protection of child right Act. ³

But since 2013, a comprehensive account of the NCPCR's deliverance of it has not been made available to the public on its official website. In states that do not have an SCPCR to monitor the RTE. The respective state government sets up a Right to Education Protection Authority. The Authority is responsible for starting child helpline that addresses violations of the Act. The duties of **the state** commission including generating public awareness on child rights and **suggesting policy** and legal measures to deal with complaints arising from the poor implementation of the Act with the power and authority of a civil court under the code of civil procedure, 1908. The state also deals with legal issues related to the RTE.

Now, in order to strengthen its monitoring position, the NCPCR formulated an expert group comprising of educationists government officials and civil society activists in 2010. Officials from NCPCR National University of Educational Planning and Administration (NUEPA), National Council for Educational Research and Training (NCERT) and representatives of Mamidipudivenkatarangaiya Foundation, Akshara Foundation, and Aman Biradaevi constitute the experts' group. The group is also a point of convergence for officials from the MHRD – the implementing agency for RTE along with their counterparts in the NCPCR, the primary monitoring agency. The involvement of the Ministry of Human Resource Development in NCPCR's lack of accountability as this complicates their otherwise exclusive relationship of monitoring and implementation. Some of the proposals of the expert group include maintaining a web-based 'portal for registering social activists and public hearing at regular intervals and establishing an RTE Division within the NCPCR.

National Commission for Protection of Child Rights (NCPCR)

National Commission for protection of child rights (NCPCR) and the state commission for protection of child rights (SCPCRs) have been constituted under the commissions for protection of child rights (CPCR) Act 2005. The functions and powers of NCPCR and SCPCRs are enlisted in chapter III (sections 13 & 14) of the said Act entrusted with the monitoring of child's right to education under section 31 of The Right of Children to free and compulsory Education Act 2009.

As per Section of 44 and Rules of the protection of children from sexual offence Act 2012 NCPCR and SCPCRs have also been empowered for monitoring the implementation of this Act.

Year wise details of complaints received by NCPCR In last five years are as under

Year	No. of complaints
2009-10	742
2010-11	2497
2011-12	2323
2012-13	1809
2013-14	1564

Note: The information was given by the Union Minister of women and child development, Smt. Maneka Sanjay Gandhi in a written reply to the Rajya Sabha.

State Commission for Protection of Child Rights (SCPCR)

State Commission for Protection of Child Rights (SCPCR) has been constituted under the Commission for Protection of Child Rights (CPCR) Act 2005. BSCPCR (Bihar Commission for Protection of Child Rights) has been set up in September 2010 as a statutory body under Commission for Protection of Child Rights Act 2005 (4 of 2006) to protect, promote and defend child rights in the state.

The commission visualizes rights-based perspective flowing into national policies and programmes, along with enhanced responses at the state, district and block levels, taking care of specificity and strength of each reason. In order to touch every child, it seeks a deeper penetration to communities and households and expects that the ground experiences inform the support the field receives from all the authorities at the higher level. Thus the commission sees an indispensable role for the state, sound institution building processes, respect for decentralization at the level of the local bodies at the community level and larger societal concern for the children and their well-being.

The Protection of Children from Sexual Offence (POCSO) Act

The Protection of Children from Sexual Offences Act (POCSO Act) 2012 was formulated in order to effectively address sexual abuse and sexual exploitation of children. The Protection of Children from Sexual Offence Act 2012 received the president's assent and published in the Gazette of India on 20th June 2012.

Conclusion

It is universally accepted that education empowers the people for the full development of human personality strengthens the respect for human rights and helps to overcome exploitations and traditional inequalities of caste, class, and gender. The Free and Compulsory Education Bill 2009 is a bill passed by the Indian parliament in Education in 2009. Having this bill the children have got the fundamental right to free and compulsory education. In Article 45 of the constitution mandatory and free education has been arranged for children from 6 to 14 years and by 86th amendment, primary education in 21(a) has been made the citizens. It came in to effect all over India except Jammu and Kashmir on 1st April 2010 under the section 31 of the RTE Act; NCPCR is responsible for monitoring the provisions of this Act. NCPCR and SCPCRs have been constituted under the Commission for Protection of Child Rights (CPCR). As per section 44 and Rule, 6 of the Protection of Children from Sexual Offence Act 2012, NCPCR and SCPCRs have also been empowered for monitoring the implementation of this act.

References

1. RTE Act (2009); Ministry of Human Resource Development, Govt. of India, New Delhi
2. NCPCR Act(2005), Ministry of Women and Child Development of India, New Delhi
3. SCPCR Act(2005), Ministry of women and Child Development of India, New Delhi
4. POCSO Act(2012): Ministry of law and Justice of India (Legislature Department), New Delhi, 20 June 2012

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