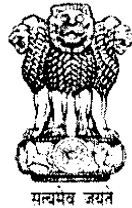


REPORT NO.

300



**PARLIAMENT OF INDIA**  
**RAJYA SABHA**

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON  
HUMAN RESOURCE DEVELOPMENT

**THREE HUNDREDTH REPORT**

**The Right of Children to Free and Compulsory Education  
(Second Amendment) Bill, 2017**

*(Presented to the Rajya Sabha on 9th February, 2018)*  
*(Laid on the Table of Lok Sabha on 9th February, 2018)*



**Rajya Sabha Secretariat, New Delhi**  
**February, 2018/Magha, 1939 (Saka)**

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Hindi version of this publication is also available

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COMPOSITION OF THE COMMITTEE

(Constituted w.e.f. 1st September, 2017)

1. Dr. Satyanarayan Jatiya — *Chairman*

**RAJYA SABHA**

2. Shri Partap Singh Bajwa
3. Shrimati Vandana Chavan
4. Prof. Jogen Chowdhury
5. Prof. M.V. Rajeev Gowda
6. Shri Anubhav Mohanty
7. Shri Vishambhar Prasad Nishad
8. Dr. Sasikala Pushpa
9. Dr. Vinay P. Sahasrabudde
10. Shri Gopal Narayan Singh

**LOK SABHA**

11. Shrimati Santosh Ahlawat
12. Shri Bijoy Chandra Barman
13. Shri Nihal Chand
14. Shrimati Bhawana Gawali (Patil)
15. Shri Faggan Singh Kulaste
16. Shrimati Geetha Kothapalli
17. Prof. Chintamani Malviya
18. Shri Bhairon Prasad Mishra
19. Shri Ramachandran Mullappally
20. Shrimati Neelam Sonker
21. Shri Hari Om Pandey
22. Dr. Bhagirath Prasad
23. Shri N.K. Premachandran
24. Shri K.N. Ramachandran
25. Shri M.I. Shanavas
26. Dr. Nepal Singh

27. Dr. Prabhas Kumar Singh
28. Shri Satyapal Singh
29. Shri Sumedhanand Saraswati
30. Shri P.R. Sundaram
31. Shrimati P.K. Sreemathi Teacher

**SECRETARIAT**

Shri K.P. Singh, *Joint Secretary*

Shri Rajiva Srivastava, *Director*

Shri Vinay Shankar Singh, *Additional Director*

Shri Arun Kumar, *Deputy Secretary*

Shrimati Himanshi Arya, *Under Secretary*

Shri K. Sudhir Kumar, *Research Officer*

Shri Mohit Mishra, *Committee Officer*



## INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Human Resource Development, having been authorized by the Committee, present this Three Hundredth Report on the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017. (Annexure I)

2. The Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017 was introduced in Lok Sabha on 11th August, 2017 and referred to the Department-related Parliamentary Standing Committee on Human Resource Development by the Chairman, Rajya Sabha, in consultation with the Speaker, Lok Sabha on 22nd August, 2017 for examination and Report.

3. The Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017 seeks to substitute a new Section for Section 16 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 which provides that no child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.

4. The Committee also issued a Press Communique on 7th November, 2017 in print and electronic media to seek the views of the people on the Bill. In response, the Committee received memoranda from the stakeholders. The Committee held extensive deliberations on the Bill with the stakeholders.

5. The Committee wishes to extend its sincere thanks to the Secretary, Department of School Education and Literacy, representatives of the State Governments of Assam, Meghalaya, Sikkim, Mizoram and Manipur, representatives of Delhi Commission for Protection of Child Rights (DCPCR), PRS Legislative Research, Right to Education Forum, Care India, Pratham Education Foundation, Director NCERT, Chairperson, CBSE, Chairperson, NCPCR, Vice Chancellor, NUEPA, Chairman, NIOS and Shri Radhey Shyam Gora, Advocate, Supreme Court of India.

6. The Committee also took note of the written submissions of the other stakeholders. Views of the stakeholders and comments of the Department were taken note of while formulating the observations and recommendations of the Committee.

7. The Committee considered the Bill in three sittings held on 16th and 24th November, 2017 and 18th January, 2018.

8. The Committee considered the Draft Report on the Bill and adopted the same in its meeting held on 8th February, 2018.

9. For facility of the reference, observations and recommendations of Committee have been printed in bold letters at the end of Report.

NEW DELHI;  
8 February, 2016  
Magha 19, 1939 (Saka)

DR. SATYANARAYAN JATIYA  
Chairman,  
Department-related Parliamentary Standing Committee  
on Human Resource Development,  
Rajya Sabha.

## REPORT

1. The Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017 was introduced in Lok Sabha on 11th August, 2017 and referred to the Department-related Parliamentary Standing Committee on Human Resource Development by the Chairman, Rajya Sabha, in consultation with the Speaker, Lok Sabha on 22nd August, 2017 for examination and Report.

2. The Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017 seeks to substitute a new Section for Section 16 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 which provides that no child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.

3. The Statement of Objects and Reasons to the Bill reads as follows:-

*"The Right of Children to Free and Compulsory Education Act, 2009 (the Act) provide for free and compulsory education to all children of the age of six to fourteen years."*

*"Section 16 of the Act provides that no child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education. This provision was made in the said Act because examinations are often used for eliminating children who obtain poor marks, which compels children either to repeat the same grade or leave the school altogether. It was felt that compelling a child to repeat a class is both de-motivating and discouraging."*

*"In recent years, States and Union Territories have been raising the issue of adverse effect on the learning levels of children as Section 16 does not allow holding back of children in any class till the completion of elementary education. Therefore, in order to improve the learning outcomes in the elementary classes and after wide deliberations with all the stakeholders, it is proposed to substitute section 16 so as to empower the appropriate Government to take a decision as to whether to hold back a child in the fifth class or in the eighth class or in both classes, or not to hold back a child in any class, till the completion of elementary education."*

4. The Committee before initiating its deliberation process on the Bill, decided to seek the views of all concerned. The Committee first held discussions with the representatives of five North-Eastern (NE) State Governments viz Assam, Meghalaya, Sikkim, Mizoram and Manipur along with the Central Ministry of Human Resource Development on this Bill during its study visit to Guwahati and Imphal from 30th October to 3rd November, 2017. Thereafter, a Press Release inviting suggestions/memoranda on the proposed provisions of the Bill from all the stakeholders was issued on 7th November, 2017. In response 11 memoranda were received from the stakeholders (Annexure A). Memoranda received were sent to Ministry of HRD for their comments and the same are at Annexure B.

5. Elaborating the background of the Bill, the Secretary, Department of School Education and Literacy in his deposition before the Committee on 16th November, 2017 submitted that the RTE Act, 2009 provides for free and compulsory education to all children between six to fourteen years of age. Section 16 of the Act provides that no child admitted in a school shall be held back in any class or expelled from

school till the completion of elementary education. As the States and Union Territories have been raising the issue of adverse effect of 'No Detention' provision on the learning levels of children, Section 16 of the RTE Act, 2009 is proposed to be amended by providing for a regular examination in fifth class and eighth class at the end of every academic year. If a child fails in the said examination, he shall be given additional instruction and granted opportunity for re-examination within a period of two months from the date of declaration of the result. In case, the child fails in the second attempt, the appropriate Government may allow schools to hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed. The appropriate Government may also decide not to hold back a child in any class till the completion of elementary education. Further, no child shall be expelled from school till the completion of elementary education. It was submitted that the proposed amendment seeks to improve the learning levels of children and will lead to greater accountability and improvement in the quality of education. According to the Secretary, States/Union Territories were of the view that they have been bound not to withhold a child upto class 8 due to RTE provisions. Further informal surveys and assessments have revealed that learning outcomes were declining continuously due to no detention policy. As a result crunching was being witnessed at class tenth level, where a large number of students were failing in the examination. Therefore, in order to give an option to the States and Union Territories to withhold or not to withhold a child and to improve the quality of education at elementary level amendment to Section 16 is being proposed. The Secretary, emphasised that it is easier to take corrective measures at smaller level i.e 5th or 8th to improve quality of education rather than at 10th level.

6. The Committee was informed that the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017 was brought in after going through an intensive consultation process involving all the stakeholders. The Ministry of Human Resource Development, while giving the details of the consultations, informed the Committee that the Central Advisory Board of Education (CABE) is the highest advisory body to advise the Central and State Governments in the field of education. CABE is reconstituted by the Government from time to time with the mandate to review the progress of education and implementation of education policies and to advise regarding educational development in the country. CABE also acts as a forum for co-ordination and exchange of views between the Central and State Governments/Union Territories and non-Governmental agencies and eminent persons from different walks of life on education policy and its progress.

7. In pursuance of a resolution adopted in the 59th meeting of CABE, a Sub-Committee under the Chairpersonship of the then Education Minister of Haryana, Smt. Geeta Bhukkal was constituted on 6th June, 2012 for assessment of implementation of Comprehensive and Continuous Evaluation (CCE) in the context of 'No-Detention' provision in the RTE Act, 2009. The Bhukkal Sub-Committee submitted its report in August, 2014. The Recommendation of the Sub-Committee pertaining to No Detention provision stated as under:

*'Amend the roll-out plan of No detention - No Detention provision should be implemented in a phased manner. We could implement a system of State-wide assessment at Grade 3, 5 and 8 with 'No-Detention' up to Grade 5, provisional promotion after Grade 5 and detention after Level 8. The system should allow for detaining students lagging behind. At this stage, it would be prudent*

*to reiterate the need for assessment of learning outcomes and make it consequential by linking it to promotion or otherwise to the next class grade 5.'*

8. The Report of the Sub-Committee was placed before CABE in its 63rd meeting held on 19th August, 2015 wherein it was decided to request all States and UT Governments to share their views on the 'No-Detention' provision, with the Ministry of Human Resource Development. The Committee was apprised of the comments on the 'No-Detention' provision as received from States and UTs. The comments have been categorised as under:-

Category 1	States that have desired for 'No-Detention' provision to be retained in the RTE Act, 2009	Andhra Pradesh, Karnataka, Kerala, Goa, Maharashtra, Telangana (6)
Category 2	States and UTs that have suggested for Modification or Review of the 'No Detention' provision	Himachal Pradesh, Mizoram, Sikkim Puducherry, Delhi, Odisha, Tripura, Gujarat, Nagaland, Madhya Pradesh, Punjab, Chandigarh, *J&K, Chhattisgarh, Daman & Diu (15)
Category 3	States and UTs that have proposed withdrawal of the 'No Detention' provision.	Bihar, Rajasthan, Uttar Pradesh, Uttarakhand, West Bengal, Haryana, Arunachal Pradesh (7)
Category 4	States and UTs that have not given their views on the matter	Andaman and Nicobar Islands, Assam Dadra & Nagar Haveli, Jharkhand, Lakshadweep, Manipur, Meghalaya, Tamil Nadu (8)

Note:- \*the RTE Act, 2009 is not applicable in the State of Jammu and Kashmir

The details of the responses received from States/UTs are as under:

Sl. No.	Name of the State /UT	Gist of Comments/Remarks of the State Governments/UTs
1	2	3
1	Bihar	' No Detention Policy' to be withdrawn and Continuous and Comprehensive Evaluation (CCE) Policy should be implemented. Performance of students should be assessed from time to time.
2	Himachal Pradesh	Introduction of internal examination at class 3rd and third party examination at the level of 5th and 8th classes Detention of students at 3rd, 5th and 8th classes who fail to acquire class appropriate competences as identified at the respective level.
3	Madhya Pradesh	Board examinations at classes 5th and 8th to be held because ' No Detention Policy' has adverse impact on the academic performance of students.

1	2	3
4	Mizoram	All teachers to be trained in various aspects of continuous and comprehensive Evaluation (CCE) to enable them to practice it effectively. Till the system of CCE stabilizes, the No Detention Policy may be kept in abeyance for 5-7 years.
5	Odisha	Provisions of 'No Detention' may be revisited and the State may be allowed to follow their own evaluation system at the end of every grade with class appropriate assessment.
6	Punjab	Provisions of 'No Detention' may be amended to reintroduce exam system from 1st - 8th classes and start Board examination in classes 5th & 8th. A Resolution to this effect has been passes in the Punjab Vidhan Sabha.
7	Rajasthan	'No Detention Policy' and 'Age appropriate Admission Policy' to be withdrawn due to the adverse impact in the quality of education on account of decline in the commitment levels of students as well as teachers towards education. Tests/examination and detention provide students a fair stage to perform, besides being a remedy for correcting the deficiency in the knowledge of students.
8	Sikkim	Roll out plan of 'No Detention' in phased manner and assessment at classes 5th and 8th as regular attendance is not ensured by the family and thus 'No Detention' has further aggravated the motivation of students and teachers.
9	Tripura	'No Detention Policy' needs to be reviewed as this has led to a state of inattention to the teaching-learning process on the part of the children and has adverse impact on the regular attendance of students and teachers in schools.
10	Uttar Pradesh	'No Detention Policy' needs to be revoked as it has resulted in lack of competition and has reduced the learning outcome of students
11	Uttarakhand	'No Detention Policy' needs to be withdrawn as this has brought down the standard of education. Half-yearly and annual examinations should be conducted in order to improve the quality of education of students and also their competitive spirits. This would also increase the responsibility of teachers.
12	Puducherry	'No Detention Policy' needs to be reviewed as it has led to deterioration in quality of elementary education and created negative impact on the students, as well as parents' attitude and mentality. Therefore, 'No Detention Policy' needs to be restricted up to class V.

1	2	3
13	Karnataka	'No Detention Policy' should continue in its present form as it is important to sustain students' interest in education and provide minimum 8 years of school education. Continuous and Comprehensive Evaluation (CCE) should be improved and monitored, year-end evaluation for a few classes should be conducted and students with low scores should be helped in improving their learning through special teaching.
14	Delhi	'No Detention Policy' needs to be amended as this has led to students being promoted to next class without achieving the desired learning level of a class and being able to comprehend and follow the subject taught. It further results in unreasonable and undisciplined behaviour of students or their dropping out of school. 'No Detention Policy' may be restricted up to Junior Primary class, i.e. class 3.
15	Kerala	'No Detention Policy' to be continued.
16	Andhra Pradesh	'No Detention Policy' should continue as otherwise the dropout rate would increase and it would be difficult to fulfil the objective of universalisation of elementary education. Detention of students would de-motivate them and lead to rote learning and undue fear of exams on the students and encourage malpractice and suppresses creative thinking, analytical ability, exploration and experimentation skills of the students. Annual examinations should be conducted to assess learning levels for class III, V and VIII. Continuous and Comprehensive Evaluation (CCE) should be strengthened. Quality of teaching should be improved.
17	Gujarat	'No Detention Policy' to be reviewed and suitably modified.
18	Nagaland	'No Detention Policy' needs to be reviewed as it has adversely affected both the students and teachers. The policy has made the students lazy and non-serious in their studies and the teachers too casual in their approach to teaching. The pass percentage and the grades/marks obtained by students in class IX and HSLC Examination have declined due to 'No Detention Policy'.
19	West Bengal	'No Detention Policy' to be withdrawn as the learning outcomes and school environment has suffered due to the policy. Adequate safeguards may be put in place so that drop outs do not increase.
20	Haryana	'No Detention Policy' needs to be withdrawn as it has resulted in deterioration in the quality of education due to decreased commitment levels of stakeholders. The policy has resulted in lackadaisical attitude on part of both students and teachers. For the policy to succeed, teacher-pupil ratio should be optimum, along with compulsory attendance and effective implementation of Continuous and Comprehensive Evaluation (CCE). Tests/examinations provide students with competitive spirit besides motivating them to study.

1	2	3
21	Telangana	'No Detention Policy' should continue to enable a child to learn better without fear of failure, detention and stigma. Continuous and Comprehensive Evaluation (CCE) should be strengthened to evaluate the learning standards of the child regularly and which focuses not on rote learning but encourages creative and critical thinking.
22	Maharashtra	'No Detention Policy' should continue with some changes as the policy has reduced school dropout rates and helps in building self esteem. Schools to test children at least thrice every year. States should be given freedom to decide whichever policy to follow.
23	Goa	'No Detention Policy' should continue in the interest of the elementary education of all children. Measures should be taken for effective implementation of the Right of Children to Free and Compulsory Education (RTE) Act, 2009.
24	*Jammu and Kashmir	Implementation of CCE should be reviewed with particular focus on regular assessment, evaluation and remedial teaching; detention from class 5th to 8th in a phased manner should be introduced; detention at class 9th should be done away with and external evaluation should be done in all classes from 5th onwards.
25	Chhattisgarh	Detention should be at the level of class 8 and more than one opportunity should be given to pass class 8 exam. Also, the aggregate of points earned in class V should be carried forward to the next class.
26	Arunachal Pradesh	'No Detention' should be reviewed and abolished.
27	Daman and Diu	Negative effects of 'No Detention' policy have been highlighted
28	Chandigarh	'No Detention Policy' may be continued up to class IV. CCE may be continued. Centralized annual Exam may be introduced in class VII.

Note:- \* the RTE Act, 2009 is not applicable in the State of Jammu and Kashmir

9. In the CAGE meeting held on 19th August, 2015, it was also decided that a Sub-Committee may be constituted to examine and review the feedback received from States and UTs on the No-Detention provision. Accordingly, a Sub-Committee under the Chairmanship of the then Minister of Education, Government of Rajasthan, Sh. Vasudev Devnani was constituted on 26th August, 2015 *inter-alia*, to review the feedback received from States and UTs on the 'No-Detention policy'. The Sub-Committee held its meeting on 30th December, 2015 in which views received from States and UTs on the 'No Detention' provision were examined and deliberated upon. The following recommendations were given by the Devnani CAGE Sub-Committee:

- (i) *Learning Indicators for all classes for all subjects should be established.*

- (ii) *Exam in each class. This will get the teacher to be aware about student learning level in the class.*
- (iii) *Teacher should be held accountable for the learning outcomes of the students*
- (iv) *Parents should ensure regular attendance of their wards.*
- (v) *Exam at class 5. It should be left to the States and UT's to decide whether this exam will be at the block, district, or State level.*
- (vi) *If a child fails then allow the child an opportunity to improve. There should be additional instruction provided to children and the child should be given an opportunity to sit for another exam. If the child is unable to pass the exam in the second chance, then detain the child.*
- (vii) *At Classes 6 and 7, there should be a school based exam for students.*
- (viii) *At class 8, there should be an external exam. In case the child fails the child should be given additional instruction and then appear for an improvement exam. If fails again, then detain.*

10. Thereafter, in the next meeting of CAGE held on 25th October, 2015 the issue of No-Detention provision in the RTE Act was again discussed and the representatives of various States and UTs shared their views. After detailed deliberations, it was decided that the Central Government may make suitable amendments to the No-Detention Provision, leaving the decision to the States and UTs on whether to detain a child or not.

11. The Draft Note for Cabinet proposing the amendment of the RTE Act, 2009 was circulated to the National Institution for Transforming India (NITI) Aayog, Ministry of Finance, Ministry of Law and Justice, Ministry of Women and Child Development, Ministry of Labour and Employment, Ministry of Tribal Affairs, Ministry of Social Justice and Empowerment, Ministry of Minority Affairs, Prime Minister's Office, for their comments. All the Ministries concerned have supported the proposed Bill.

12. The Committee keeping in view the fact that since its enactment, the no detention policy has been subject to public discussion and scrutiny, decided to hear some more stakeholders on the proposed amendment in the RTE Act. Accordingly, the Committee heard the views of National Council of Education Research and Training (NCERT), Delhi Commission for Protection of Child Rights (DCPCR), PRS Legislative Research, Right to Education Forum, Care India, Central Board of Secondary Education (CBSE), National Commission for Protection of Child Rights (NCPCR), National University for Education Planning and Administration (NUEPA), National Institute of Open Schooling (NIOS), Pratham Education Foundation and Shri Radheshyam Gora, Advocate, Supreme Court of India. The views of these stakeholders have been narrated in the succeeding paragraphs.

13. All the five North-Eastern State Governments *viz* Assam, Meghalaya, Sikkim, Mizoram and Manipur with whom the Committee had interacted on this Bill during its study visit, were, by and large in agreement with the provisions of the proposed Bill.

14. According to Director, National Council of Education Research and Training (NCERT), the Right to Education Act has provided uninterrupted schooling with no detention till class eight to ensure



universal enrolment and compulsory elementary education to all. The Act adopted a Comprehensive and Continuous Evaluation (CCE) system to ensure appropriate progress in learning by every child across the curricular areas. However, as the learning outcomes were not defined, teachers were not able to track the progress in learning outcomes to enhance quality of education. To improve learning outcomes, the representative of NCERT suggested facilitating learning of children in schools ensuring the overall development of child through appropriate pedagogical processes to be adopted by the teachers and other stakeholders and integrating assessment with teaching and learning process instead of making it a separate activity to be conducted at the end of a term or year.

15. With respect to assessment and examination, Director, NCERT submitted that the focus of assessment should be on assessing the process of learning and weakness/gaps in learning should be identified through continuous assessment and methods like observations, peer and self assessment, tests and assignments. This way learning gaps/deficiencies could be bridged immediately and not after some time. One time year end examination is not sufficient to fill gaps in learning therefore, there is a need for strengthening the Comprehensive and Continuous Evaluation (CCE). The Director, NCERT stated that they are, however, not in favour of public examination but school based examination.

16. The representative of Delhi Commission for Protection of Child Rights (DCPCR) submitted before the Committee that some version of no-detention policy was being followed by many States/Union Territories even before the promulgation of Right to Free and Compulsory Education Act, 2009. Therefore, no detention was not a new concept that the RTE Act introduced but provided it the legal status and made it uniform across nation by including this in the Act. According to him detention means holding the child back to the same class on the ground of poor academic performance. It is done with the intention to provide the children more time to study the academic syllabus and perform better in subsequent class. Emphasising that till date there is no evidence to establish conclusively that detention improves learning outcomes, the Member, DCPCR stated that it would most significantly affect the socially and economically vulnerable groups only. He further, submitted that the Right of Free and Compulsory Education Act makes a provision for Comprehensive and Continuous Evaluation (CCE) of the children in multi-dimensional manner. Therefore, no form of testing evaluation or assessment has been prohibited by the Act on continuous basis. Keeping in mind the rationale and intention of detention or no detention, the representative of the Commission suggested for applying no detention policy to class I, II and III. No ground should be acceptable for detention in class I - II. The school, on the ground of child failing to meet minimum academic performance, may be allowed to detain the child in class V. Thereafter, the child must not be detained in class VI and VII post which the detention may apply. Further, linking the RTE with attendance of students in the class, it was contended that if attendance of students is 66 per cent or above detention must not apply. The stakeholder further suggested amendment in RTE Act to penalize erring officials of the department of education for failing to deliver books, failing for providing adequate number of teachers, failing to disburse funds on time and for not ensuring proficiency of foundational skills to students.

17. President, PRS Legislative Research submitted before the Committee that there are two views on whether children should be detained or not for failing examinations. Some experts argue that automatically promoting all children to the next class reduces the incentive for children to learn and for the teachers

to teach. Others argue that no detention provision in the RTE Act addresses the issue of examinations being used to eliminate children who obtain poor marks and that compelling a child to repeat a class is de-motivating and leads to dropping out of school. The representative further submitted that detention puts the onus of learning entirely upon the child and does not acknowledge the role of other factors that affect learning outcomes. These factors include lack of professionally qualified teachers, teacher's absenteeism, limited infrastructure and inadequate roll out of the Comprehensive and Continuous Evaluation method of teaching and assessment. Detention also works against poorer families in which the child may miss classes due to various factors such as illnesses, engagement in economic activities etc. The representative apprised the Committee that the National Policy on Education, 2016 had recommended that no detention policy be retained until Class V and after that a child who fails must be given two more chances of clearing the test after suitable remedial education. The remedial education should focus on the areas that the child is deficient in. If the child fails to clear the exam in the two extra tests the child should be detained or given the opportunity to pursue education through a vocational stream. Now, this Bill gives only one round of remedial education and test while the National Policy on Education, 2016 suggested two. Further, the proposed Bill is allowing States/UTs to determine whether to detain children upon failing in Class V and VIII examination. While several States had requested for a modification of the no detention provision in the RTE Act, the provisions of the Bill are at variance with the views of several States/UTs with regard to assessing learning outcomes and detention. Education is a concurrent subject under the constitution and the Central Law will override the State Law. The policy question is whether the Central Law should specify details such as which classes should be subject to examination and detention or whether such decisions should be left to the States/UTs to make. Lastly, the Bill does not specify the authority who will administer the examination in Class V and VIII i.e whether the examination would be conducted by the Centre or States/UTs or the local authority or each school will evaluate its own students.

18. The representative of the Right to Education Forum, while opposing the proposed Bill, submitted before the Committee that the States raising the issue of adverse effect on the learning levels is not supported by evidence. Further, no cause-effect link has been established between "learning levels" and "no detention policy". It is the poor quality of education, lack of infrastructure, teacher vacancies and the presence of untrained teachers that may have an effect on learning outcomes. The proposed Bill suggests no methods for improvement of learning outcomes. No detention clause, one of the most critical parts of RTE Act, if pulled out, would put the entire RTE Act at risk of disintegration. The greatest negative impact will be on disadvantaged groups, first generation learners and Adivasi students. The representative submitted that the proposed Bill is the result of a backlash against implementation of wrong Comprehensive and Continuous Evaluation which focused on measuring and not improving learning which led to a backlash against both No Detention Policy and CCE. The Committee was also apprised that with the withdrawal of No Detention provisions it would be the girls who would be suffering the most.

19. The representative of Care India submitted before the Committee that the proposed amendment to Section 16 does not address the root cause of poor learning outcomes, risks penalizing students for the system's failure and damages the internal coherence of the RTE Act. The representative of Care India opposed the proposed Bill stating that no detention policy is standard practice in several high performing

education systems in the World. Even the Geeta Bhukkal Committee report that forms the basis of present amendment did not find evidence of improvement of learning after detention. Consequently, any move to reintroduce detention would be contrary to evidence and run counter to the interest of students. The representative emphasized that reliable statistical data are not available which can corroborate that repeating improves the academic learning, whereas, detention contributes to poor mental health, negative attitude to school learning and results in students dropping out of schools. No detention policy has helped to retain children in schools and enabled them to complete a cycle of schooling. Keeping students in school is one of the major contributions of No Detention Policy. Given high rates of poverty and other socio-economic factors, dropping out is often preferred to repeating a class. Addressing low levels of enrolment among marginalized communities was one of the main aims of RTE Act and pushing them back out again would be counterproductive. Further, restoring the examination system within the RTE framework would damage the internal coherence of the RTE Act. The Act provides for age-appropriate admissions followed by special training for children whose learning level is below the required levels. With this amendment, detained students would compulsorily attend the same class as younger children without any additional support. Further, it will be easier to fail children with disabilities and there would be additional barriers for the education of disadvantaged groups which would incentivise failing of EWS children who are frequently seen as 'pulling down' learning outcomes in private schools etc. The representative of Care India emphasised if detention is to be reintroduced then common guidelines should be issued to all States prescribing steps that need to be taken *i.e* providing additional support to educationally lagging students, building teacher capacity, strengthening implementation of existing provisions critical to quality within the RTE Act, accelerating RTE compliance of all schools, enhancing budget allocation to education and strengthening teacher training and support mechanisms and implementation of CCE.

20. The Chairperson, Central Board of Secondary Education (CBSE) submitted before the Committee that no detention policy was introduced in RTE Act, 2009 as detaining or expelling a student up to class VIII and was de-motivating and often resulted in dropout. However, it was being noticed that by removing an examination process, quality of students and teaching was falling down. Therefore, assessment of a child through regular examination is necessary. Now, the proposed amendment seeks to empower academic authorities to take a decision to hold back a child in the fifth or eighth class or in both classes till the completion of Minimum Standard of Academic Performance. The Chairperson, CBSE, further stated that in class V and VIII and at the end of each year, the school should award a certificate stating whether the child has attained the Minimum Standard of Academic Performance for the particular class. Such students will receive additional instructions from the teachers to cope with the backlog of learning. This will ensure better results in class X and XII Board examinations. Accordingly, CBSE supports incorporation of this intervention to address the problem of quality of education.

21. The Chairperson, National Commission for Protection of Child Rights (NCPCR) submitted before the Committee that the RTE Act, 2009 was enacted to attain the goal of universal elementary education for all children in the age of 6 to 14 years. However, the goal of availing quality universal education continues to elude us as a large number of children particularly, from the disadvantaged groups and weaker sections continue to drop out of schools before completing elementary education. Moreover, the

quality of learning is not always entirely satisfactory even in the case of children who complete elementary education. Under Section 31 of the RTE Act, 2009, the NCPCR has been mandated to inquire into the complaints relating to child's right to free and compulsory education. The chairperson, NCPCR, apprised the Committee that the Commission receives a large number of complaints under RTE Act, 2009 relating to non-implementation of the Act, infrastructural defects in schools and non-availability of teachers. One of the lacune pointed out in these complaints is the non-implementation of Section 29 which provides for adequate provisioning for Comprehensive and Continuous Evaluation of Child's understanding of knowledge and his or her ability to apply the same. Had this provision been implemented properly, then the problem of lack of comprehension of class room lessons by the child, would have been detected early and remedial steps taken. Further, it has been experienced by NCPCR that the children going to schools for availing the benefits of RTE Act generally belong to vulnerable sections who are often facing multiple problems. Hence, a strict evaluation of their performance by a dis-passionate system may not be very fair on them.

22. While supporting the assessment of children in class 5 and 8 in the interest of enhancing the quality of learning outcome of children and teaching, the Chairperson, NCPCR stated that the proposal of two months window with one re-examination is very small. It was suggested that at class 5 if the child is under-performing he/she should be allowed to appear for examination as and when the child feels confident. Further, the child should be allowed any number of attempts till the child is on the rolls of the schools upto class 8, without being held back. Similarly, if the child is under-performing at class 8 he may be allowed two years time to appear for examination instead of failing the child, an evaluation of his/her scholastic understanding be done and he/she may be guided for future career on the basis of their aptitude. They should not, be stigmatised by labelling as 'passed' or 'failed' and rather an evaluation certificate should be awarded to them. Further, they may also be given chance to re-appear within a period of two years to pass the class 8th examination to facilitate them to continue studies and get connected with the school if they so desire.

23. The Vice-Chancellor, National University for Education Planning and Administration (NUEPA) while supporting the proposed amendment in the RTE Act stated that he is in favour of periodic assessment of the child in order to improve and increase the learning outcomes. He further submitted that the children who are not reaching a level of competence and skill should be detained and advocated to add a rider. Referring to different types of management prevalent among education providers, he voiced for having a regulatory mechanism, otherwise there would be a tendency among the aided schools to fail more students so that they can get one more post of teacher. If the school fails 30 students in a class of 100 students in primary class this will increase the number of required teachers which has lot of financial implications. He pointed out that there are lot of financial incentives for aided schools in appointing more teachers.

24. The Chairman, National Institute of Open Schooling (NIOS) submitted before the Committee that due to introduction of no detention policy, learning levels of the children were declining and high failure and dropouts were being witnessed in classes 9th and 10th. Further, teacher's accountability was also declining. Supporting the proposed amendment in the RTE Act, 2009, Chairman, NIOS stated that learning is directly proportionate to efforts made. He submitted that the children stopped making efforts

due to lack of any external pressure and the teachers have withdrawn putting pressure on student due to varied reasons. Moreover, this happened mostly in Government schools, whereas private schools improved their levels. He further added that examination is necessary to assess the capability of a child. If there is no assessment there would be no effort. Hence, introduction of assessment at class 5 and class 8 would infuse quality of education without burdening the children.

25. The representative of Pratham Education Foundation submitted before the Committee that there are two glaring omissions in the proposed amendment. First, it is silent on the nature of examinations and how they would be held and second if a child 'fails' the examination he is to get just one chance two months after the results are declared. Therefore, it is not clear whether the examinations would be based on class five or class eight textbooks or they would be based on various skills such as comprehension, analysis, problem solving etc. that are expected to be learned over the years. A textbook based examination would only encourage the culture of cramming and possibly give rise to a new arm of the coaching industry. The representative of Pratham Education Foundation suggested developing a decentralized system of assessment to be conducted at the district level using guidelines given by each State. Elaborating further, the representative stated that although the proposed amendment does not directly ask a child who 'fails' to be kept back, in essence it creates conditions for keeping back children. In case the child 'fails' examination twice, the child cannot be expelled and the examination result says he has not learned enough to 'Pass' class five. The automatic implication of this would be that the child would be kept back. This would be counter-productive at least for the children who are at the end of class five or under the age of 13. The amendment should specifically direct the states to give the children under 13 as many opportunities as necessary to pass class 5 examination. Children, who complete class 5 but do not 'Pass' the stage end examination, should not be kept back. However, after the age of 14, children may be allowed one year to 'pass' the class 8 end examination and then allowed to leave the formal education stream. They may appear for class 10 examinations through open pathway.

26. Shri Radheyshyam Gora, Advocate, Supreme Court in his deposition before the Committee, submitted that it is a global problem to reduce the number of dropout children as they become easy victims of bad elements. He submitted that the children commit crimes and are exploited, so holding back children may not serve the purpose. He also submitted that while carrying out amendment in Section 16 of the RTE Act, suitable inputs from skill development programme may also be added for enhancing the future career of children.

27. The Committee in its examination of the Bill extensively deliberated on the provisions of the Bill and the impact it would have on the elementary education after its enactment. These have been dealt with in the succeeding paragraphs.

28. Clause 2 of the Bill substitutes a new Section for Section 16 Clause 2 (1) provides for a regular examination in the fifth class and in the eighth class at the end of every academic year.

29. Some of the stakeholders heard by the Committee had emphasised that instead of making a provision for holding examinations and detention of children in case of failure, in class fifth or eighth, it would have been more appropriate if Comprehensive and Continuous Evaluation (CCE) system within the RTE framework should have been strengthened. It was emphasized that fear of examination and

failure may lead students to drop out from the school and that detention, if re-introduced, would significantly affect the poor, marginalized sections of society and girls too.

30. The Committee also noted the clarification given by the Secretary, Department of School Education and Literacy, while deposing before the Committee. He stated that Section 16 of the RTE Act was not allowing the States/UTs to detain a child in any class upto eighth standard and automatic promotion upto eighth standard was resulting in a huge bottleneck in class ten, where a large number of students were failing in the examination. Then, there were surveys and internal assessments showing that learning outcomes of the students, since the introduction of no detention provision were declining and reaching to an alarming stage where class eighth students were not able to read and write class five text. As the quality of education and learning outcomes of the students were both going down, an enabling clause is being proposed in the RTE Act providing a window to States/UTs to hold regular examinations in the fifth and eighth classes at the end of every academic year. Clarifying that holding examinations would not be compulsory for the States/UTs, the Secretary emphasised that an option is being given to the States/UTs to hold examination and detain a child, if they so desire. However, the essence of the RTE Act that provision relating to expulsion till completion of elementary education will remain the same *i.e* no child will be expelled till the completion of elementary education. It was further submitted that instead of facing a huge bottleneck at class ten level when chances for improvement or taking corrective measure for improving learning outcomes are fewer, it is better to create small bottleneck in class fifth and eighth when there is greater scope for improving learning outcomes.

**31. The Committee notes that only 6 States/ Union Territories desired that the no detention provision may be retained. 15 States/UTs suggested modification or review of no detention provision and 7 States/UTs desired withdrawal of no detention provision. The Committee observes that majority of States/UTs desired either modification, review or withdrawal of No Detention Provision in the RTE Act.**

32. The Committee observes that with the enactment of RTE Act, initially the focus of elementary education system in the country was its universalization among 6 to 14 years age group children *i.e* the quantitative expansion of education with focus on optimum enrolment, school buildings, infrastructure etc and while doing so the quality aspects of teaching and learning remained on back stage. This has led us to a situation which necessitates the review of the Act. It is a fact which cannot any longer be ignored. The National Council of Education Research and Training's (NCERT) National Achievement Survey or Annual Status of Education Report (ASER) have consistently revealed the abysmally low learning levels among school children. It is a cause of serious concern for the Committee. Further, with the no detention policy there is no pressure on the children to learn and on the teachers to teach. Therefore, there is a need for policy change so as to improve the learning of children at elementary stage of education.

33. The Committee feels that learning of children must be assessed through examinations in classes fifth and eighth. The Committee accordingly, welcomes the proposed amendment in clause 2(1) providing for regular examination in class fifth and eighth at the end of every academic year and hopes that learning of children would improve considerably in future.

34. Clause 2 (2) of the Bill provides that if a child fails in the examination referred to in sub-section (1) he shall be given additional instruction and granted opportunity for re-examination within a period of two months from the date of declaration of the result.

35. The Committee noted that some of the stakeholders were of the view that the proposal of two months window with one re-examination was very limited. They were of the view that more time and more chances for re-examination should be given to the children. It was suggested that for class fifth a child may be allowed to appear for examination as and when he is ready and he may be given as many opportunities as he desires to appear for re-examination. For class eighth it was suggested that a child may be given two years time to appear for re-examination.

36. Clause 2 (3) provides that the appropriate Government may allow schools to hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed, if he fails in the re-examination referred to in sub-section (2). The clause further provides that the appropriate Government may decide not to hold back a child in any class till the completion of elementary education.

37. During deliberations of the Committee a concern was raised that elementary education system in the country already suffers from many inequalities, diversities across States/UTs. Further, education being on the concurrent list of subjects, there are multiple Central and State Government laws in existence causing confusion. Now the proposed amendment seeks to authorise the State Governments/ Union Territory Administrations to decide whether to conduct examinations or to withhold a child in class fifth or in class eighth or in both the classes or not to withhold the child in any class upto class eighth. Various States/UTs are going to make different rules under this clause which will disturb the uniformity of elementary education system established by RTE Act and lead to varying results and add to more confusion and inequalities across States/ Union Territory Administrations.

38. The Secretary, Department of School Education and Literacy clarified that as conditions in each State are different, the standard of education is also different in different parts of the country, hence a single policy for the entire country may not be advisable. Being a federal nation, de-centralisation of power is natural consequence of the federalism and instead of imposing of policy on the States/UTs, it was felt necessary that it should be left to the State Governments/ Union Territory Administrations to take a call whether they want to detain a child or not to detain a child. With regard to the suggestion of stakeholders regarding common guidelines to all States/UTs with respect to detention, the Department of School Education and Literacy, in their written replies on the memorandum of stakeholders had informed that detailed guidelines and advisory would be issued to all the States/UTs outlining the safeguards to be adopted before detaining a child.

**39. The Committee agrees with the viewpoint of the Department and feels that allowing discretion to the States/UTs to decide as to detain in the fifth class or eighth class or in both classes or not to detain a child in any class till the completion of elementary education is a welcome step. As there are diversities amongst State/UTs it would be appropriate, if they are allowed to take a decision as per their circumstances and needs. Every conceivable step that is likely to improve the quality of education should be welcomed. The positive outcomes of a policy in one State could**

always be replicated by other States/ Union Territory Administrations. The Committee however, suggests that common guidelines may also be issued to all States/UTs with respect to detention of a child.

40. In addition to the provisions of the Bill, the Committee had an opportunity to look into certain aspects which have direct bearing on the success of RTE Act. Such issues have been dealt with in the following paras.

**Strengthening of Comprehensive and Continuous Evaluation (CCE) within RTE framework.**

41. Almost all the stakeholders heard by the Committee were of the view that there is an urgent need to strengthen Comprehensive and Continuous Evaluation (CCE) system of RTE which provides for continuous evaluation or assessment of children in multi-dimensional manner. The stakeholders opined that had this provision of CCE made *vide* Section 29 of original Act been implemented properly, the problem of poor learning outcomes would not have arisen. The Committee observes that Comprehensive and Continuous Evaluation is a pedagogical tool to assess a child's understanding of knowledge and his ability to apply the same. Through this tool a child can be assessed continuously throughout the year and could be provided remedial teaching, if required. The Committee feels that through Comprehensive and Continuous components of evaluation under RTE, assessment of all round development of the child's personality could be carried out on continuous basis. Therefore, comprehensive and continuous evaluation framework should be implemented in letter and spirit, if providing quality education at elementary level is our goal. **The Committee, accordingly, recommends to the Department to take every conceivable step to strengthen and implement Comprehensive and Continuous Evaluation at elementary education level.**

**Capacity Building of Teachers and their Training**

42. For imparting quality education to children at elementary level, quality teaching is a pre-requisite. Most of the stakeholders heard by the Committee on the Bill were of the view that there is a dearth of professionally qualified teachers, which is one of the reasons for poor learning outcomes of the children. Further, teachers are engaged to carry out non-teaching work in many States/Union Territories. This results in shifting the focus of teachers away from teaching. As imparting quality education to children at elementary level is the vision of the country, it must be ensured that teachers are equipped with necessary pedagogical skills, and adequate knowledge, not only of subjects, but also of child psychology, if quality teaching is to be ensured. **The Committee accordingly recommends that concerted efforts should be made by the Department to build teacher capacity by providing professional teacher education and pre-service and in-service training to teachers so that academic and professional standard of teachers are enhanced and the goal of quality elementary education is achieved. The Committee expresses its concern over engagement of teachers in non-teaching activities like census, invigilation duties etc. The Committee recommends that to improve quality of teaching, teachers should be encouraged to focus on teaching only.**

43. **The Committee endorses the Bill in its present form. The suggestions given by the Committee, may, however, be taken into account at appropriate stage.**



## OBSERVATIONS/RECOMMENDATIONS – AT A GLANCE

The Committee notes that only 6 States/ Union Territories desired that the no detention provision may be retained. 15 States/UTs suggested modification or review of no detention provision and 7 States/UTs desired withdrawal of no detention provision. The Committee observes that majority of States/UTs desired either modification, review or withdrawal of No Detention Provision in the RTE Act. (Para 31)

*The Committee observes that with the enactment of RTE Act, initially the focus of elementary education system in the country was its universalization among 6 to 14 years age group children i.e the quantitative expansion of education with focus on optimum enrolment, school buildings, infrastructure etc and while doing so the quality aspects of teaching and learning remained on back stage. This has led us to a situation which necessitates the review of the Act. It is a fact which cannot any longer be ignored. The National Council of Education Research and Training's (NCERT) National Achievement Survey or Annual Status of Education Report (ASER) has consistently revealed the abysmally low learning levels among school children. It is a cause of serious concern for the Committee. Further, with the no detention policy there is no pressure on the children to learn and on the teachers to teach. Therefore, there is a need for policy change so as to improve the learning of children at elementary stage of education.* (Para 32)

The Committee feels that learning of children must be assessed through examinations in classes fifth and eighth. The Committee accordingly, welcomes the proposed amendment in clause 2(1) providing for regular examination in class fifth and eighth at the end of every academic year and hopes that learning of children would improve considerably in future.

(Para 33)

The Committee feels that through Comprehensive and Continuous components of evaluation under RTE, assessment of all round development of the child's personality could be carried out on continuous basis. Therefore, comprehensive and continuous evaluation framework should be implemented in letter and spirit, if providing quality education at elementary level is our goal. The Committee, accordingly, recommends to the Department to take every conceivable step to strengthen and implement Comprehensive and Continuous Evaluation at elementary education level.

(Para 41)

The Committee recommends that concerted efforts should be made by the Department to build teacher capacity by providing professional teacher education and pre-service and in-service training to teachers so that academic and professional standard of teachers are enhanced and the goal of quality elementary education is achieved. The Committee expresses its concern over engagement of teachers in non-teaching activities like census, invigilation duties etc. The Committee recommends that to improve quality of teaching, teachers should be encouraged to focus on teaching only.

(Para 42)

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# MINUTES

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## II

### SECOND MEETING

The Committee on Human Resource Development met at 3.00 P.M., Thursday the 16th November, 2017 in Committee Room No. 3, A Block, Ground Floor, Parliament House Annexe Extension, New Delhi.

#### **MEMBERS PRESENT**

1. Dr. Satyanarayan Jatiya —*Chairman*

#### **RAJYA SABHA**

2. Shri Pratap Singh Bajwa
3. Prof. M.V. Rajeev Gowda
4. Shri Vishambhar Prasad Nishad
5. Dr. Sasikala Pushpa
6. Shri Gopal Narayan Singh

#### **LOK SABHA**

7. Shri Bijoy Chandra Barman
8. Shri Faggan Singh Kulaste
9. Shrimati Geetha Kothapalli
10. Shri Chintamani Malviya
11. Shri Bhairon Prasad Mishra
12. Shri Ramachandran Mullappaly
13. Shri Hari Om Pandey
14. Shri N.K. Premachandran
15. Dr. Nepal Singh
16. Dr. Prabhas Kumar Singh
17. Shri Satyapal Singh
18. Shri Sumedhanand Saraswati
19. Shri P.R. Sundaram
20. Shrimati P.K. Sreemathi Teacher

#### **SECRETARIAT**

Shri K.P. Singh, *Joint Secretary*

Shri Vinay Shankar Singh, *Additional Director*

Shri Arun Kumar, *Deputy Secretary*

Shrimati Himanshi Arya, *Under Secretary*

Shri R.K. Mecolt Singh, *Under Secretary*

Shri K. Sudhir Kumar, *Research Officer*

**WITNESSES**

**MINISTRY OF HUMAN RESOURCE DEVELOPMENT**

**(Department of School Education & Literacy)**

1. Shri Anil Swamp, Secretary
2. Shri Maneesh Garg, Joint Secretary
3. Ms. Surbhi Jain, Director
4. Shri P. Mohanadasan, Director
5. Ms. Meenakshi Jolly, Director
6. Shri G.C. Hosur, Director

At the outset the Chairman welcomed the Members to the meeting of the Committee convened to hear the Secretary, Department of School Education & Literacy on the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017.

2. The Committee first made an assessment of the work involved in the examination of the National Sports University Bill, 2017 and the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017 which were referred to the Committee on 22nd August, 2017 for examination and report within three months i.e., upto 21st November, 2017. The Committee observed that it has to hold several meeting with a view to hear different stakeholders and also to have in-house discussion for completing examination of both the Bills. Thereafter, the Committee may have clause-by-clause consideration of the Bills to finalize its recommendations and adoption of reports. The Committee observed that it may not be possible for it to complete the work within the prescribed time-frame of 21st November, 2017. The Committee, accordingly, decided to seek three months extension of time upto 21st February, 2018 to complete examination of both the Bills and submission of reports. The Committee authorised the Chairman of the Committee to approach the Hon'ble Chairman, Rajya Sabha in this regard.

3. Thereafter, the Committee heard the presentation of the Secretary, Department of School Education and Literacy on the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017. The Secretary, apprised the Committee that the Bill seeks to amend Section 16 of the Right of Children to Free and Compulsory Education Act, 2009 which provided that no child admitted in a school shall be held back in any class or expelled from the school till the completion of elementary education.

4. It was informed that States/Union Territories were raising the issue of adverse effect on the learning levels of children due to 'no detention' clause in the RTE, Act. The Members raised a number of queries relating to the impact of withdrawing/reviewing the 'no detention' policy, quality of education being

imparted in the elementary education, States/UTs response to the proposal of the Ministry etc. The Secretary, Department of School Education and Literacy replied to some of the queries of the Members. The Committee desired written response of the remaining queries from the Secretary.

*(Witnesses then withdrew)*

5. The Committee decided to meet again on 24th November, 2017.
6. A verbatim record of the proceedings of the Committee meeting was kept.
7. The Committee then adjourned at 4.35 P.M.

### III

#### THIRD MEETING

The Committee on Human Resource Development met at 3.00 p.m., Friday the 24th November, 2017 in Committee Room C, Ground Floor, Parliament House Annexe, New Delhi.

#### **MEMBERS PRESENT**

1. Dr. Satyanarayan Jatiya —*Chairman*

#### **RAJYA SABHA**

2. Prof. M.V. Rajeev Gowda
3. Shri Vishambhar Prasad Nishad
4. Dr. Vinay P. Sahasrabudhe
5. Shri Gopal Narayan Singh

#### **LOK SABHA**

6. Shri Faggan Singh Kulaste
7. Shrimati Geetha Kothapalli
8. Shri Ramachandran Mullappaly
9. Shri Hari Om Pandey
10. Shri N.K. Premachandran
11. Shri K.N. Ramchandran
12. Dr. Nepal Singh
13. Shri Satyapal Singh
14. Shrimati P.K. Sreemathi Teacher

#### **SECRETARIAT**

Shri K.P. Singh, *Joint Secretary*

Shri Rajiva Srivastava, *Director*

Shri Vinay Shankar Singh, *Additional Director*

Shri Arun Kumar, *Deputy Secretary*

Shrimati Himanshi Arya, *Under Secretary*

Shri K. Sudhir Kumar, *Research Officer*

**LIST OF WITNESS**

**(I) National Council for Education, Research and Training (NCERT)**

- (i) Prof. Hrushikesh Senapaty, Director
- (ii) Prof. Sridhar Srivastava, In-charge Secretary
- (iii) Prof. A.K. Rajput, Head, Department of Elementary Education
- (iv) Prof. Smt. Ranjana Arora, Department of Curricular Studies

**(II) Delhi Commission for Protection of Child Rights**

- (i) Shri Anurag Kundu, Member
- (ii) Shri Akshay Chooramani, Member

**(III) PRS Legislative Research**

- (i) Dr. M.R. Madhavan, President
- (ii) Dr. Mandira Kala, Head of Research
- (iii) Ms. Nivedita Rao, Research Associate

**(IV) RTE Forum**

- (i) Shri Ambrish Rai, National Convenor
- (ii) Prof. Nalini Juneja, Member
- (iii) Ms. Ranu Bhogal, Member
- (iv) Mr. Jay Kumar, Member
- (v) Ms. Alka Singh, Member

**(IV) CARE India**

- (i) Ms. Anjela Taneja, Technical Director
- (ii) Ms. Geeta Verma, Member

**(V) Department of School Education & Literacy**

- (i) Shri Maneesh Garg, Joint Secretary
- (ii) Ms. Surbhi Jain, Director

**(VI) Legislative Department, Ministry of Law and Justice**

- (i) Dr. N.R. Battu, Joint Secretary & Legislative Counsel
- (ii) Shri Diwakar Singh, Additional Legislative Counsel



At the outset the Chairman welcomed the Members to the meeting of the Committee convened to hear the representatives of the National Council for Education, Research and Training (NCERT), Delhi Commission for Protection of Child Rights (DCPCR), PRS Legislative Research, RTE Forum and Care India on the provisions of the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017.

2. The Chairman observed that section 16 of the Right of Children to Free and Compulsory Education Act, 2009 has provided 'no detention' policy till the completion of elementary education. The proposed bill seeks to amend this provision as the 'no detention' policy is being considered for having an adverse effect on the learning levels of children and the States and Union territories have been also raising this issue. The Committee desired to know the views of the representatives on the proposed amendment.

3. Director, NCERT, stated that this policy came into being in the situation when the country was struggling to provide universal access to education to all the children improving GER and reducing dropout rates. He added that weaknesses/gaps in learning could always be identified by continuous assessment, peer and self assessment. He opined that Comprehensive Continuous Evaluation (CCE) needs to be strengthened to continuously identify the strengths and weaknesses of children in achieving learning outcomes. He further added that extensive teacher training and community sensitization on changing pedagogical processes and adopting appropriate assessment procedures were required to make child an active partner in teaching learning process. He further added that there was a need to build up professional capacity of teachers to address learning needs of all children in classroom.

4. The representative of the Delhi Commission for Protection of Child Rights (DCPCR) stated that there is no evidence to establish conclusively that 'no detention' policy has led to dismal learning outcomes. He added that learning levels were dismal even before the Right to Education came into force. Reversing this policy would most significantly affect socially and economically vulnerable groups and would lead to higher drop out from these groups besides lowering their self esteem.

5. President, PRS Legislative Research submitted that repeating class due to failing in an exam presumes that a child is at fault and does not acknowledge the role of other factors that affect the learning outcomes of children such as teachers, school settings, nature of assessment and age appropriate training. He further added that provisions of the Bill regarding assessment and detention were at variance with what most States have demanded and it was not clear who would design and administer examination at the end of classes five and eight i.e the Centre, State or the school.

6. The representative of Right to Education Forum stated that the objects and reasons and remedial measures proposed in the Bill were not in tune with each other. The issue of adverse effect on the learning level raised by States was not supported by evidence. It was stated that other relevant issues such as teacher pupil ratio, teachers training, poor quality of education, teachers' shortage, infrastructure, etc. that largely affect learning outcomes were not being addressed to.

7. Technical Director, Care India emphasised that 'no detention policy' made no negative impact on the academic performance of the children, rather it had helped to retain children in school and enabling them

to complete a cycle of schooling. The representative stated that the proposed amendment would affect EWS children in private schools, Girl child, SC/ST, rural students adversely.

8. The Members of the Committee raised a number of queries, some of which were replied to by the representatives. The Committee requested for written replies for the queries that remained unanswered.

9. A verbatim record of the proceedings of the Committee meeting was kept.

10. The Committee then adjourned at 5.00 P.M.

VI

SIXTH MEETING

The Committee on Human Resource Development met at 3.00 P.M on Thursday, the 18th January, 2018 in Committee Room No.4, PHA Extension Building, New Delhi.

**MEMBERS PRESENT**

1. Dr. Satyanarayan Jatiya —*Chairman*

**RAJYA SABHA**

2. Shri Partap Singh Bajwa
3. Shri Vishambhar Prasad Nishad
4. Dr. Vinay P. Sahasrabuddhe

**LOK SABHA**

5. Shri Nihal Chand
6. Shrimati Bhawana Gawali (Patil)
7. Shrimati Geetha Kothapalli
8. Prof. Chintamani Malviya
9. Shri Bhairon Prasad Mishra
10. Shri Ramachandran Mullappally
11. Shrimati Neelam Sonkar
12. Dr. Bhagirath Prasad
13. Shri N.K. Premachandran
14. Dr. Prabhas Kumar Singh
15. Shrimati P.K. Sreemathi Teacher

**SECRETARIAT**

Shri K.P. Singh, *Joint Secretary*

Shri Rajiva Srivastava, *Director*

Shri Vinay Shankar Singh, *Additional Director*

Shri Arun Kumar, *Deputy Secretary*

Shrimati Himanshi Arya, *Under Secretary*

Shri K. Sudhir Kumar, *Research Officer*

Shri Mohit Misra, *Committee Officer*

**WITNESSES****I. Central Board Of Secondary Education (CBSE)**

- (i) Ms. Anita Karwal, Chairperson
- (ii) Shri Anurag Tripathi, Secretary, CBSE
- (iii) Dr. Sanyam Bhardwaj, Director, (Academics)
- (iv) Dr. Biswajit Saha, Director, (Vocational & Training)

**II. National Commission for Protection of Child Rights (NCPCR)**

- (i) Ms. Stuti Kacker, Chairperson
- (ii) Shri Priyank Kanoongo, Member, Education Division

**III. National University for Education Planning and Administration (NUEPA)**

Prof. N.V. Varghese, Vice Chancellor

**IV. National Institute of Open Schooling (NIOS)**

- (i) Prof. C.B Sharma, Chairman
- (ii) Shri C. Dharumal, Secretary

**V. Pratham Education Foundation**

Shri Shailendra Sharma, Head (Operations)

**VI. Shri Radheshyam Gora, Advocate, Supreme Court of India****VII. Department of School Education & Literacy**

Ms. Surbhi Jain, Director

**VIII. Ministry of Law & Justice, Legislative Department**

- (i) Dr. N.R. Battu, JS & Legislative Counsel
- (ii) Shri Diwakar Singh, Additional Legislative Counsel

At the outset, the Chairman welcomed the Members and other delegates to the meeting of the Committee convened to hear the representatives of Central Board of Secondary Education (CBSE), National Commission for Protection of Child Rights (NCPCR), National University for Education Planning and Administration (NUEPA), National Institute of Open Schooling (NIOS), Pratham Education Foundation, Department of School Education & Literacy, Ministry of Law & Justice, Legislative Department and Shri Radheshyam Gora, Advocate, Supreme Court of India. Thereafter, he briefed the participants about the important provisions of the Bill and sought their views on the same.

2. The Chairperson, CBSE informed the Committee that after the Right of Children to Free and Compulsory Education Act, 2009 came into effect, they did away with the Class Tenth examination

keeping in view the spirit of the law. As a result, it was observed that the qualitative standards of the students appearing in class XII examination started declining. Accordingly, CBSE has decided to re-introduce the Class Tenth Examinations because at certain level assessment of children was essential and regular examinations were needed for it.

3. The Chairperson, NCPCR in her deliberations focussed on the following issues *viz.* (i) need to implement Section 29 of Right of Children to Free and Compulsory Education Act, 2009 effectively to ensure that there is continuous evaluation of a child's capacity; (ii) students may be allowed to appear as many times they want in the Class Fifth Examination; (iii) students who don't do well in class VIII exam should have an option of giving the exam for two more years; and (iv) instead of labelling a student pass or fail in the class VIII exam, they should be given an evaluation certificate based on their aptitude.

4. Vice Chancellor, NUEPA was of the view that there should be regular examination and assessment of students at Class V & VIII level. This was essential to maintain the quality of education being imparted to the students.

5. The representative of Pratham Education Foundation was of the view that the proposed amendment to Right of Children to Free and Compulsory Education Act, 2009 was silent on the nature of exam and how they will be held. Secondly, it needs to be clarified in the Act the number of attempts a student should be given to pass the examination. Thirdly, the students should be graded as 'satisfactory'/'unsatisfactory' to avoid the trauma of stigmatization.

6. Shri Radheshyam Gora, Advocate, Supreme Court of India in his submission stated that efforts need to be made to reduce the number of school drop-out and students should be motivated to ensure that they pass the exam in the first attempt itself. However, those who are unable to pass should be given extra attention to ensure that they pass the examination at the earliest.

7. Chairman, NIOS informed the Committee that the 'No-Detention Policy' introduced by the Right of Children to Free and Compulsory Education Act, 2009 has lead to deterioration in the quality of education. It was seen that students started migrating to private schools where regular exams were conducted and qualitative standards were being maintained. Accordingly, he favoured scrapping of this policy but necessary safeguards were needed to be incorporated like giving students multiple chances to clear the exams and ensuring that children remain in the school even if, they fail in the examinations.

8. A verbatim record of the proceedings was kept.

9. The Committee then adjourned at 4.30 P.M.

## VII

### SEVENTH MEETING

The Committee on Human Resource Development met at 10.30 A.M. on Thursday, the 8th February, 2018 in Committee Room No. '63', First Floor, Parliament House, New Delhi.

#### **MEMBERS PRESENT**

1. Dr. Satyanarayan Jatiya —*Chairman*

#### **RAJYA SABHA**

2. Shri Partap Singh Bajwa
3. Prof. M.V. Rajeev Gowda
4. Shri Vishambhar Prasad Nishad
5. Dr. Sasikala Pushpa
6. Dr. Vinay P. Sahasrabuddhe
7. Shri Gopal Narayan Singh

#### **LOK SABHA**

8. Shri Bijoy Chandra Barman
9. Shri Nihal Chand Chouhan
10. Shri Faggan Singh Kulaste
11. Shrimati Geetha Kothapalli
12. Shri Bhairon Prasad Mishra
13. Shrimati Neelam Sonker
14. Dr. Bhagirath Prasad
15. Shri N. K. Premachandran
16. Dr. Prabhas Kumar Singh
17. Shri Satyapal Singh

#### **SECRETARIAT**

Shri K.P. Singh, *Joint Secretary*

Shri Rajiva Srivastava, *Director*

Shri Vinay Shankar Singh, *Additional Director*

Shri Arun Kumar, *Deputy Secretary*

Shrimati Himanshi Arya, *Under Secretary*

Shri K. Sudhir Kumar, *Research Officer*

Shri Mohit Misra, *Committee Officer*

2. At the outset, the Chairman welcomed the Members to the meeting of the Committee convened to consider and adopt the draft (i) 300th Report on the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017; and (ii) 301st Report on Action Taken by Government on the observations/recommendations contained in the 290th Report on the Demands for Grants 2017-18 of the Ministry of Human Resource Development (Department of School Education and Literacy).
3. The Committee considered the draft 300th and 301st Reports and adopted them after some discussion.
4. The Committee, then, decided to present/lay the 300th and 301st Reports to both the Houses of the Parliament on 9th February, 2018. The Committee authorized the Chairman and in his absence, Dr. Vinay.P Sahasrabuddhe, Member., Rajya Sabha to present the Reports in the Rajya Sabha and Shri Faggan Singh Kulaste, Member, Lok Sabha and in his absence Shri Nihal Chand, Member, Lok Sabha to lay the Reports in the Lok Sabha.
5. The Committee then adjourned at 11.00 A.M.

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# **ANNEXURES**

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**Bill No. 166 of 2017**

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY  
EDUCATION (SECOND AMENDMENT) BILL, 2017

A

BILL

*further to amend the Right of Children to Free and Compulsory  
Education Act, 2009.*

Be it enacted by Parliament in the Sixty-eighth Year of the  
Republic of India as follows:—

**1.** (1) This Act may be called the Right of Children to Free  
and Compulsory Education (Second Amendment) Act, 2017.

Short title and  
commencement

(2) It shall come into force on such date as the Central  
Government may, by notification in the Official Gazette, appoint.

**2.** In the Right of Children to Free and Compulsory  
Education Act, 2009 (hereinafter referred to as the principal Act),  
for section 16, the following section shall be substituted, namely:—

Substitution of  
new section for  
section 16

"16. (1) There shall be a regular examination in the fifth  
class and in the **eighth class at the end of every academic  
year.**

Examination  
and holding  
back in certain  
cases.

(2) If a child fails in the examination referred to in sub-section (1), he shall be given additional instruction and granted opportunity for re-examination within a period of two months from the date of declaration of the result.

(3) The appropriate Government may allow schools in hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed, if he fails in the re-examination referred to in sub-section (2):

Provided that the appropriate Government may decide not to hold back a child in any class till the completion of elementary education.

(4) No child shall he expelled from a school till the completion of elementary education."

Amendment of  
section 18

**3.** In section 38 of the principal Act, in sub-section (2), after clause (f), the following clause shall be inserted, namely:

"(fa) the manner and the conditions subject to which a child may be held back under sub-section (3) of section 16;"

## STATEMENT OF OBJECTS AND REASONS

The Right of Children to Free and Compulsory Education Act, 2009 (the Act) provide for free and compulsory education to all children of the age of six to fourteen years.

2. Section 16 of the Act provides that no child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education. This provision was made in the said Act because examinations are often used for eliminating children who obtain poor marks, which compels children either to repeat the same grade or leave the school altogether. It was felt that compelling a child to repeat a class is both de-motivating and discouraging.

3. In recent years, States and Union territories have been raising the issue of adverse effect on the learning levels of children as section 16 does not allow holding back of children in any class till the completion of elementary education. Therefore, in order to improve the learning outcomes in the elementary classes and after wide deliberations with all the stake-holders, it is proposed to substitute section 16 so as to empower the appropriate Government to take a decision as to whether to hold back a child in the fifth class or in the eighth class or in both classes, or not to hold back a child in any class, till the completion of elementary education.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;

PRAKASH JAVADEKAR

*The 8th August, 2017.*

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to substitute a new section for section 16 of the Right of Children to Free and Compulsory Education Act, 2009, relating to prohibition of holding back and expulsion. Sub-section (3) of the proposed section 16 seeks to empower the appropriate Government to make rules to provide for the manner and the conditions subject to which a child may be held back in the fifth class or in the eighth class or in both classes if he fails in the re-examination.

2. The matters in respect of which the rules may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

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

(35 OF 2009)

\* \* \* \* \*

16. No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.

Prohibition of holding back and expulsion.

\* \* \* \* \*

LOK SABHA

A

BILL

further to amend the Right of Children to Free and Compulsory Education  
Act, 2009.

*(Shri Prakash Javadekar, Minister of Human Resource Development)*

GMIPMRND-1878LS(S3)-09-08-2017.

**DELHI COMMISSION FOR PROTECTION OF CHILD RIGHTS**

**Government of NCT of Delhi**

**5th Floor, ISBT Building, Kashmiri Gate, Delhi-110006**

**Phone Number: 011- 23862685/86**

**Email- dcpcr@hotmail.com**

C/RTE/DCPCR/2017-18/153/6004

31/10/2012

Shri Vinay Shankar Singh,  
2- Additional Director,  
Rajya Sabha Secretariat,  
Room No. 222, 2nd Floor,  
Parliament House Annexe,  
New Delhi 110001

**Subject:** Recommendations from Delhi Commission For Protection of Child Rights for Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017

Sir,

Delhi Commission for Protection of Child Rights (DCPCR) has been constituted under Commission for Protection of Child Rights Act, 2005 read with Government of India, Ministry of Home Affairs notification number F.No.U-11030/1/2007-Utl dated 15th January 2008 gazetted by Government of NCT of Delhi on 7th July, 2008. Further, under Section 13(1-j), the Commission has the power to conduct inquiry on receipt of complaints as well is empowered to take notice of matters for inquiry *suo-motu*.

Further under Section 31 of Right of the Children to Free and Compulsory Education Act, Delhi Commission for Protection of Child Rights is the notified authority for conducting any monitoring exercise in regard of all schools (government, aided or unaided).

Delhi Commission For Protection of Child Rights is submitting its recommendations summary of which is given below with regard to amendment. The details are attached herewith.

**The undersigned would be grateful if an opportunity to appear before the Committee for oral evidence is granted.**

**Recommendations from Delhi Commission For Protection of Child Rights**

1. **Apply 'No Detention Policy' to class I, II, and III.** No ground whatsoever may be acceptable for detention in I-III. The school, on the ground of child failing to meet minimum academic performance, may be allowed to detain the child in Class V. Thereafter, the child must not be detained in Class VI and VII post which the detentions may apply.
2. **Link attendance to "No-Detention":** It is important that parents too share the responsibilities of the education of their children. Therefore, it is recommended that the attendance of students



be used as criterion for Class IV, VI and VII. For students whose attendance is 66% or above, detention must not apply for the child from IV, VI and VII is present in the school and now it is responsibility of school to teach her and the government to provide necessary infrastructure, funds, teachers, resources and the enabling environment, not that of Child. The exemption may be provided to children on medical grounds.

3. Right to Free and Compulsory Education Act, 2009 as specified the duties of government, parents, schools and teachers. The Act also provided the extended period of 3 years for all schools to upgrade themselves 'and meet the norms for recognition and 5 years for teachers to meet the minimum educational qualifications, the Act must be amended to:

- Penalize the erring officials of the department of education on failing to deliver books to schools within first 15 days of the academic year. The financial penalty on the Officer should be applied for each day of delay.
- Penalize the erring officials of the department of education to not being able to provide adequate number of teachers to all schools within a period of 2 years from the date of notification. This financial penalty must be applied for each day of delay.
- Penalize the erring officials of the department of education and finance on failing to disburse funds on time to all schools and penalties prescribed for the erring officials.
- Penalize the Officers, Principals and teachers of department of education for not being able to ensure proficiency of foundational skills (Reading, Writing and Arithmetic) of all students within 2 years from the date of notification and penalties prescribed for the erring officials in case of failure to comply. Subsequently, levy penalty in case the department of education's officials, Principals and teachers fail to ensure proficiency of foundation skills by Grade 4 itself every year. The principal of the school must certify that the status of the foundation skills of their students.

(Anurag Kundu)  
Member, DCPCR

DELHI COMMISSION FOR PROTECTION OF CHILD RIGHTS

Government of NCT of Delhi

5th Floor, ISBT Building, Kashmiri Gate, Delhi-110006

Phone Number: 011-23862685/86

Email- dcpcr@hotmail.com

C/RTE/DCPCR/2017-18/153

**Submission to Parliamentary Standing Committee**

**About Delhi Commission for Protection of Child Rights:**

Delhi Commission for Protection of Child Rights (DCPCR) has been constituted under Commission for Protection of Child Rights Act, 2005 read with Government of India, Ministry of Home Affairs notification number F.No.U-11030/1/2007-UtL dated 15th January 2008 gazetted by Government of NCT of Delhi on 7th July, 2008. Further, under Section 13(1-j), the Commission has the power to conduct inquiry on receipt of complaints as well is empowered to take notice of matters for inquiry *suo-motu*.

Further under Section 31 of Right of the Children to Free and Compulsory Education Act, Delhi Commission for Protection of Child Rights is the notified authority for conducting any monitoring exercise in regard of all schools (government, aided or unaided).

**Introduction & Background:**

Right to Free and Compulsory Education Act, 2009 Section 16 prohibits holding back and expulsion of children in elementary education. It states,

*"No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education."*

The provision, popularly called as "No Detention Policy", effectively means that no school can fail and detain any child in the same class irrespective of the academic performance or attendance of the child.

Since its enactment, the No Detention Policy has been subject of public discussion and scrutiny. The policy has often been held responsible for the declining learning levels in schools because the schools now have no right to detain the children on failure to score minimum marks.

This paper seeks to examine the historical and present context, implications, perception and research evidence on the central question of detention as a tool to promote learning in schools and makes recommendations to the Parliamentary Standing Committee in the wake of recent amendment being considered by Parliament. The word detention, stagnation and repetition mean same and have been used interchangeably.

**Historical Context: No-Detention Policy Before RTE**

28 states and union territories were already following no detention policy in Class I-II, I-V and I-VII even before Right to Education (RTE) was promulgated. Given below is state-wise status of No Detention Policy prior to 2010.

**28 States were already following No detention in classes I-II, I-V and I-VII even before RTE.**

Sl. No.	Name of State	No. detention before RTE
1.	Andaman and Nicobar Island	- Only for class 1 to 5 since 2005
2.	Andhra Pradesh	- Since 1975. Class -I to VI, exam only for class VII and - Well before RTE it is extended up to class IX
3.	Arunachal Pradesh	- Prior To RTE, Class- I-V
4.	Assam	- Prior To RTE, Class-I-VII
5.	Bihar	Class- I-V (In Principle it is existed in State)
6.	Chandigarh	- Class- I-V
7.	Chhattisgarh	- effect from 1992 classes - I- IV
8.	Dadra and Nagar Haveli	- Not in place before RTE
9.	Daman and Diu	- Not in place before RTE
10.	Delhi	- Since 2009 class-I-VII
11.	Goa	- For Class-I-III
12.	Gujarat	- Only for Class I & II
13.	Haryana	- Since 1979 for class I-III
14.	Himachal Pradesh	- Earlier it was for class I-III - From 2009 class I-V
15.	Jammu and Kashmir	- Class - I- VIII - Not Cover Under RTE
16.	Jharkhand	No Detention for class - I-V
17.	Karnataka	- With effect from 2001 class I-VIII
18.	Kerala	- Since 2001 only std -I & II
19.	Lakshadweep	- Class I & II applicable
20.	Madhya Pradesh	- Class-I- VI
21.	Maharashtra	- Since 2001 Class I & II
22.	Manipur	- Not in place before RTE
23.	Meghalaya	- Not in place before RTE
24.	Mizoram	- Not in place before RTE

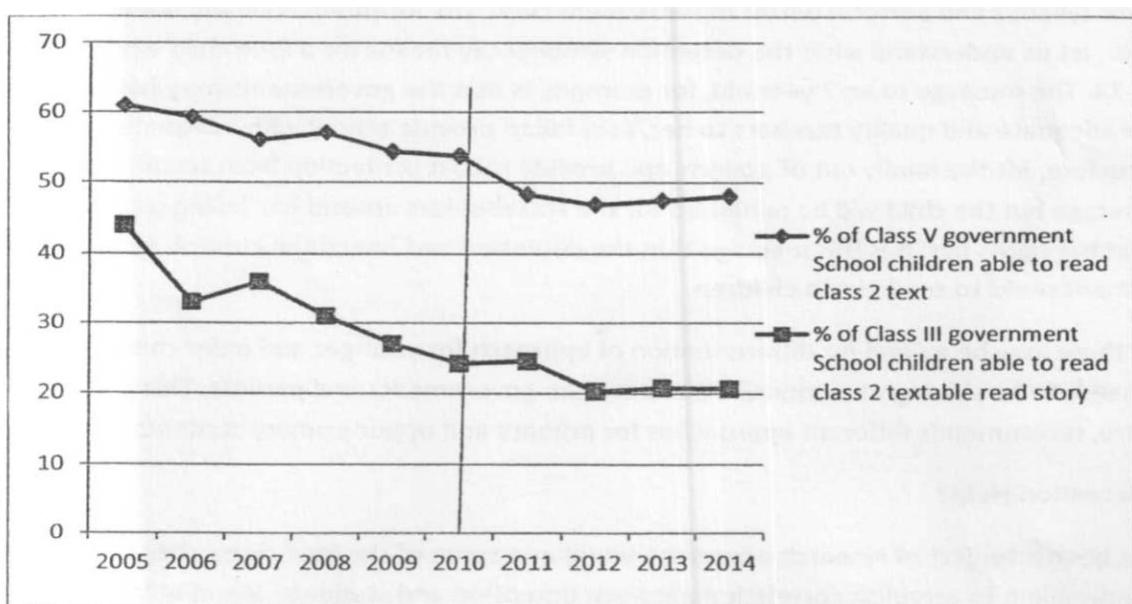
Sl. No.	Name of State	No. detention before RTE
25.	Nagaland	- Not in place before RTE
26.	Orissa	- Class I-V
27.	Padueherry	- Class-I-IV prior to RTE
28.	Punjab	- Up To Class-I - IV
29.	Rajasthan	- No Detention Class I- V before to RTE
30.	Sikkim	- Not in place before RTE
31.	Tamil Nadu	- Class I-V since 1998
32.	Tripura	- Class- I-IV since 2005
33.	Uttar Pradesh	- 1 & 2 prior to RTE from it is continue DPEP time
34.	Uttarakhand	- Up to class V prior to RTE & - 1 & 2 from DPEP time
35.	West Bengal	- Class-I-IV-since 1984

*Source:* Report of Central Report of Central Advisory Board of Education Sub-Committee For Assessment and Implementation of Continuous and Comprehensive Evaluation in the Context of the No Detention Provision in Right of Children to Free and Compulsory Education Act, 2009

It is clear that some version of No-Detention Policy existed prior to promulgation of Right to Free and Compulsory Education Act, 2009. Therefore, it was not a new concept that the Act introduced but provided it the legal status and made it uniform across nation by including this in the Act.

### Has No-Detention Policy led to Dismal Learning Outcomes?

Given below is the status of reading levels of Class V and Class III children as reported in Annual Status of Education Report (ASER).



As can clearly be seen from the graphs above, there is consistent decline in reading and arithmetic levels of students over the last decade. The decline prior to 2010 is evident and cannot be attributed to No Detention Policy. However, it is worth noting that the decline has been consistent before and after the policy of no detention notified under Right to Education Act.

The more pertinent observation is that the learning levels were dismal even before Right to Education came into force. Nearly 45 per cent Class V children couldn't read class 2 level text in 2009 and more than 70% class III children couldn't read the same text.

It is worth noting a caveat here that the decline in average may not be actual decline but lowering of average because of substantial increase in enrolment in schools, particularly of first generation learners.

### **What does detention mean?**

Detention means holding the child back to the same class on the ground of poor academic performance. It is done with the intention to provide the children more time to study the academic syllabus and perform better in subsequent class. The intention is clearly noble. However, let us understand what the detention symbolically means for a little child who is yet to turn 14. The message to an 7 year old, for example, is that the governments may fail to provide adequate and quality teachers to her, may fail to provide school with adequate infrastructure, lift the family out of poverty and provide robust protection from social disadvantage but the child will be penalized for the stakeholders around her failing to provide her what her rights. It is this message that the detention and hence the current proposed amendment seeks to send out to children.

Hence, there may be a need for differentiation of approach for younger and older children. There needs to be sharing of responsibilities between governments and parents. This paper, therefore, recommends different approaches for primary and upper primary students.

### **Does Detention Help?**

This has been a subject of research across the world and some of the best researches have been undertaken to establish correlation between detention and students' learning levels and/or retention or completion of elementary schooling. Findings of some of these researches are produced below:

- (a) Till date no evidence that establishes, conclusively, that detention (also called stagnation) improves learning outcomes and the average years of schooling of the child has been found within or outside India.
- (b) Starting from Hartog Committee (1929), Kothari Commission -Education and National Development Report of the Education Commission, 1964-66 Vol.2 School Education (1970) and various studies undertaken by Government established that stagnation is a symptom of disease / ineffectiveness/ inefficiency in educational system and is not a disease by itself and recommended a number of measures to correct the disease and thereby to treat the symptom.
- (c) Hussain M (1982) concluded that *"failing once or repeatedly led to school leaving and non-provision of all the five classes in the same institution resulted in discontinuation of studies by the students"*.

- (d) In a report published by United Nations Educational, Scientific and Cultural Organization (UNESCO) titled 'Wasted Opportunities: When Schools Fail; Repetition and Drop-out in primary schools (1998)' argues that a significant body of research indicates that the negative effects of repetition largely outstrip the expected benefits. One study by the International Association for the Evaluation of Educational Achievement, for example, found no absolute relation between retention policies and overall pupil achievement. Despite studying the subject, no conclusive evidence could be found which established a relationship between repetition and child's academic achievement.
- (e) The research findings of Lindaarling-Hammond and Beverly Falk (November 1997) noted that repeating a grade does not help students gain ground academically and has a negative impact on social adjustment and self-esteem contrary to popular beliefs and have found that repeaters tend to develop highly negative attitudes toward school.

Various researches establish that detention, while not helping child improve academic performance, lowers the self-esteem of the child and increase drop-outs. It is not better to have the child attend the school then for that increases possibility of child learning more, engaging in substance abuse less and provides the child school and the government another opportunity to do better. However, it is worth noting that these researches have not been conducted in India comprehensively and hence because of different cultural factors, the findings may be different.

### **Who loses by detention?**

The most significantly affected group from the detention are the socially and economically vulnerable groups. If the odds of children belonging to such vulnerable groups are made tougher, then the cycle of poverty where educational achievements can play a critical role in ending, simply reinforces.

According to State Level Achievement (SLAS) survey undertaken by Delhi State Council of Education Research and Training (SCERT) of Delhi government schools in 2015, it was found that education qualifications of parents of the students is very low.

Of the class VIII children sampled by the survey, it was found that only 4.3% students' fathers had degree, 9.8% had education up to Higher or Senior Secondary School, 16.7% up to Secondary level, 17.2% had Education up to Elementary Level, 20.4% had education up to Primary Level whereas 16.8% are just Literate and 12.9% are Illiterate.

Out of the Class VIII students surveyed it is seen that Educational Status of Mothers is below than that of the Fathers and higher % of Mothers were Illiterate. Only 2.1% students' Mothers' had education up to Degree and above, 5.3% Mothers had Education up to Higher or Senior Secondary School, 10% up to Secondary Level, 11.4% had Education up to Elementary Level, 16.9% had Education up to Primary Level, 24.3% were just Literate and 28.7% Illiterate.

The rural parts of the country may have worse situation.

The most affected children will be the children coming from such backgrounds.

### **International Experiences with No Detention Policy**

Eisenmon (1997) in a study on wastage reported that repetition rates in developing countries often are quite high.

The highest rates were in the sub-Saharan African countries, where each year, about 22 per cent of primary students and 21 per cent of secondary students were repeating their grade. The North-African and Middle Eastern countries averaged about 12 per cent for the primary grades and 21 per cent for the secondary grades. The Latin American and Caribbean countries averaged 9 per cent and 8 per cent. The data from East and South-East Asia were too sporadic to support meaningful averages, but the available numbers appeared comparable to those for Latin America.

Grade repetition rates are almost nonexistent in developed countries that enforce automatic promotion policies, and relatively low (in the 1-5 percent range) in most other developed countries, Eisenmon reported

### **Myths Around No-Detention Policy: What does it not mean?**

It is to be noted that no detention policy doesn't eliminate any form of examination of the child. It is not true. On the contrary, the Right to Free and Compulsory Education makes a provision for continuous and comprehensive evaluation of the children in multi-dimensional manner. Therefore, no form of testing, evaluation or assessment has been prohibited by the Act on continuous basis. Only the purpose of evaluation has been shifted from detention of students to supporting students on the identified needs and deficiencies. The section 30(1) of the Act bars only the board examination and therefore states that '*No child shall be required to pass any board examinations till the completion of elementary education*'.

### **Way Forward:**

Keeping in the mind the rationale and intention of detention or no detention, this Commission makes following three recommendations:

1. Apply 'No Detention Policy to class I, II, and III. No ground whatsoever may be acceptable for detention in I-III. The school, on the ground of child failing to meet minimum academic performance, may be allowed to detain the child in Class V. Thereafter, the child must not be detained in Class VI and VII post which the detentions may apply.
2. Link attendance to "No-Detention": It is important that parents too share the responsibilities of the education of their children. Therefore, it is recommended that the attendance of students be used as criterion for Class IV, VI and VII. For students whose attendance is 66% or above, detention must not apply for the child from IV, VI and VII is present in the school and now it is responsibility of school to teach her and the government to provide necessary infrastructure, funds, teachers, resources and the enabling environment, not that of Child. The exemption may be provided to children on medical grounds.
3. Right to Free and Compulsory Education Act, 2009 has specified the duties of government,

parents, schools and teachers. The Act also provided the extended period of 3 years for all schools to upgrade themselves and meet the norms for recognition and 5 years for teachers to meet the minimum educational qualifications, the Act must be amended to:

- Penalize the erring officials of the department of education on failing to deliver books to schools within first 15 days of the academic year. The financial penalty on the Officer should be applied for each day of delay.
- Penalize the erring officials of the department of education to not being able to provide adequate number of teachers to all schools within a period of 2 years from the date of notification. This financial penalty must be applied for each day of delay.
- Penalize the erring officials of the department of education and finance on failing to disburse funds on time to all schools and penalties prescribed for the erring officials.
- Penalize the Officers, Principals and teachers of department of education for not being able to ensure proficiency of foundational skills (Reading, Writing and Arithmetic) of all students within 2 years from the date of notification and penalties prescribed for the erring officials in case of failure to comply. Subsequently, levy penalty in case the department of education's officials, Principals and teachers fail to ensure proficiency of foundation skills by Grade 4 itself every year. The principal of the school must certify that the status of the foundation skills of their students.

### **Lessons From Government of NCT of Delhi: Recommendations For Education Reforms**

1. **Each Child Can Read Campaign, Government of NCT of Delhi:** In a baseline assessment of reading, and arithmetic conducted in July 2016, the Directorate of Education, Government of NCT of Delhi found that 74% of its class VI students could not read a paragraph from their own Hindi textbook. 46% could not read a simple story of Standard 2 level competency and 8% could not identify letters. Similarly, in Mathematics, 67% children could not do simple 3 digits by 1-digit division, 44% children could not do 2 digits subtraction with borrowing and 5% children could not recognize single digit numbers. Further, in Basic English, 75% children could not read a story of Standard 2 level competency and 13% children could not identify alphabets. The findings are quite similar to findings at national level of all states. As a result, Directorate of Education, Government of NCT of Delhi, initiated an 'Each Child Can Read' Campaign under its Chunauti Program, an attempt to bring children at their grade level. The campaign started on Teachers' Day *i.e.* 6.5th September 2016 and ended on Children's Day *i.e.* 14th November 2016. Within a span of nearly 35 working days, the % of children who could read advanced story improved from 26% to 47%, a remarkable progress. Considering, similar or worse situation of reading proficiency exists across India, it is time that central and other state governments learn from the initiatives of Delhi Government and ensure that their students can read. For example, similar to Delhi's 46% students who couldn't read basic story in July 2016, 48% of Class 5 children in government schools of Gujarat cannot read even basic story. Same figure stands at 62% for Bihar. It is clarified that reading is not education



but merely a beginning of education. It is an essential but not sufficient condition.

2. **Curricular and Textbook Reforms, Government of NCT of Delhi:** This reform initiated by SCERT, Government of NCT of Delhi is termed "Pragati". In the last decade, National Council of Educational Research and Training (NCERT) has undertaken serious efforts in reviewing our books and curriculum to make them more child centric thereby moving away from the traditional textbook centric approach. The current books are a significant improvement from their earlier version and are aligned to National Curriculum Framework (NCF) 2005. The books clearly reflect NCERT's attempt to move our teaching and learning processes away from rote learning or simple accumulation of facts towards synthesis of knowledge, its construction and acknowledge the learning acquitted from the contexts, and experiences too. However, these books do not acknowledge the reality of our classrooms. 48% of our class V children cannot read a Class 2 story in their mother tongue, according to Annual Status of Education Report 2016. The NCERT books fall short in connecting to these children and hence become a tool for a selected few only. This shortcoming is not in the least because of the NCERT textbooks being exclusive in nature, but because of the large scale learning deficits that exist in Indian classrooms. The NCERT textbooks are grade appropriate in most subjects and hence cater to children who are at their grade level. Unfortunately, the number of children who are at their grade level in our classrooms are a small minority with the vast majority far below their grade levels. Delhi is a good case study for the same. An assessment done by the Delhi government in its schools revealed that as high as 74% of children in standard 6 can not read Hindi textbooks of their own grade. Clearly, their grade textbooks are not quite useful for them since they need to be taught at their grade level. The needs of this vast majority of children in our classrooms mandate that they have access to study material which can make concepts comprehensible to children who are not at their grade level and introduce teachers to use innovative teaching practices that ensure parity in learning in classes comprising of children with varying learning levels. Therefore, the Directorate of Education with a detailed exercise of involving its experts, teachers, and mentor teachers have evolved supplementary material that enable and facilitate conceptual understanding for those students too who are not at their grade level and thus improving the academic achievement of school.
3. **Estate Managers, Directorate of Education, Government of NCT of Delhi:** It is often complained by the teachers and principals that they are engaged in non-academic work in schools and thus reducing them to clerks and building in-charge leaving them little time for academic activities. Section 27 of Right to Free and Compulsory Education Act, 2009 prohibits the non-educational duties. Therefore, Directorate of Education has created a separate position called Estate Managers in each school who are full time responsible for repair, maintenance and sanitation of the schools and thus freeing up time for principals and teachers to actually engage in teaching and learning activities.
4. **Mentor-Teachers, Teachers' Professional Support Cadre:** Under Sarva Shiksha Abhiyan, the idea of Cluster Resource Centres and persons was envisaged with a view to provide

continuous and on-site academic support to teachers who often teach in daunting conditions. However, the implementation of this concept has reduced them to mere clerk who collect and communicate data from schools to department. This means that teachers have no ongoing support mechanism is to in their class and school. Directorate of Education, Government of NCT of Delhi created posts of Mentor Teachers, a cadre whose full-time responsibility is to visit schools, conduct classroom observations and teachers' capacity building sessions, and enable that environment that fosters collaboration amongst teachers, rigorous planning and discussion. This is a model that actually implements the envisaged idea of Sarva Shiksha Abhiyan in letter and spirit.

**मनमोहन अग्रवाल**

पता - कालका पारा स्कूल नं. 3 के सामने, डोंगरगढ़ मो. ' 9425559935, 7000013549

प्रति,

श्रीमान् विनय शंकर सिंह  
अपर निदेशक  
नई दिल्ली

**विषय** - निःशुल्क एवं अनिवार्य शिक्षा के लिए सुझाव।

महोदय,

उपरोक्त विषयांतर्गत निःशुल्क एवं अनिवार्य शिक्षा हेतु मैं अपने सुझाव भेज रहा हूँ। जिसकी प्रति इस पत्र के साथ संलग्न है।

मुझे विश्वास है कि मेरे सुझाव शासन एवं समिति के अनुकूल होंगे एवं मुझे एक बार उपस्थित होके इस विषय के व्याख्यान के माध्यम से समझाने के लिए एक बार सेवा का अवसर अवश्य प्रदान करेंगे।

धन्यवाद।

**प्रेषक**

मनमोहन अग्रवाल

**संयोजक** - धर्मजागरण डोंगरगढ़

**सचिव** - प्रांतिय वैश्य वर्ल्ड फाउंडेशन रायपुर

**संगठन मंत्री** - प्रांतिय अखिल भारतीय अग्रवाल सम्मेलन, रायपुर

**सदस्य** - कार्यकारिणी प्रांतिय युवा अग्रवाल मंच, रायपुर

## मनमोहन अग्रवाल

पता - कालका पारा स्कूल नं. 3 के सामने, डोंगरगढ़ मो. ' 9425559935, 7000013549

### सुझाव

विषय - निःशुल्क एवं अनिवार्य शिक्षा

दिनांक 13-11-2017

महोदय,

निःशुल्क एवं अनिवार्य शिक्षा कक्षा 5वीं एवं 8वीं में बच्चे रुके भी ना।

उपरोक्त विषय पर सुझाव मांगे गये हैं मेरा सोचना यह है कि -

कोई भी राष्ट्र विकासशील तभी कहलाता है जब उसका नागरिक शिक्षित हो और नागरिक शिक्षित तभी होगा जब वह शुरु से ही प्राथमिक शिक्षा से अपनी शिक्षा की शुरुआत करे। जिससे संस्कार और राष्ट्र के प्रति जागरूकता एवं मौलिक अधिकारों की जानकारी हो। कम से कम इतनी बातें तो हो तभी वह शिक्षित कहलाने का हकदार होता है।

बच्चों को शिक्षा के प्रति प्रोत्साहित करना। इसके लिए सरकार अपने तरफ से पूरा प्रयास कर रही है लेकिन इसमें अभिभावकों की भी भूमिका होना बहुत जरूरी है क्योंकि आज भी इस देश में कुछ ऐसे इलाके हैं जहाँ माँ-बाप स्वयं शिक्षित नहीं हैं, पर्याप्त साधन नहीं हैं। इसके अभाव में वे अपने बच्चों को शिक्षित नहीं कर पा रहे हैं। वर्ना आज का बच्चा शिक्षा के प्रति लालायित तो है लेकिन संसाधनों की कमी और अभिभावकों की भूमिका पूरी तरह से बच्चों को प्रोत्साहित नहीं कर पा रही है। इसके लिए सरकार और अभिभावकों को साझा प्रयास करना पड़ेगा।

अनिवार्य शिक्षा के लिए वर्तमान में सरकार जो भी प्रयास कर रही है। जिसमें मध्याह्न भोजन जैसी फिजूल खर्ची एवं भ्रष्टाचार और शिक्षकों को कहीं न कहीं इस कार्यक्रम में व्यस्त रहना पड़ता है जिससे शिक्षक बच्चों को पर्याप्त समय नहीं दे पाते।

सरकार पुस्तकें निःशुल्क उपलब्ध करा रही है यह अच्छा प्रयास है इसे जारी रखा जाये। अब मैं जिस बात पर आ रहा हूँ उसमें अभिभावक और बच्चे दोनों ही शिक्षा के प्रति प्रोत्साहित होंगे और देश के प्रत्येक अभिभावक अपने बच्चों को स्कूल भेजेगा और बच्चा स्वयं होकर स्कूल जायेगा, यह निश्चित है।

और कक्षा 5वीं और 8वीं में रुकेगा भी नहीं यहाँ पर मैं प्रयासों का उल्लेख कर रहा हूँ-

मध्याह्न भोजन में हम प्रत्येक बच्चे पर प्रति माह कुछ न कुछ खर्च करते हैं उसे बंद कर दिया जाये और उसकी जगह कक्षा पहली के बच्चों को प्रति माह स्कॉलरशिप उनके खाते में डाल दी जाये। पुस्तकें निःशुल्क प्रदान की जाये, परीक्षा शुल्क केवल बोर्ड की परीक्षा में ही ली जाये (कक्षा 5वीं और 8वीं को बोर्ड परीक्षा में सम्मिलित किया जाये)।

स्कॉलरशिप कक्षा पहली के लिए 100 रुपये प्रति माह, कक्षा दूसरी को 150 रुपये प्रति माह, कक्षा तीसरी को 200 रुपये प्रति माह, कक्षा चौथी को 250 रुपये प्रति माह, कक्षा पाँचवीं को 300 रुपये प्रति माह, कक्षा छठवीं को 350 रुपये प्रति माह, कक्षा सातवीं को 400 रुपये प्रति माह, कक्षा आठवीं को 450 रुपये प्रति माह दी जाये।

या

कक्षा पहली से तीसरी तक 100 रुपये प्रति माह, कक्षा चौथी, पाँचवीं 200 रुपये प्रति माह, छठवीं, सातवीं, आठवीं 300 रुपये प्रति माह दी जाये।

(स्कॉलरशिप की राशि सरकार या समिति द्वारा भी तय की जा सकती है।)

अब यहाँ पर सरकार को थोड़ा कड़क होना पड़ेगा की कोई भी बच्चा कक्षा में अनुपस्थित (Absent) रहता है तो उसका पैसा प्रतिदिन के हिसाब से जो भी बनता है उसे काटा जाये। अगर बच्चा बीमार है और मेडिकल सर्टिफिकेट देता है तो ऐसी परिस्थिति में पैसा नहीं काटा जाये।

अगर बच्चा फेल होता है तो उसकी स्कॉलरशिप बंद कर दी जाये।

स्कॉलरशिप की राशि में भेदभाव (आरक्षण) नहीं किया जाना चाहिए। सभी के प्रति एक जैसा व्यवहार होना चाहिए।

कक्षा नवमी, दसवीं, ग्यारहवीं, बारहवीं में प्रोत्साहन राशि नहीं दी जानी चाहिए क्योंकि बच्चा स्वयं शिक्षा के प्रति काफी जागरूक हो रहा है।

नवमी और दसवीं की पुस्तकें अगर शासन द्वारा निःशुल्क प्रदान की जाये तो इसके परिणाम बहुत अच्छे होंगे।

बच्चों को साल में कम से कम एक बार ऐतिहासिक स्थल पर घुमाने सरकार के खर्चे पर ले जाया जाये।

स्कूल में खेल-कूद एवं कम्प्यूटर शिक्षा की व्यवस्था अनिवार्य रूप से होनी चाहिए।

कक्षा पहली से आठवीं तक की कक्षाएँ प्रातः 7.30 से 11.45 तक ही लगायी जाये जिससे बच्चों में पढ़ाई के प्रति अरुचि नहीं होगी और सुबह जल्दी उठने का प्रयास करेगा। दिन में पढ़ाई पर ध्यान देगा एवं अभिभावकों को भी अन्य कार्यों में भी सहयोग कर सकेगा।

मध्याह्न भोजन को बंद करने में थोड़ी कठिनाई जरूर होगी क्योंकि इसमें सुप्रीम कोर्ट के निर्देश हैं इसके लिये शासन स्वयं प्रयास करने के लिए सक्षम है।

सरकार मध्याह्न भोजन के लिए प्रयास तो अच्छा कर रही है लेकिन निचने स्तर पर बच्चों तक जब वह भोजन पहुँचता है तो उसका स्तर काफी घटिया होता है। इसमें सरकार को ही दोषी ठहराया जाता है।

मेरा दावा है कि अगर इस पद्धति को सही रूप में क्रियान्वयन किया जाये तो निश्चित ही प्रत्येक अभिभावक बच्चों को स्कूल भेजने के लिए एवं बच्चा स्वयं स्कूल जाने के लिए मानसिक रूप से तैयार एवं प्रोत्साहित होगा एवं बच्चों की उपस्थिति स्कूल में 100 प्रतिशत होगी।

वह दिन दूर नहीं और बहुत ही जल्दी यह देश सम्पूर्ण शिक्षित और विकासशील राष्ट्रों की गिनती में सबसे ऊपर होगा।

मुझे विश्वास है कि मेरे सुझाव समिति एवं शासन के अनुकूल होंगे। बहुत कम शब्दों में यह सुझाव मैं समिति और शासन के समक्ष प्रस्तुत कर रहा हूँ अगर आवश्यकता पड़ी तो मैं स्वयं उपस्थित होकर शासन एवं समिति के समक्ष विस्तृत रूप से व्याख्यान के माध्यम से समझाने के लिए मुझे बुलाये जाने पर मैं उपस्थित हो सकता हूँ।

मुझे विश्वास है कि मेरे सुझावों के लिए मुझे एक बार सेवा का अवसर अवश्य प्रदान करेंगे।

धन्यवाद।

**प्रेषक**

मनमोहन अग्रवाल

संयोजक - धर्मजागरण डोंगरगढ़

सचिव - प्रांतिय वैश्य वर्ल्ड फाउंडेशन रायपुर

संगठन मंत्री - प्रांतिय अखिल भारतीय अग्रवाल सम्मेलन, रायपुर

सदस्य - कार्यकारिणी प्रांतिय युवा अग्रवाल मंच, रायपुर

Care

INPUT FROM CARE INDIA ON PROPOSED AMENDMENTS

We welcome the opportunity provided by the Standing Committee to provide input on the proposed amendment. While appreciating this opening, we feel that the proposed amendment to Article 16 does not address the root causes of poor learning outcomes, risks penalizing students for the system's failure and damages the internal coherence of the RTE Act. As such, we are opposed to the proposed changes for five reasons:

1. **Goes against the global evidence on detention**

No Detention Policy is standard practice in several high performing education systems and was thus adopted under the RTE Act. According to PISA's 2009 Education Rankings report, the top nations in reading, math, and science are China, Korea, Finland, Singapore, New Zealand, Japan, and Canada. Grade retention is uncommon or restricted in all of these countries.

The Subramanian Committee report 2016 had said that no detention was a European construct that would not work in India given its poverty. It is unclear, however, why things would work differently in India. Evidence from Sub-Saharan Africa (with even higher poverty levels) yields the same findings: *no detention does not improve learning*.

Even the Geeta Bhukkal committee report that forms the basis of the present amendment does not find evidence of improvement of learning after detention. Consequently, any move to reintroduce detention would be contrary to evidence and run counter to the interest of students and taught alike.

Research worldwide does not show positive impact of detention on learning, the stated purpose of the amendments. To summarize, this is what international research findings show about grade repetition

- Repeating does not improve academic outcomes
- Repeating contributes to poor mental health outcomes
- Repeating leads to poor long term social outcomes
- Repeating contributes to a negative attitude to school and learning
- Repeating results in students dropping out of school
- Repeating decreases the likelihood that a student will participate in post-secondary schooling
- Repeated students demonstrate higher rates of behavioural problems
- There is no advantage to students in delaying school entry for a year to increase 'school readiness'
- There are huge costs associated with students repeating a year of schooling.

India is not the only country to ban detention- many European countries (eg. Norway, Bulgaria, Iceland) ban it outright and others (eg. UK and Finland) resort to it in truly exceptional circumstances.

## 2. It is not coherent with the evidence of Article 16's impact

The RTE Act came into force from 1 April 2010. The first batch of students that passed class eight without detention gave their class 10 exams in the academic year 2012-13. The pass percentage in CBSE schools was 88.85 per cent in 2009, one year before the RTE, but rose 10 points to 98.18 per cent in 2012. Similarly, out of the 20 states which shared their results with the Bhukkal committee, 13 reported an increase in the pass percentage for class 10 exams. The annual dropout rates from classes one to five declined from 9.11 percent in 2009 to 6.50 percent in 2012. The No Detention Policy (NDP) appears to have made no negative impact on the academic performance of children, but has instead helped to retain children in school and enabling them to complete a cycle of schooling.

Keeping students in school is one of the major contributions that NDP has had. Given high rates of poverty and other socio-economic factors, dropping out is often preferred to repeating a class. Addressing low levels of enrollment among marginalized communities was one of the main aims of the RTE Act and pushing them back out again would be counterproductive. Failing an exam is particularly likely to end a girl's education. Detention will hit girls and children from SC and ST communities as the majority of low achievers who have secured less than 30% have been from SC, ST and OBC backgrounds<sup>1</sup>.

Furthermore, as the evidence from ASER assessments over the years shows, learning levels have been in consistent decline from 2005 when both board exams and detention existed. Consequently, it is unfair to place the blame for the decline on the NDP.

## 3. Puts other aspects of the RTE Act at risk

Restoring the examination system within the RTE framework will damage the internal coherence of the RTE Act. Thus, the Act provides for age-appropriate admissions followed by special training for children whose learning level is below required levels. MHRD states that the objective behind age appropriate admission is to protect older children from the humiliation and embarrassment of sitting with younger children which it states risks their drop out from school. It provides for special training instead to ensure students catch up with their age mates, in contrast, students will now be detained and made to compulsory attend the same class as younger children, without any additional academic support.

Some of the other unintended consequences of a return to detention will include

- Easier to fail children with disabilities, especially in the absence of measures to ensure inclusive education
- Additional barriers for the education of disadvantaged groups. Thus, Adivasi students whose mother tongue is other than the language of instruction in the school would be expected to have higher rates of detention.
- Incentivizing failure of EWS children who have been frequently seen as "pulling down" learning outcomes in private schools.
- Rendering meaningless the abolition of screening procedures at the time of admission, if students are to be failed and not supported thereafter.

<sup>1</sup>[http://www.india-seminar.com/2012/138/638\\_madhumita.htm](http://www.india-seminar.com/2012/138/638_madhumita.htm)

- Risks stifling the voice of SMC members given the new threat of their child's detention as a potential price for complaining about wrongdoing within the school

#### 4. Ignores critical design elements

Given the potential negative consequences of detention, it would have been important to consider the safeguards that need to be put in place for detention to work. Global experience suggests some essential issues that must be considered:

- Basis of the decision: Children's performance should be judged based on holistic evaluation across the year. If detention is based on academic performance, this is usually based on pupil work during the year and not just performance on an end-year exam (eg. in Spain and France).
- Formal mechanisms for parental and student views to be taken into consideration;
- Opportunities to catch up must be given to the student at risk of failure before a detention decision. Poor performing students must be supported around the year with detention becoming truly a measure of last resort.
- Additional resources must be provided to children to cover the syllabus.

5. Ignores tested solutions to improve quality and prevent detention Good teaching that is geared towards the levels of students is the essential prerequisite for improving learning. Making students go through the same content again in the same way that they didn't understand the last time would not help them to understand things better.

For this, teachers need to be qualified, trained, motivated and supported. Ironically, the government has just extended the deadline for all teachers to be trained when it is introducing detention of students with immediate effect. With over a million of our teachers currently untrained, failing students that are being taught by untrained teachers seems hardly fair. Furthermore, over 9 lakh teacher posts are currently vacant, especially in educationally lagging states like UP, Bihar, West Bengal, MP and Chhattisgarh. Poor teacher training development and onsite support provided to teachers and weaknesses in the support systems like the CRCs and BRCs affect teacher motivation and performance.

Teachers' work needs to be supported with them having the necessary tools and the educational process must take place within an environment that is enabling, safe and secure. In contrast, less than 10% of all schools in India currently comply with RTE norms. In fact, about 8% primary schools still have only one teacher to teach all five classes. Inadequate attention to ensuring pupil teacher ratio as per the RTE norms makes it difficult for teachers to pay attention to the individual needs of each child as per the requirement of CCE. 13 states not complied with the RTE norms at upper primary level on average number of instructional days (220 days).

Measures that could have helped to support student learning (eg. CCE) have not been implemented properly since their inception. If done right, it could allow problem areas to be identified early and teaching to be done based on level. In an ideal world, this would allow teaching to be geared to students' learning levels and make the whole idea of "grade" redundant. In the face of such gaps in efforts made by the State, it is grossly unfair to penalize students.



Equity is another matter of concern. Detention rates are likely to be highest in rural areas (where quality inputs have been lowest) and the policy will disproportionately negatively affect Dalits and Adivasis (whose habitations have not had adequate investment in education. It would also promote child labour and enhance girls' dropout since students who would be asked to repeat the same content again are likely to drift to paid or household work instead.

**Conclusion:**

We do not support the proposed amendment as a measure that will penalize students (and their parents) for the failure of the system. We feel that leaving the choice to the states, especially without any central guidance and support, risks damaging the internal coherence of the Right of Children to Free and Compulsory Education Act 2015. More directly, it puts the continued enjoyment of the right to education is children from poor and marginalized communities at risk.

We, therefore, call on the Parliamentary Standing Committee to

- (a) Not approve the proposed amendment to Article 16 of the RTE Act
- (b) In the event that it feels that it recommends reintroduction of detention, recommend that common guidelines be issued for all States prescribing steps that need to be taken to avoid damaging the organic fabric of the RTE Act.
- (c) Make clear recommendations on steps to be taken to
  1. provide additional support to educationally lagging students.
  2. Build teacher capacity to enable teachers to support students with diverse learning levels and needs.
  3. strengthen implementation of existing provisions critical to quality within the RTE Act including accelerating RTE Compliance of all schools, enhancing the budget allocation to education to bring it in line with the global benchmark of 6% GDP, strengthen teacher training and support mechanisms and implementation of CCE.

**MAADHYAM**

Date: 1st, November, 2017

To,

Dr. Satyanarayan Jatiya and other members of the Parliamentary Standing Committee on Human Resource Development,

**Sub: Submission of inputs on the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017**

Maadhyam is a forum for citizens to engage in policy making.

At Maadhyam, we effectively use modern communication tools and social media to make citizens aware of policy decisions and enable them to contribute with their suggestions and inputs.

On the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017, Maadhyam undertook a thorough stakeholder consultation:

- First the Bill was analyzed from various perspectives (different issues around the No-Detention Policy (NDP) and Continuous and Comprehensive Evaluation (CCE) were explored) and the analysis was published.
- A questionnaire was floated and stakeholders were encouraged to submit their inputs.
- Maadhyam received more than 50 responses to its questionnaire and these included responses from NGOs working on Right to Education, Teach for India Fellows, students and researchers working on education as well as common citizens concerned about the issues.
- All these responses were collected and are presented here in a tabulated format.

It is hoped that this report will aid Members of Parliament as they review the Bill.

Thank You,  
Warm Regards,

Maansi Verma  
Founder, Maadhyam

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## MAADHYAM

Sl. No.	Question Asked	Responses (In %)	Reasons Cited by Stakeholders	Additional Remarks (on the basis of research from other sources)
1	2	3	4	5
1.	Is the fear of failing likely to lead to better learning outcomes?	Disagree- 44.5 Neutral- 11.1 Agree- 44.4  <b>(Opinion seems to be divided on how fear affects a child)</b>	<b>Fear of failure creates stress and affects confidence</b> - Fear or stress kills creativity and affects confidence of the child, as failure is a stigma - It may not work at a tender age or in all situations. - Motivation for studies must not be fear-driven, but must come through understanding the benefits thereof. - It works against any kind of learning due to immaturity of children. <b>Fear could be a motivating factor also</b> - Fear act as a motivating factor propelling them to work hard. - It doesn't allow laid back attitude of students towards studies, they become serious and perform better. - Carrot-and-stick system works best for improvement in learning outcomes in current scenario.	State of Telangana favours the retention of NDP to enable a child to learn better without fear of failure, detention and stigma. Fear of failure may also encourage students to indulge in malpractices, such as cheating in exams. This was a concern put forth by Andhra Pradesh.  (As taken from the Report of 64th Meeting of Central Advisory Board of Education held on 25th October 2016. Available here - <a href="http://mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/CABEAGENDA64TH MEETING.pdf">http://mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/CABEAGENDA64TH MEETING.pdf</a> )

1	2	3	4	5
2.	Are more children likely to drop out instead of repeating the class if they fail?	Yes- 27.8 No- 16.7 May be- 44.4 Other- 11.1 <b>(A majority is of the opinion that there is likely to be an increase in drop outs in case students are failed)</b>	<b>Majority view — Children lose confidence</b> - Loss of confidence and distaste for studies due to stigma of failure may lead the child to drop out. - There may be other reasons for dropping out too, like poverty, attitude of parents towards studies, overall environment of the child.  <b>Other views</b> - Parents become aware of shortcomings of their child in case of detention, and they may take enabling steps to ensure effective learning by the child in the repeating year. - For pursuing higher education, passing up to a certain level is necessary. Hence children are more likely to repeat the classes.	<b>Benefit of repeating a class unproven</b> - There is no research evidence anywhere in the world to show that repeating a class improves learning (as admitted by Bhukkal Sub-Committee Report, 2014. Available here- <a href="http://mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/AssmntCCE.pdf">http://mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/AssmntCCE.pdf</a> )  <b>Gender bias-</b> On an event of failure the girls might not get to pursue education. Since household chores and marriage are deemed more important for them, than to get education, especially in rural or semi-urban areas.
3.	Is it likely that withdrawing NDP will lead to better implementation of CCE?	Strongly disagree or disagree-55.5 Neutral- 16.7 Strongly agree or agree- 27.8 <b>(Majority of the respondents do not see a necessary improvement in</b>	<b>NDP and CCE together can ensure success-</b> -The purpose of CCE is to help teachers in understanding the teaching-learning process better and improving upon teaching strategies. Therefore, it contradicts detention.	

1	2	3	4	5
		<b>implementation of CCE simply if NDP is withdrawn)</b>	<p>- NDP &amp; CCE are complementary to each other. NDP reduces burden, and CCE ensures good performance.</p> <p>- Withdrawal of NDP will lead to rote learning system.</p> <p><b>CCE may survive without NDP if improvements made-</b></p> <p>- NDP dilutes CCE, as child gets promoted howsoever comprehensive the evaluation is.</p> <p>- Withdrawal of NDP and implementation of CCE should be a balanced approach. Especially if NDP is withdrawn, improvements in CCE must take place.</p> <p><b>Other views</b></p> <p>-NDP and CCE are independent of each other.</p> <p>- A better infrastructure is to be provided first for better implementation of CCE.</p>	
4.	Is it NDP or improper implementation of CCE which is responsible for poor performance of students in higher classes?	<p>Improper implementation of CCE-31.6</p> <p>NDP- 10.5</p> <p>Both- 36.8</p> <p>Neither- 10.5</p> <p>Other-10.6</p>	<p>Improper implementation of <b>CCE is responsible for poor performance-</b></p> <p>-The performance of students is purely linked to CCE and competent teachers to execute it, not NDP.</p> <p>- Children do not study because pedagogy is not</p>	<p>State of Haryana concedes that NDP can succeed through effective implementation of CCE methods, compulsory attendance and optimum Pupil-Teacher Ratio.</p> <p>(As mentioned in 64th CABE meeting report)</p>

1	2	3	4	5
		<p><b>implementation of CCE, sometimes in combination with other factors like NDP to be responsible for poor performance)</b></p>	<p>suited to the subject or attitude of the student. Class environment is also not encouraging.</p> <p>- Lack of motivation among teachers for CCE methods due to lack of orientation programmes by the government.</p>	<p>As observed by "Learning without Burden" Report, 1993 [Available here- <a href="http://www.teindia.nic.in/files/reports/ccr/yash%20pal_committe_report_lwb.pdf">http://www.teindia.nic.in/files/reports/ccr/yash%20pal_committe_report_lwb.pdf</a>] and National Curriculum Framework (NCF), 2005 [Available here-</p>
			<p><b>NDP may be responsible-</b></p> <p>-Students under NDP reach higher classes with a weak base, so their performance is affected.</p> <p>- There must be some criteria to decide the fitness of the child for higher classes.</p>	<p><a href="http://www.ncert.nic.in/rightside/links/pdf/framework/enelish/nf2005.pdf">http://www.ncert.nic.in/rightside/links/pdf/framework/enelish/nf2005.pdf</a>], focus of teaching-learning process is always upon the child's ability to reproduce the memorized information under a regular examination system. And thus, examination process becomes more important than learning process itself. This was sought to be changed through CCE and NDP.</p>
		<p><b>Improper implementation of CCE + NDP responsible-</b></p>	<p>-NDP affects learning outcomes and a proper implementation of CCE depends upon various other factors such as infrastructure, attitude and qualification of teachers etc. These schemes don't address the issue.</p>	
			<p><b>Other views-</b></p> <p>- A modified version of CCE which accounts for marks may be an alternative. Then, NDP will not be required.</p>	

1	2	3	4	5
5.	Is it teacher training or withdrawal of NDP that is likely to improve teachers' performance?	Teacher training- 83.3 Withdrawal of NDP-0 Both- 16.7 Neither- 0 Other- 0  <b>[Overwhelming majority opinion was that teacher training was not likely to improve simply through withdrawal of NDP]</b>	<b>Why teacher training is essential-</b> - It is essential for motivation and creativity of teachers -Along with training in the subject, teachers must be trained to understand psychology of the students. -It will help in proper implementation of CCE and improve learning outcomes.- More funds are to be allocated for teachers' training.  <b>Where both teacher training and withdrawal of NDP may help-</b> -Teachers' training is essential for the improvement in teaching, while withdrawal of NDP will provide them with a yardstick for assessment. - Withdrawal of NDP would also maintain the pace of study for students and any gaps in learning may be filled timely by teachers.	
6.	Is NDP responsible for poor performance of students in higher classes?	Yes- 75 No- 17.9 Other-7.1  <b>[Majority opinion holds NDP</b>	<b>Exams are essential-</b> -Importance of exams in the overall growth of the child in terms of encouraging competition, creating	NDP causes more indiscipline among students. They tend to be more irregular in attending classes.

1	2	3	4	5
	<b>responsible for poor performance of students in higher classes]</b>	an urge to study and work hard. -NDP leads to careless attitude of both teachers & students towards studies	<b>Other views</b> -Students fail to cope up with suddenly increased pressure in higher classes - It is not NDP but its execution and follow up which is responsible. -NDP is not the only reason, but it depends upon overall education system and attitude of all the stakeholders.	Delhi particularly cites this reason for favouring scrapping of NDP [As per 64th CABE meeting report]  <b>Data on poor performance in higher classes is inconclusive to draw any correlation between NDP and poor performance-</b>  As per data available through U-DISE School Education in India report, the transition rate from secondary to higher secondary classes has been lower than transition from elementary to secondary classes [indicating that less percentage of students manage to get promoted in higher classes]. But, at the same time, U-DISE Secondary Education in India, State Report Cards show huge variations across states on drop-out rates. At the national level, drop outs increase substantially in Xth standard as compared to in IXth standard but are virtually nil in XIth standard. State of West Bengal mirrors this trend, but State of Delhi follows an opposite trend, where drop out rate falls substantially in Xth standard before rising again.  <b>NDP alone cannot be attributed to such wide variations.</b>



1	2	3	4	5
				[For more details, see this- <a href="https://www.thebetterindia.com/117644/no-detention-policy-right-education-failing-school/">https://www.thebetterindia.com/117644/no-detention-policy-right-education-failing-school/</a> ]
7.	Is detention of students in elementary years likely to improve their performance in higher classes?	Strongly disagree or disagree- 32.1 Neutral- 17.9 Strongly agree or agree- 50.0  <b>[Half of the respondents believe that making a child repeat a class is likely to make them perform better in higher classes]</b>	<b>Important to draw a link between performance and result-</b> -Detention propels students to work hard towards a definite goal from the beginning. - A direct link between performance and outcome is established through pass-fail system. And skills of the child become known to him/her. - It hones their basics at an early stage. - However, detention is not the only tool to improve performance. - Equal efforts by all the stakeholders needed.  <b>Other views- fear and stigma of detention-</b> - Learning can't be fear driven. It rather calls for ensuring greater teacher accountability. - Detention is a stigma. It has to go.	Kerala, despite having better learning outcomes opposes NDP to encourage competition and objectivity in assessing learning levels.  [As taken from 64th CABE meeting report]  <b>As noted earlier, no research has even shown that repeating a class is likely to improve learning.</b>  [Bhukkal Sub-Committee report]
8.	Has NDP led to constant ignorance of students' performance by parents & teachers?	No- 14.8 Other- 11.1 <b>[Majority opinion is that NDP made teachers and parents less</b>	<b>Parents and teachers have lost interest-</b> -Parents and teachers don't bother much about the child's performance in the absence of any	Haryana dismisses NDP for deteriorating quality of education due to decreased commitment levels of stakeholders.

1	2	3	4	5
		<b>invested in child' sperformance]</b>	<p>objective parameter, especially in rural areas.</p> <p>-Under pass-fail system, parents and teachers tend to provide adequate support identifying problem areas of the child.</p> <p><b>Other views- parents and teachers need to be empowered and involved-</b></p> <p>-Lack of awareness among parents and teachers of CCE methods makes them ignorant.</p> <p>- Participation of teachers should be there in policy making, to ensure better implementation.</p> <p>-On the threshold, the Act doesn't do much to ensure participation of teachers and parents.</p>	[As taken from 64th CABE meeting report]
9.	Is teachers' performance likely to improve, if there is a possibility that students may fail?	<p>Strongly disagree or disagree - 25</p> <p>Neutral- 17.9</p> <p>Strongly agree or agree- 57.1</p>	<p><b>Accountability may increase but teacher's may pass burden on students-</b></p> <p>-Teachers' accountability will increase. It will act as a motivation for them to work hard with weaker students to improve their results.</p> <p>- On the flip side, they might put extra burden on students or indulge in malpractices to just improve scores. This won't improve learning levels though.</p>	<p>Uttarakhand believes that scrapping of NDP would increase responsibility of teachers.</p> <p>[As taken from 64,h CABE meeting report]</p>

1	2	3	4	5
			<p><b>Other views - teacher's not motivated enough and problem of private coachings-</b></p> <ul style="list-style-type: none"> <li>- Even in higher classes teachers don't put much effort, especially in govt, schools.</li> <li>-In the current scenario, teachers cannot organize remedial classes. It raises infrastructural issues.</li> <li>- The inclination towards private tuitions by students may not make teachers improve their ways of teaching.</li> </ul>	
10. Is it possible that NDP may be a reason for students dropping out in higher classes?	<p>Yes- 78.6 No- 10.7 Other- 10.7</p> <p><b>[Possibility of NDP being a reason for drop outs in higher classes is accepted by majority respondents]</b></p>	<p><b>Increased burden in higher classes, students not equipped enough-</b></p> <ul style="list-style-type: none"> <li>-Comprehensive syllabus in higher classes, students' lack of grip at basics and disinterest in studies cause undue burden leading them to drop out.</li> </ul> <p><b>Other views- high drop out in higher classes due to increased financial burden and not NDP-</b></p> <ul style="list-style-type: none"> <li>-Cessation of free education and other benefits at higher classes also leads to dropping out, especially in cases of poor people.</li> </ul>	<p><b>Interestingly states supporting NDP have shown low drop out rates than states opposing NDP</b></p> <p>Data as taken from U-DISE State Report Cards 2015-16 analysed here- <a href="https://www.thebetterindia.com/118944/no-detention-policy-right-education/">https://www.thebetterindia.com/118944/no-detention-policy-right-education/</a></p> <p>No clear research on reasons for drop outs and so it may not be proper to attribute it to NDP.</p>	

1	2	3	4	5
			<ul style="list-style-type: none"> <li>- Poor parents are more inclined to get their children into earning if they fail.</li> <li>- However, scrapping of NDP will lead to dropping out at an early stage.</li> <li>- Solution lies in taking all factors into account, not just NDP.</li> </ul>	

#### A summary of arguments from both sides

Reasons for opposing withdrawal of NDP	Reasons for supporting withdrawal of NDP
<ul style="list-style-type: none"> <li>• It reduces burden and enhances creativity.</li> <li>• It is essential for overall growth of child.</li> <li>• <b>It doesn't make children accountable for the ineffectiveness of teaching methods or unsoundness of education system as a whole.</b></li> <li>• It avoids the stigma of failure attached to the children at a tender age.</li> <li>• <b>Learning should not be fear-driven. It should be made easy and interesting for children through innovative ideas.</b></li> <li>• It ensures education for all.</li> <li>• <b>Better implementation of CCE methods and spreading awareness among all the stakeholders are alternative steps that can be taken.</b></li> </ul>	<ul style="list-style-type: none"> <li>• It increases teacher accountability</li> <li>• Proper assessment of children is done through exams.</li> <li>• <b>It establishes a link between performance and outcome which ensures better learning.</b></li> <li>• NDP sometimes results in dropping of morale of hardworking students, as it does not reward them for their extra efforts.</li> <li>• <b>Greater involvement of teachers and parents is ensured, as they become aware of child's shortcomings.</b></li> <li>• To fill the learning gaps created by NDP, exams are necessary.</li> <li>• Children are the future of the country. And if they are not competent enough owing to NDP, there will be a dearth of intellectuals.</li> </ul>

**Memorandum No. 8**

**A. P. Jithender Reddy**  
**Member of Parliament (Lok Sabha)**  
**Floor Leader (TRS) Party**

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31 October, 2017

To

Shri Vinay Shankar Singh, Addl. Director,  
Rajya Sabha Secretariat  
New Delhi – 110 001.

**Subject:** Views and Suggestions regarding The Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017

**Sir,**

The concerned Amendment to the Right of Children to Free and Compulsory Education Act seeks to do away with the no detention policy till completion of elementary education and empowers the Central or State government to allow the schools to hold back a student in class 5 or class 8 or both. The Statement of Objects and Reasons in the Amendment Bill states that the no detention policy was incorporated because the examinations are held with the purpose of eliminating the children with poor performance which compels the student to either drop out or repeat the grade and repeating a grade is demotivating and discouraging. However, States and Union territories have raised the issue of this policy having an adverse effect on the learning outcome and hence this Amendment.

While the fact that quality of learning outcome especially in government schools remain below the desirable standards, there are many factors which are responsible for this sub-optimal quality of education which needs to be plugged before scrapping of the no detention policy. There have been numerous petitions and suggestions from the civil society to include pre-primary education under the ambit of Right to Education which currently only covers primary and elementary education. Since there is no legislation or scheme which guarantees education to a child before the age of six years it creates an initial gap in the learning which makes up for a weak base adversely impacting a child's learning abilities in the later stages which are covered under the ambit of right to education. In the context, the scrapping of no detention policy would effectively result into punishing a child for the State's own failure of not providing him with a proper base to capitalise on. Considering the social realities particularly in the rural India, a detention would more often than not result into a dropout. There is a dire need to upgrade the existing qualifications and motivation of the teachers which has been in limelight for all the wrong reasons in addition to bringing pre-primary education under the ambit of RTE which would enable a smooth transition for children to the primary and subsequent elementary education before scrapping the no detention policy.

Yours Sincerely,  
(A. P. Jithender Reddy)

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**Memorandum No. 7**

**RECOMMENDATIONS ON THE RIGHT OF CHILDREN TO FREE AND COMPULSORY  
EDUCATION (SECOND AMENDMENT) BILL, 2007**

Sushil Kumar Singh <sushilslngh.mp@gmail.com>

Wed. Nov. 1, 2017 at 4:19 P.M.

To: rsc hrd@sansad.nic.in, committeehrd@gmail.com

O/o Shri Sushil Kumar Singh, MP Aurangabad, Bihar

New Delhi - 011-23072000 / 9999649262 (Nitish)

Aurangabad - 9471838308 (Vishvaranjan kumar Singh)

Respected Sir/ Madam,

It is my humble submission that while the Bill to amend Section 16 of the Right to Education Act, 2009 is a notable step to improve learning levels of children, following factors may be taken into account while amending Section 16 of the Right to Education Act, 2009 with respect to 'No Detention Policy':

(1) Though infrastructural needs have been met with in most of the areas, the schools being run lack their own full-fledged buildings to run classes, boundary walls, etc. besides other amenities such as audio-visual classrooms, etc. which would play an important role in providing a cordial atmosphere to the child and his/her over all development. Hence, it is an important factor to assess the learning progress of a child and is therefore a contributing factor in the learning process.

(2) The quality and availability of teachers shall also be taken into account while amending the provision. There is a lack of merit in selection process of teachers and old policies have continued. Teachers are often kept more engaged in non-teaching activities such as during elections, survey of various Government programs, etc. In such scenario, they are not able to focus on their primary work, *i.e.*, teaching. Also, mid-day meal scheme has also to be taken care of by the teachers and there is no dedicated staff to look at the issue. These factors become important in the light of the fact that there is already a shortage of good quality teachers. This in turn affects the learning process of the child. A number of past policies, decade-old have fostered this system.

Therefore, it is my opinion that the above stated factors are required to be taken into account while the Committee looks at the Bill.

Thanking You  
Sushil Kumar Singh,  
Member of Parliament, Lok Sabha, IC-95,

**PARENTS' FORUM**  
**MEANINGFUL EDUCATION**

**Anti-child provisions introduced by the Govt in RTE 2009**

We the members of Parent's Forum for Meaningful Education (PFME) were shocked to learn government's decision to scrap two important provisions Continuous and Comprehensive Evaluation (CCE) and No detention from The Right of Children to Free and Compulsory Education Act (RTE) 2009. The two would have made education and learning meaningful reassured students to be engaged in learning without fear of examination. Govt has reintroduced conventional exam system (Regular exam system) even in classes 5 and 8. After discussing with several educationists, teachers, principals we found that they too were disappointed with the decision that ensures child-friendly approach to education.

RTE actually says, continuous assessment rather than no assessment that will automatically imply no detention. CCE actually allows corrective measures to improve learning throughout the year. Need to detain students should not arise. Teaching pedagogy should be such to encourage self-learning and self-evaluation. Why HRD is so eager in holding back children who are failed in exam in class 5 and 8. Will it allow no detention in classes 1 to 5 and 6 to 7? Annual one time exam can not determine the outcome of one year of learning and teaching.

For decades conventional system of examination and evaluation that had been rejected in place of CCE and reintroduced now had been failing thousands of students every year in the Board exams and school exams. There was no efforts or steps taken to check failure and drop out. Exam always is stressful and creates fear as is known by experts that forces students to cheat, also commit suicides. Fear of examination has been detrimental to healthy learning.

School system for decades has been detaining students in class IX and X. As a result students were abandoning schools.

Students as rule were failed in class IX in schools to show better result in class X. As a matter of practice more than 50% students were detained in class IX. 100 out of 200 were detained in class IX. Only 40% passed out of 100 in class X. Large number of students dropped out in class IX and class X.

Even in private schools TC declaring pass were given if students leave the school or repeat the class. Schools are eager to fail, detain students to show good results. School or the system did not bother to realize and recognise system's failure and take corrective measures. The burden was on students and parents. Parents who entrust their children to schools should ask the government and school why their children were failed after 9 or 10 years.

The amendments in the RTE as proposed by the government talks about giving additional instruction and option for re-examination within two months. If the child fail again may be held back in class 5 and

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8. When teachers failed to teach in a year, then how could they teach for improvement in 2 months. Specially when there is shortage of teachers in schools.

The system should take care of deficient teaching and learning during the year. And CCE is equipped to take care of learning and teaching problem throughout the year.

Child is eager to learn. The conventional system of exam discourages innate or natural desire to learn, to question. It is itself deficient. It encourages rote learning. Defective questions out of syllabus, lengthy ambiguous questions are annual feature and hallmark of examination system.

Evaluation is even more defective. No right to see evaluated answer scripts. No transparency, has HRD taken any step to make a fool proof examination system.

The conventional exam system has been considered unfair as observed by Justice Sunanda Bhandare in her judgement in the High Court of Delhi in a writ filed by PFME "the entire examination system is for assessing the merits of the students and no examination system that is unfair to them can be allowed to exist".

Lack of interest in education cited by the state as one of the reason to drop out. It is actually induced by teachers and intimidating environment in school.

If CCE is implemented with commitment and sincerity the goal to achieve child-friendly learning and teaching and evaluation the outcome will be positive for all.

From:  
Kusum Jain  
President  
Parents Forum for Meaningful Education (PFME)



## PARENTS' FORUM FOR MEANINGFUL EDUCATION

### निःशुल्क और अनिवार्य बाल शिक्षा के अधिकार बिल 2009 में सरकार के बाल-विरोधी प्रावधान

सार्थक शिक्षा के लिए माता-पिता फोरम (पी.एफ.एम.ई.) के सदस्यों को यह जानकर बड़ा धक्का लगा कि सरकार निःशुल्क और अनिवार्य बाल शिक्षा के अधिकार के बिल 2009 में दिए गए दो महत्वपूर्ण प्रावधानों को निकालने की प्रक्रिया में है। ये दोनों ही हमारी शिक्षा को सार्थक बनाने के लिए जरूरी कदम हैं। इनसे बच्चे परीक्षा के डर के बिना खुशनुमा वातावरण में सीखने, जानने की प्रक्रिया में लगेंगे। सरकार ने पुरानी परीक्षा प्रणाली को कक्षा 5 और 8 में भी लाने का निर्णय लिया है। यह बाल विरोधी निर्णय है। हम इसका विरोध करते हैं।

कोई कैसे किसी बच्चे को फेल ठहरा सकता है जिसके मन में सवाल का अंतहीन सिलसिला होता है? कोई कैसे यह सोच सकता है कि वह बच्चा जिसकी जिंदगी अभी शुरू ही हो रही है, उसे हम 'बड़े' यह बता दें कि बच्चे तुम्हें 'सीखना' नहीं आया, इसलिए तुम असफल हो और तुम असफलता के और न 'सीख' पाने की शर्म के बावजूद फिर से 'सीखने' का हौसला रखो।

हम अपने देश में बच्चों की मासूमियत को असफल होने की शर्म से क्यों भरना चाहते हैं। जबकि खुद सरकारी रिपोर्ट्स ही कह रही हैं कि स्कूलों में शिक्षकों की कमी है। दैनिक भाड़े पर अध्यापक पढ़ा रहे हैं। अध्यापकों की commitment यानी कि प्रतिबद्धता में कमी है। बच्चों के जीवन में शिक्षा संबंधी कई और समस्याओं से भी सरकारी तंत्र परिचित है, फिर सजा मासूम बच्चों को क्यों?

एक वह दौर था जहां स्कूलों में शिक्षकों की भारी कमी नहीं थी। आज का शिक्षक स्कूल में ड्यूटी पर न जा कर अपनी जगह शिक्षक किराए पर रख लेते हैं तो क्या यह शैक्षिक प्रशासन की कमजोरी नहीं? ऐसी कमी वहीं पनपती है जहाँ नियम पालन में जरूरत से ज्यादा ढिलाई हो या जरूरत से ज्यादा सख्ती हो।

आज हमारे पास शैक्षिक दर्शन का, शैक्षिक मनोविज्ञान का बहुत सारा साहित्य भी है। न ही देश-भर में अनुभवी शिक्षा-विदों की कमी है। इस सन्दर्भ में हम न तो अपनी जड़ों की तरफ झांकना चाहते हैं, न ही उस अनुभव को स्वीकार करना चाहते हैं जो हमें विदेशों से प्राप्त है।

यहाँ हम गिजुभाई का जिक्र करना चाहेंगे। पेशे से वकील गिजुभाई ने सौ साल से भी ज्यादा पहले 'सरकारी' स्कूलों में जा कर शिक्षण के प्रयोग किये थे। उन्होंने न केवल बाल मन को समझने का प्रयास किया था, बल्कि अपने समय के स्कूलों में प्रयोग कर अपने शिक्षण अनुभवों के आधार पर माता-पिता व शिक्षकों दोनों के लिए अलग-अलग बेहद उपयोगी पुस्तकें भी लिखीं जो आज भी प्रासंगिक है।

हम सब युधिष्ठिर की कहानी पढ़ कर बड़े हुए हैं। युधिष्ठिर कहते रहे कि उन्हें सच बोलने का पाठ याद नहीं हुआ, जबकि उनके सब भाइयों ने कहा कि उन्हें पाठ याद हो गया। इस जवाब पर उनके गुरु यानी शिक्षक ने उन्हें फेल नहीं करार किया था बल्कि उन्हें गले से लगाया था। हमारे संस्कार में शिक्षा की सफलता लिखित परीक्षा को पास करने में निहित नहीं थी।

आइये जरा अनुभवों की कसौटी पर परखें उन आरोपों को जो आरोप बच्चों पर थोपे गए हैं। बच्चे की तो कोई आवाज ही नहीं है। वो यह जानते ही नहीं कि बड़ों की अदालत में वे अपनी बात को कैसे रखें? वे तो यह भी नहीं जानते कि कोई उनकी बात को सुनेगा, समझेगा भी या नहीं। हम बड़े कभी माता-पिता होने के अहंकार में होते हैं, कभी शिक्षक होने के दंभ में और कभी नीति-निर्माता होने के अधिकार से बच्चों के लिए जैसे चाहे फैसले करते हैं। ऐसे फैसले जो हमारे

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अहम् को शांत करते हैं कि हम तो जी बच्चों की भलाई चाहते हैं। माता-पिता बच्चों की शिक्षा में सहयोगी नहीं विरोधी माने जाते हैं। जिनका सहयोग बहुत आवश्यक है।

वर्ष 2009 में सरकार ने निःशुल्क और अनिवार्य शिक्षा के अधिकार का कानून बनाया था और लागू करने का आश्वासन दिया था। RTE 2009 के तहत बच्चों को पास फेल की प्रक्रिया से मुक्त किया गया, बच्चों की शिक्षा में कमियां आयीं तो उन्हें ही घेर लिया गया। यह वो पेच है जिसमें बड़ों की नाकामी छिपाना कितना आसान है। जरा समझने की कोशिश करते हैं।

### 1. बच्चों ने पढ़ना छोड़ दिया है। मेहनत नहीं करते। यह तर्क भी असंगत है।

क्या बच्चों ने पढ़ना छोड़ दिया है। जिसको आज की सरकार बाल विरोधी मानकर मूलरूप से इससे दिए गए बालसंगत प्रावधानों को कानूनी रूप से हटा रही है। स्कूलों की उबाऊ नीरस प्रणालियाँ बच्चों की कौतूहल भरी नैसर्गिक प्रवृत्ति के खिलाफ है। बच्चे ऐसी पढ़ाई से भागना चाहते हैं तो कुछ भी गलत नहीं। शब्दों को पढ़ना-लिखना सीखना, सीखने की अनगिनत प्रक्रियाओं में से केवल एक प्रक्रिया है। गिजुभाई के शैक्षिक प्रयोग, सीखने की मनोवैज्ञानिक समझ व हमारे अपने शिक्षण-अनुभव सभी यही बतलाते हैं कि बच्चों को अलग-अलग तरीके से सीखने के मौके मिलने चाहिए।

कक्षा में बच्चों को सवाल पूछने के लिए उत्साहित नहीं किया जाता, याद करने पर जोर दिया जाता है। परीक्षा की व्यवस्थाओं में हमने यह जांचने के तरीके तो सीखे ही नहीं। हम बड़े अपनी नैसर्गिकता बहुत पहले ही छोड़ चुके हैं। बच्चों को सही या गलत के पैमाने बनाना आया या नहीं। बच्चों को प्रयोग करने के लिए सोचना आता है या नहीं। बच्चों की प्रकृति से ताल मिलाने की जरूरत हम बड़ों को है। ऐसा किए बिना हम किस तरह यह घोषणा कर सकते हैं कि बच्चों ने पढ़ना छोड़ दिया है। RTE के प्रावधानों को अगर शाब्दिक अर्थ में समझने की भूल करेंगे तो दोष बच्चों पर ही लगाए जाएंगे। RTE 2009 एक्ट के प्रावधानों में छिपे शिक्षण दर्शन, जिसमें बच्चे को नादान नहीं बल्कि समझदार व्यक्ति की तरह देखा जाता है, इस विचार को समझे बिना No Detention और सतत् और व्यापार मूल्यांकन (CCE) जो कि इस एक्ट के प्राण हैं, इन्हें हटा देना पूरी तरह पीछे जाने वाला कदम होगा।

### 2. जो बच्चे पिछली कक्षा का नहीं सीखे वे आगे कैसे बढ़ पाएंगे? इसलिए उन्हें पिछली कक्षा में ही रहना चाहिए या फिर यह शिक्षकों की असफलता का प्रमाण है।

सीखने का रिमोट कंट्रोल बच्चे के ही दिमाग में होता है जो लगातार कार्यशील रहता है। यह कोई मनगढ़ंत धारणा नहीं है। शिक्षा की रिसर्च द्वारा स्थापित सच है। उपरोक्त स्कूली परिभाषाओं ने 'सीखने' की प्रक्रियाओं को नीरस, उबाऊ, चेतन हीन बनाया ही है, बच्चों को जाँचने की प्रक्रियाएं उससे भी ज्यादा उबाऊ, बोझिल व चेतनहीन हैं। आधी-अधूरी समझ के आधार पर बच्चों को फेल कर पिछली कक्षा में छोड़ना यानी आगे बढ़ने के हौसले को तोड़ देना। क्या यह बच्चों के लिए न्याय संगत है?

RTE 2009 एक्ट से पहले के दौर में 'फेल' के लेबल के साथ पिछली कक्षा में छूटे हुए बच्चे अक्सर हीनता का शिकार होते थे। मुश्किल होता था अध्यापक के लिए समझ पाना और बच्चे के लिए यह बता पाना कि स्कूली रिमोट कंट्रोल के अलावा भी 'मैं बहुत कुछ सीखती/सीखता और जानती/जानता हूँ।' 'मेहनत' करने में करना क्या है? कोई नहीं बताता। एक तरह से जिम्मेदारी पूरी तरह से दौड़ में पीछे छूटे बच्चे/बच्ची की ही होती थी। कोई बच्चा लिखना-पढ़ना और रटने में माहिर क्यों नहीं हो पाया, इसकी पड़ताल करने के लिए क्या समझ-बूझ और फुर्सत दोनों चाहिए जो हम बड़ों के पास होती नहीं। सरकार मुँह मोड़ना चाहती है। फेल करने की पुरानी शिक्षा प्रणाली को पुनः लागू करने से एक बार फिर बच्चे परीक्षा की जकड़न में बंध जाएंगे।

RTE 2009 एक्ट में इसकी जिम्मेदारी, सरकार और माता-पिता पर है, जो शिक्षक भी इस जिम्मेदारी से बरी नहीं है। शिक्षक की तो सीधे-सीधे जिम्मेदारी है कि वे बच्चों को मार-पीट से नहीं बल्कि प्रेम पूर्ण वातावरण में पल्लवित होने के मौके दें। इसलिए तो सजा पर पाबंदी का कानून बनाया गया है। ताकि बच्चों को स्कूल में आना अच्छा लगे। पिछले दौर का अनुभव यह बताता है कि फेल होने वाले बच्चे स्कूली व्यवस्था में लड़खड़ा कर अक्सर स्कूल छोड़ जाते थे। आंकड़ों ने इसकी पुष्टि की है।

### 3. हमने सुना है कि इम्प्रूवमेंट के लिए पुनः परीक्षा का प्रावधान पुनः लाया जा रहा है।

जो बच्चे को साल भर में पढ़ाई से जोड़ नहीं पाए वह शिक्षक उनको एक-दो महीने में कैसे जोड़ पायेंगे। दुबारा फेल करने से बच्चों को एक बार फिर अपनी क्षमता पर मानसिक धक्का लगेगा। असमर्थता का एहसास कराया जायेगा। पुनः परीक्षा अपने आप में किसी सजा से कम नहीं होती थी। बच्चों के मुरझाए चेहरे हमें आज भी याद आते हैं। जब शिक्षक के लिए यह तय करना मुश्किल होता था कि पुनः परीक्षा में बैठने वाला बच्चा पिछली कक्षा के साथ बैठे या अगली कक्षा में? नम्बरों की दौड़ में धीरे चलने वाला बच्चा यदि पिछली कक्षा में बैठता तो पास होने की स्थिति में अगली कक्षा की पढ़ाई छूटती और अगर आगे की कक्षा में बैठता तो फेल होने की स्थिति में पिछली कक्षा के दोबारा वाली पढ़ाई छूट जाती। बच्चों को निजात मिली थी इस बेकद्री से।

### 4. बच्चे बेहद लापरवाह हो गये हैं? यह भी आरोप है बच्चों पर।

बच्चे तो स्वभाव से चंचल होते हैं। बच्चे बेपरवाह तभी होते हैं जब स्कूली पढ़ाई सिर्फ कर्मकांड बन कर रह जाती है, जब सीखने का कोई आनंद नहीं होता। जब सीखना उद्देश्यहीन लगता है। सीखने के तरीके उद्देश्यपूर्ण, आनंदपूर्ण हो जाएं तो सीख न पाने और फेल होने की नौबत ही नहीं आती। RTE ही इसका हल है।

### 5. सोचा जा रहा है कि कक्षा पांच और आठ के बाद बोर्ड की परीक्षा कर दी जाए ताकि बच्चे पढ़ाई के लिए गंभीर हो जाएँ।

सीखने-सिखाने के तरीके बदलते ही परीक्षा के मूल्यांकन के उद्देश्य पूर्ण तरीकों की समझ खुद ही अध्यापक को आने लगती है बशर्ते कि अध्यापक को इसकी छूट मिले। RTE और CCE से यही तो अपेक्षा थी। CBSE या किसी अन्य बोर्ड के एक्सपर्ट सुदूर गांव में पढ़ने वाले बच्चे की जांच के तरीके कैसे निकालेंगे? जबकि उन्हें पता ही नहीं कि शिक्षक और बच्चे के बीच क्या संवाद हुआ या शिक्षक और उसके विद्यार्थियों के बीच क्या शैक्षिक क्रियाकलाप हुए? कुछ प्रश्न जिनके उत्तर हम सबको सोचने चाहिए। खुद सायकिल चलाना सीखने के लिए कब लिखित जानकारी चाहिए। ढेरों ढेर खेल जो हर बच्चा खेल सकता है, वे कौन सी किताब में लिखे रहते हैं? कौन सी परीक्षा दे कर बच्चे अनेकों खेलों में महारत हासिल करते हैं? हमारे अपने रविन्द्रनाथ टैगोर, अरविंदो, महात्मा गांधी जैसे मनीषियों के दिए गए शिक्षा-दर्शन में कब बोर्ड परीक्षा की बातें थी। हमारी नजर में ये सब महान लोग बिल्कुल भी पिछड़े हुए (outdated) नहीं हैं। हमने इनकी सीख को अपने स्कूलों में उचित स्थान दिया ही नहीं है। हमने इनको समझा ही नहीं है। जिन सब नामों की चर्चा हमने की है उन सभी ने एक बात अपने लेखन में किसी न किसी रूप में कही है, वह यह है कि लिखना पढ़ना सीखने के लिए माहौल खुशनुमा होना ही चाहिए। बच्चों को फेल पास के छलावे में धकेल कर हम क्या हासिल करना चाहते हैं। हम बड़ों पर आरोप लगाने में जरा भी शर्म नहीं आती कि असल में हम 'बड़े' ही स्कूली शिक्षा के लिए गंभीर नहीं हुए हैं। सरकार का तर्क है कि बच्चे परीक्षा के डर से ही पढ़ने लिखने की प्रक्रिया से जुड़ेंगे। पढ़ने सीखने के लिए डर बहुत जरूरी है और यही वातावरण कई स्कूलों में बनाया जा रहा है। वही घरों में भी पढ़ो याद करो नहीं तो परीक्षा में फेल हो जाओगे। मासूम बचपन पर आरोप लगाते हुए हमें शर्मसार होना चाहिए।

अच्छा शिक्षक बच्चों का बेसिक अधिकार है। पहले सरकार बच्चों की इस बुनियादी जरूरत को पूरा करे फिर यह बाल-विरोधी प्रावधानों की जरूरत नहीं होगी।

CCE के महत्वपूर्ण प्रावधानों को सफल बनाने के लिए सरकार की कोशिश होनी चाहिए कि सभी बच्चों को आवश्यक संख्या में अध्यापक मिलें, न कि काम चलाऊ संख्या में। साथ ही शिक्षक बनाने वाली संस्थाओं में वृद्धि हो। देश में जो शिक्षण का नकली तंत्र चला हुआ है उसको जड़ से बदलने की जरूरत है। शिक्षा का ढोंग अब इस देश में बंद होना चाहिए। सुविधाओं की मांग तो हमारे छोटे बच्चे क्या ही करेंगे। हम बच्चों की तरफ से माता-पिता यह आवाज उठाना चाहते हैं कि स्कूलों में शिक्षक तो दो उन्हें फेल करार देने की बात फिर करना।

कुसुम जैन

अध्यक्ष

सार्थक शिक्षा के लिए माता-पिता फोरम (पी.एफ.एम.ई.)

### **Anti-child provisions introduced by Government in RTE 2009**

The Right to Compulsory and Free Education Act, 2009 made education a fundamental right of every child between the ages of 6 and 14. The provision of free and compulsory education also stipulates that no child will be held back, expelled or required to give a Board examination till the completion of elementary education. Research-based evidence clearly demonstrates that failing or holding back a learner to repeat the same grade has minimal relevance for cognitive, social and/or personal development. Besides this, the high drop-out rate of such learners from the school-system leads the advocates of universal elementary education to seek educational access and opportunity without holding back the weak students. The provision of identifying the weaknesses through diagnosis and providing remedial inputs is very important. This issue also highlights the need for the appropriate student-teacher ratio and qualified and trained teachers. Without meeting this provision of the RTE, why and how are we ready to change the Act, since it clearly shows that the requisite measures are not in place.

An unfortunate reality of our school system is that it lives up to the adage of being like the tail that wags the dog – in other words it is heavily focussed and dependent on the end *viz.*– the examination, rather than the process of learning. It is the exams which dictate the classroom transactions and there is a heavy focus on performance in the one-time (regular) examination rather than on learning. The propensity of relying on structured knowledge leads to resort to rote learning and tuitions. The move towards continuous and comprehensive processes of learning and evaluation was a part of the National Curriculum Framework (NCF) 2005 brought out by NCERT and was formally implemented right across the country with the RTE 2009. The current move away from CCE through the proposed amendment 2017 by Human Resource Development Ministry has misunderstood the core issues dogging this process and may well be an exercise of throwing away the bath-water with the baby. HRD amendment wants the school system must do away with the practice of Continuous and comprehensive evaluation and reintroduce the old (regular) heavily reliant on tests and examinations; instead strengthening of Continuous and Comprehensive Learning. The procedures and processes to enhance children's capacities and capabilities must be an on-going exercise taken up through various activities, tasks, projects and assignments during which teachers observe, analyse, assess, monitor, judge, examine and evaluate children's progression and development. This includes informal, regular observations or scrutiny of the teacher in the classroom and school settings along with formal assessments of tasks and assignments taken up in class or given as home-assignment.

The responsibility of providing academic, research-based inputs to schools have basically been assigned to the National Council of Educational Research and Training. However, the task of taking up the implementation of CCE was assigned to or was taken up by the CBSE. Although named the Central Board of Secondary Education, the CBSE has mainly focussed on examinations and ignored some important policy initiatives needed in the school system. CBSE focussed on the assessment and evaluation exercises in the name of Formative and Summative Assessments (FA and SA respectively) which has further aggravated the situation by perpetuating the already heavy reliance on testing and evaluation. Here it is important to point out that the very nature of formative assessment is getting learners to take up

various tasks, activities and assignments which are process-driven and have teacher feedback mechanisms which allow for development of profiles of each learner with qualitative remarks on individual capabilities and capacities.

The limited and flawed or warped understandings and distorted implementation of CCE has led to various issues emerging in schools and this has resulted in the pervasive confusions and chaos that are now to be found in the entire educational system. As a nation we are apparently ready to a step that will play a decisive role in condemning our educational system to the old and flawed practices which clearly indicates that we have no qualms in playing with our children's future. We need to recognize the merits of having a system of continuous and comprehensive learning in our schools so that we are able to actually achieve our goals of meaningful education for children.

# Vidhi

Centre For Legal Policy  
Better Laws. Better Governance

## SUBMISSION TO THE PARLIAMENTARY STANDING COMMITTEE ON HUMAN RESOURCE DEVELOPMENT

*Amendment to the No Detention Policy in The Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017*

Dhvani Mehta  
Nivedita Saxena

### SUBMISSIONS

- I. The Vidhi Centre for Legal Policy ("Vidhi") is an independent think-tank based in New Delhi doing legal research and assisting Government in making better laws. Vidhi has done legal research on the Right of Children to Free and Compulsory Education Act, 2009 ("RTE Act") over the last three years (2014-2017) and has published and contributed to independent research reports and made independent submissions to Government. An overview of its work in the area of education is set out below:
  - (A) Independent Report on Regulation of Private Schools in India (2017)<sup>1</sup>;
  - (B) Independent Report on Right to Education and Minority Rights (2016)<sup>2</sup>;
  - (C) Submissions to the Ministry of Human Resource Development ("MHRD") on the New Education Policy (2016)<sup>3</sup>; and
  - (D) Contributions to the State of the Nation: RTE Section 12(1)(c) Reports (2015, 2016 and 2017)<sup>4</sup>.
- II. Vidhi wishes to make the following submissions to the Parliamentary Standing Committee on Human Resource Development on the partial reversal of the No Detention Policy ("NDP") in the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017 ("the Bill").
- III. Since the enactment of the RTE Act, several government and non-government entities have carried out studies to assess its functioning. Through these assessments, data is collected on a range of parameters, including learning outcomes, retention, transition and drop-out rates for each class. So

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<sup>1</sup> Available at <<https://vidhilegalpolicy.in/reports-1/2017/5/1/regulation-of-private-schools-in-india>>

<sup>2</sup> Available at <<https://vidhilegalpolicy.in/reports-1/2016/1/19/right-to-education-and-minority-rights>>

<sup>3</sup> Available at <<https://vidhilegalpolicy.in/reports-1/2016/10/13/submissions-to-the-ministry-of-human-resource-development-on-the-new-education-policy>>

<sup>4</sup> Available at <<http://www.centuralsquarefoundation.org/wp-content/uploads/2015/08/State-of-the-Nation-RtE-Section-12-1-c.pdf>> and <<http://centuralsquarefoundation.org/wp-content/uploads/2017/08/SOTN-Report-2017.pdf>>

far, all conclusions with respect to the success (or failure) of the NDP have also been based on this data.

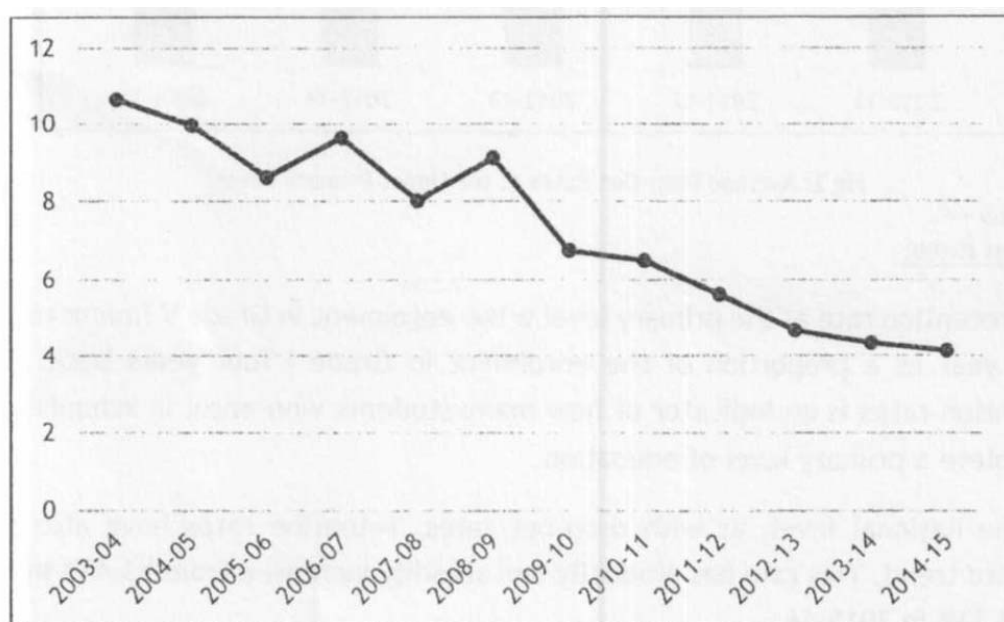
However, no specific and focussed studies have been undertaken to rigorously examine the implementation and impact of the NDP.

IV. We have briefly summarised the data from the Unified District Information System for Education ("U-DISE") School Education in India Reports, developed by the National University of Educational Planning and Administration ("NUEPA"). An analysis of this data demonstrates that it is inadequate to draw any conclusions about whether the NDP should be retained or not.

#### (A) Average Annual Drop-out Rate:

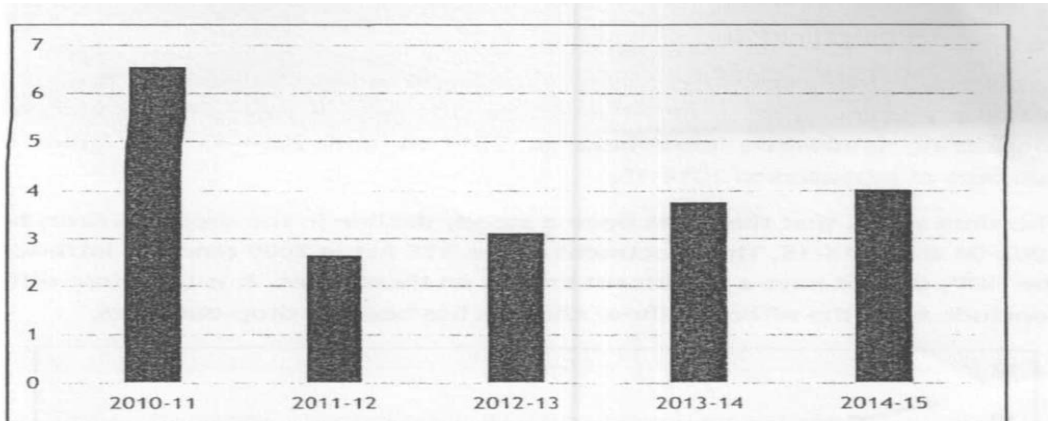
The average drop-out rate represents the average of grade-specific drop-out rates in Primary Grades (*i.e.* grades I to V). For the year 2014-15, it was calculated by considering grade-wise enrolment in 2013-14 and 2014-15 and grade-specific numbers of repeaters in 2014-15.

This data shows that there has been a steady decline in the drop-out rates between 2003-04 and 2014-15. The enactment of the RTE Act in 2009 (and the introduction of the NDP) did not have a significant impact on these rates. It is therefore difficult to conclude what the effect of these changes has been on drop-out rates.



**Fig 1: Average Drop-Out Rates at the Primary Level**

Some data is also available on the drop-out rates at the upper primary level (*i.e.* grades VI-VII). Since this data was only collected post the enactment of the RTE Act, it is difficult to ascertain the impact of the introduction of the NDP on drop-out rates at the upper primary level. However, there has been a general decline in these rates since the RTE Act came into force, as Fig 2 below demonstrates.

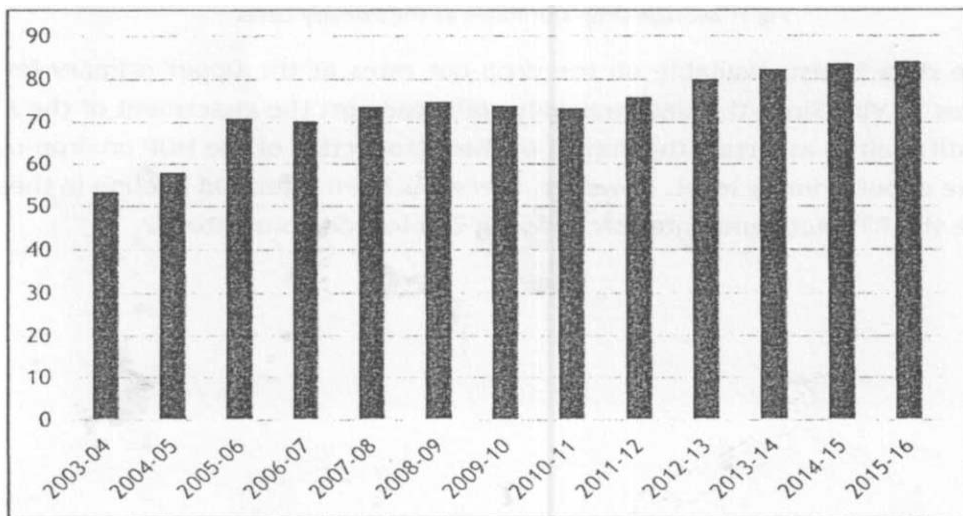


**Fig 2: Average Drop-Out Rates at the Upper Primary Level**

### (B.) Retention Rate:

The retention rate at the primary level is the enrolment in Grade V (minus repeaters) in a year as a proportion of the enrolment in Grade I four years back. Data on retention rates is an indicator of how many students who enrol in schools go on to complete a primary level of education.

At the national level, as with drop-out rates, retention rates have also seen an upward trend. This rate has gradually and steadily increased from 53.43% in 2003-04 to 84.21% in 2015-16.

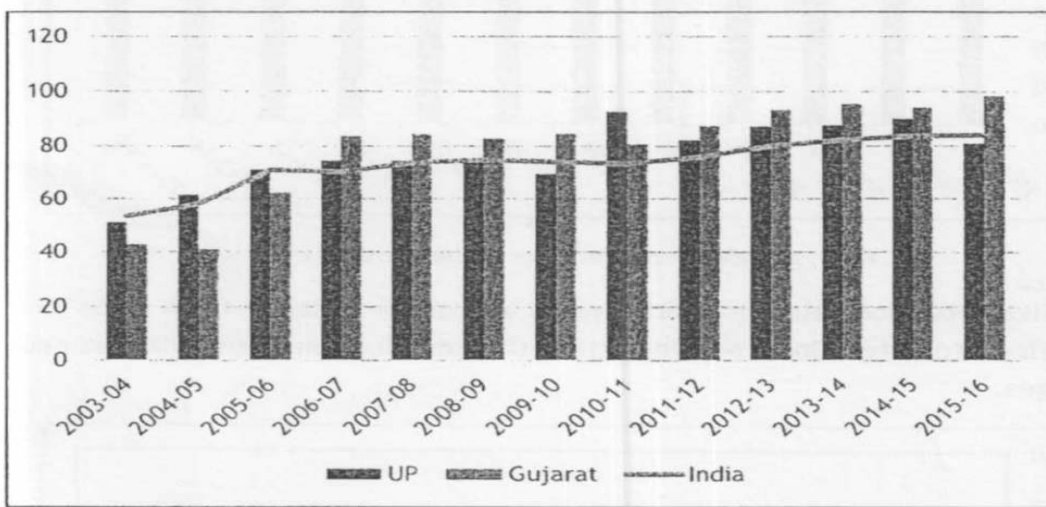


**Fig 3: All-India Retention Rates at the Primary Level**

As we have argued before,<sup>5</sup> these education indicators are a function of several other factors such as socio-economic indicators, school infrastructure and the availability of teachers. This is evident from state-specific data on retention rates, which vary widely across the country and do not show a clear upward or downwards trend. As an example, we have plotted retention rates from Uttar Pradesh and Gujarat in Fig 4. It is evident that no clear correlation can be made between these rates and the NDP.

<sup>5</sup>Shruti Ambast and Akriti Gaur, 'Don't Make the No-detention Policy the Scapegoat for Poor Learning Outcomes' The Wire (17 August, 2015) <<https://thewire.in/8637/dont-make-the-no-detention-policy-a-scapegoat-for-poor-learning-outcomes/>>accessed 1 November, 2017.



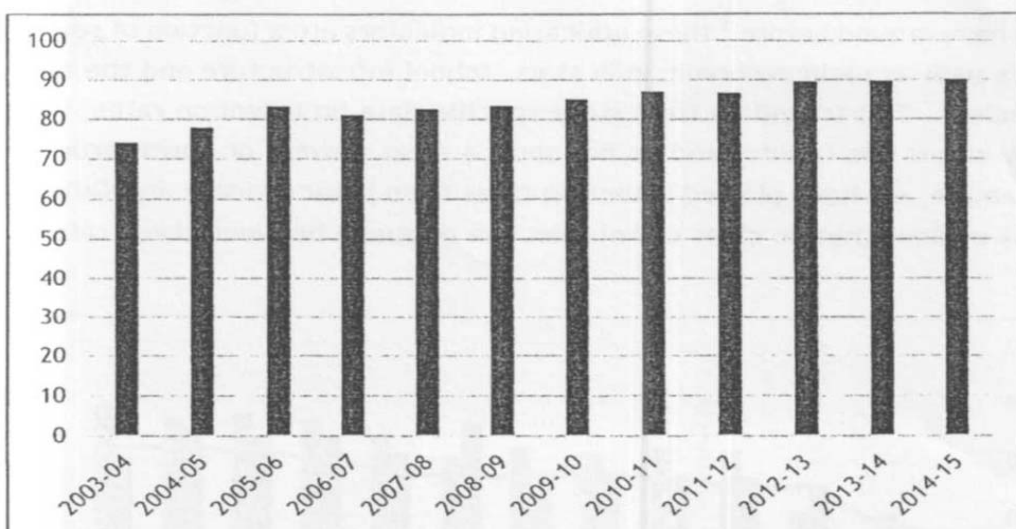


**Fig 4: Retention Rates in UP and Gujarat**

**(C) Transition Rate:**

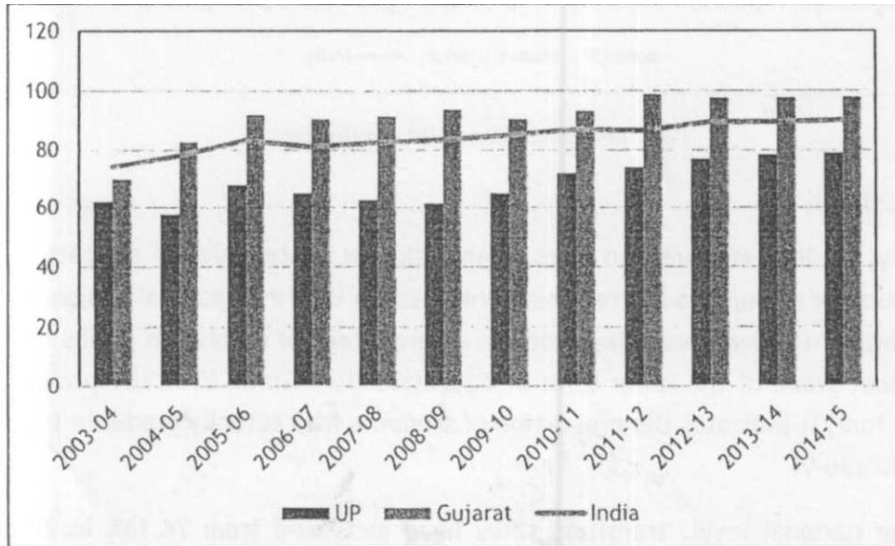
Finally, we look at transition rates as an indicator of standards of education. This is the number of pupils admitted (new entrants) to the first grade of a higher level of education in a given year, expressed as a percentage of number of pupils enrolled in the final grade of the lower level of education (*i.e.* Grade V) in the previous year. Therefore, it indicates the proportion of students who actually graduate from Grade V to Grade VI.

At the national level, transition rates have increased from 74.15% in 2003-04 to 90.14% in 2015-16. As shown in Fig 5 below, there has been only a marginal increase in these rates since the enactment of the RTE Act.



**Fig 2: All India Transition Rates at the Primary Level**

Just like retention rates, transition rates also show variance from state to state. It is difficult to determine from this data if the introduction of the NDP has caused any changes.



**Fig 6: Transition Rates at the Primary Level in UP and Gujarat**

It is therefore clear that more detailed and rigorous studies will be required to determine if the NDP has had a positive or negative effect on these outcome indicators.

- V. In the absence of clear evidence that the NDP is strongly correlated with poor learning outcomes and high dropout rates, the benefit of doubt must lie in favour of retaining the NDP. This is because of the vital role that it plays in eliminating the vocabulary of failure from the elementary education system, thereby securing the healthy emotional development of children. This is in keeping with India's international obligations under the United Nations Convention on the Rights of the Child. Article 29(1)(a) of this Convention states that the education of the child should be directed to the 'development of the child's personality, talents and mental and physical abilities to their fullest potential.' General Comment No.1 on the Aims of Education and drawn up by the Committee on the Rights of the Child elaborates on this provision in the Convention and states that education ought to help realise and build a child's dignity, self-esteem and self-confidence.<sup>6</sup> The NDP is geared towards fulfilling these aims. Any reversal of the NDP that reintroduces systems of assessment based on 'pass' and 'failure' are likely to have a damaging effect on such self-esteem and self-confidence, thereby placing India potentially in breach of its obligations under the Convention.
- VI. As stated earlier, poor learning outcomes cannot be attributed solely to the NDP. Several experts have pointed out that factors like inadequate teacher training or poor implementation of comprehensive and continuous evaluation also have an important role to play in determining learning levels.<sup>7</sup> No change to the NDP should be made without simultaneous structural reforms to teacher training and achievement of the prescribed pupil-teacher ratio.<sup>8</sup>

<sup>6</sup> CRC/GC/2001/1 (17 April 2001).

<sup>7</sup> See e.g., Gunjan Sharma, Reversing the Twin Ideals of Right to Education: No Detention and Continuous and Comprehensive Evaluation, *Econ Et Pol Weekly* Vol LI No 9 (February 27, 2016) 85.

<sup>8</sup> Gaur and Ambast (n 5).

- VII. Divided opinions over the NDP show that there is a need to think more rigorously about evidence-based law-making, especially in the context of the RTE Act, where the law must be guided by scientifically sound monitoring and evaluation (General Comment No. 1 of the Committee on the Rights of the Child also makes this recommendation<sup>9</sup>). Rather than enter into a debate on the merits and demerits of the NDP (we have already expressed ourselves in favour of its retention), we wish to take this opportunity to draw the attention of the Standing Committee to the process that ought to be observed before a step of this magnitude is taken.
- VIII. Any appropriate government that desires to make an amendment to the NDP must base its decision on evidence regarding the effectiveness or failure of the policy. This evidence may be obtained in the following ways:
- (A) The appropriate government could obtain the opinion of the State Advisory Councils constituted under Section 34 of the RTE Act on the advisability of amending the NDP.
  - (B) The State Advisory Council should make its recommendations based on the research and review conducted by the National Advisory Council ("NAC"). Rule 30 of the Right of Children to Free and Compulsory Education Rules, 2010 ("the Rules") state that the NAC shall review the implementation of Section 29 (which deals with the curriculum and evaluation procedure and is closely linked to the success and failure of the NDP), shall commission studies and research for the effective implementation of the Act, and prepare reports relating to the reviews, studies and research undertaken by it. The NAC is therefore to undertake or commission research on the effectiveness of the NDP.
  - (C) In fact, the Rules could be amended to explicitly allow the appropriate government or the SAC to request the NAC to conduct research on various aspects of amendment policy.
- IX. The appropriate government may take a decision to amend the NDP only after observing the above procedure. Any such amendment must be accompanied by a reasoned decision that takes into account the research and recommendations obtained from expert bodies.
- X. If an amendment is made to the NDP, it must be accompanied by the following safeguards:
- (A) It must have a sunset clause. Any amendment to Section 16 of the RTE Act must also state that the permission granted to schools to detain students will lapse after a fixed period from which the amendment came into force. The duration of this period may be determined by expert bodies like the SAC, NAC and the National Council of Educational Research and Training ("NCERT") and must allow for a reasonable evaluation of the amended NDP.
  - (B) If at all detention is permitted, terms like 'pass', 'fail' or any other similar terms that may have a damaging effect on a child's self-esteem and self-confidence should not be allowed to form part of the vocabulary of the evaluation procedure. The notified academic authority under Section 29 should develop an appropriate form of assessment that treats detention not as a failure, but as a support measure to help realise the child's full potential.

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<sup>9</sup> (n 6). At para 22, the Comment states that 'the Committee calls upon State parties to devote more attention to education as a dynamic process and to devising means by which to measure changes over time.'

XI. An amendment of the NDP should only be introduced after a comprehensive consultation to determine the manner in which detention ought to be regulated. Some of the factors that such regulation ought to take into account are:

- The years in which such detention may be permitted;
- The maximum number of times that a child may be detained;
- The duty of teachers to identify children at risk of being detained and the subsequent obligation to provide special training or additional instruction;
- The final authority to determine whether or not a child should be detained. This could exclusively be the teacher heading the class in which the child is studying, or all the teachers providing instruction to the child, or all the teachers of the school. The role of School Management Committees in making decisions on detention could also be considered;
- The duty to inform and consult with parents before making a decision to detain a child;
- The duty to counsel a child who has been detained to prevent psychological or emotional damage;
- The factors that ought to be taken into account in determining whether or not a child should be detained. The NCERT could take an active role in framing guidelines in this regard;
- The possibility of appealing a decision of detention and the process that such appeal should follow.

XII. These factors have been drawn from a study on detention regulations across countries in Europe,<sup>10</sup> most of which permit grade repetition. Naturally, there are vast differences between the educational systems in Europe and India and not all of the above provisions may be relevant or suited to the Indian context. Nevertheless, they are still important questions that must be considered before making an amendment to the NDP.

XIII. The current Bill only addresses two questions: the year of education in which children may be detained and the opportunity that they must be given to avoid detention. As the above list, there are several questions that the MHRD has not applied its mind to while introducing this amendment. No change to the NDP should be made until these questions have been thoroughly discussed.

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<sup>10</sup> European Commission, 'Grade Retention during Compulsory Education in Europe: Regulations and Statistics' (Education, Audiovisual and Culture Executive Agency 2011).

# Vidhi

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**To fail or not to fail?**

- Ankit Saraf and Ketan S. Deshmukh

**Abstract**

Bill No. 166 of 2017 which aims to amend The Right of Children to Free and Compulsory Education Act, 2009, and allows appropriate government to detain a child in the fifth class or in the eighth class or in both classes, is not based on empirical evidence and is rather driven by misplaced beliefs and flawed implementation of specific provision of the 2009 Act.

**Introduction**

The Right of Children to Free and Compulsory Education (RTE) Act, 2009 has been heralded as landmark legislation by educators as it introduced some radical changes such as the No-Detention Policy (NDP), and Continuous and Comprehensive Evaluation (CCE), concepts based on the true goals of education and recognized world-wide as sound principles of pedagogy and assessment (NCERT, 2005). However, Bill No. 166 of 2017 aims to amend the Act, and allows appropriate government to detain a child in the fifth class or in the eighth class or in both classes. We believe that such a view has been taken without informed discussion on the specific and deeper issues related to the NDP. In this article, we use ten years of national data from Annual Status of Education Report (ASER) from 2006 to 2016, to present evidence that implementation of the NDP has not systematically lowered the learning levels of students - a popular perception with respect to NDP. We also present multiple reasons as to why a pre-mature amendment of the 2009 Act specific to Section 16 is disturbing and problematic. This second amendment to the 2009 Act would also have indirect consequences for the CCE clause prescribed in Section 29 (h) of the Act, which has to necessarily be seen in conjunction with the NDP, as together they make for a different system of learning.

The bill, which has been supported by multiple stakeholders including teachers, state governments and their education ministers, policymakers, and parents (but not the children), is based on the assumption that learning levels, as measured by achievement tests conducted by both state and non-state agencies, are falling because of not conducting regular examinations and not holding back the child. The major criticisms that have been put forward for doing away with the current version of section 16 in the Act include students are no longer serious as there is no fear of failure, attendance of students has dropped, teachers are not able to maintain discipline, that parents are no longer strict with their children regarding learning, and that the percentage of students repeating grade 9 is increasing across the country. Such attribution of fall in student learning outcomes to the no-detention policy is both unsubstantiated and misguided, and the real reasons for the falling learning levels have been conveniently neglected in this fervour of amending section 16 within the Act. Within this context, we begin with a discussion on the reasons behind inclusion of the provision of NDP in the 2009 Act, and move on to quantitatively analyze the ASER dataset to find evidence which supports or rejects the hypothesis of fall in student learning levels due to implementation of the NDP. This is followed by an analysis of the problematic arguments which have led to drafting of this bill for amendment of the Act.

### **Rationale for the No-Detention Policy (Section 16 of RTE Act, 2009)**

The current bill for amendment of the Act will effectively undo the stance taken by the Ministry of Human Resource Development in 2012 which states- "*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. (MHRD, 2012)*" This stance of the MHRD clearly conveys the strong equity concerns that led to the NDP, and the effort to undo the wastage in the schooling system due to high repetition and dropout rates, that plagued the Indian education system in the 1990s (UNESCO, 1998).

Moreover, this stance was coupled with the provision of CCE, the twin pillar of the NDP, which was envisaged as a non-threatening, holistic evaluation framework that would release the child from the fear and trauma of failure and would enable the teacher to pay greater attention to each child's learning and performance. When the NDP is seen holistically with other provisions of the Act such as CCE, age appropriate admissions, no board examinations till grade 8, no corporal punishment and a stress-free teaching-learning environment, it creates a non-threatening school environment, conducive for learning for children (Sharma, 2016). Further, there is no research evidence from anywhere in the world that indicates that grade repetition impacts children learning positively and helps them perform better (MHRD, 2012). However, there is research that does prove the adverse academic, social and emotional effects of grade repetition on children (Jimerson, 2001; Manacorda, 2012; Diris, 2016).

### **Impact of NDP on Learning Levels**

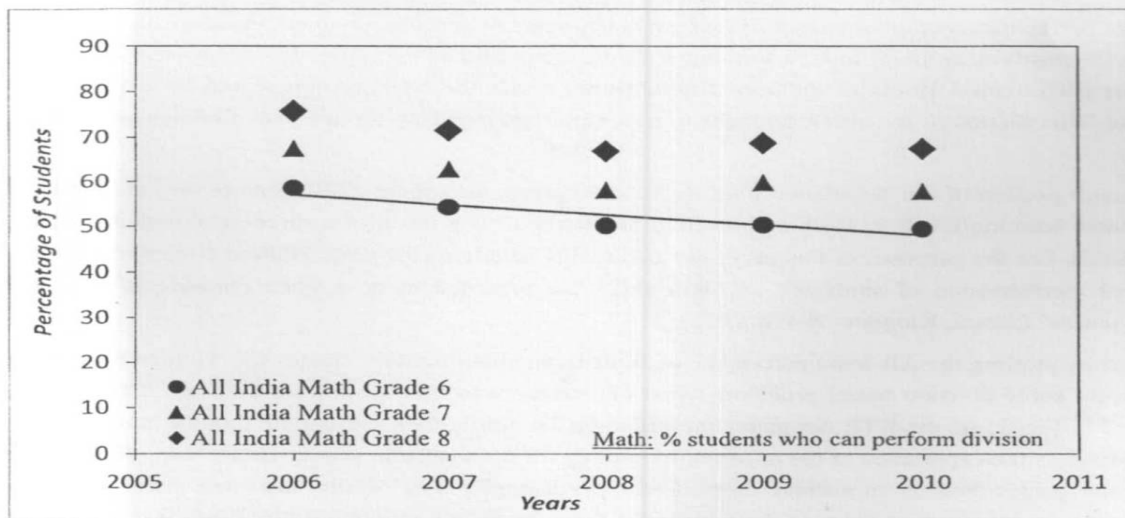
In order to find evidence for the hypothesis that NDP leads to fall in learning levels due to multiple reasons as enunciated above, we plan to look at the learning levels before and after the implementation of the no-detention policy, *i.e.* Section 16 of the RTE Act, 2009. Assuming that detention improves learning levels of students, we track the performance of students of a given grade in the period before the implementation of the NDP, hoping to observe rising or steady levels of performance (*Assumption 1*). We expect to see this as under the detention system students would not be promoted unless they meet or exceed the required minimum levels of performance. Moreover, if the NDP causes systematic reduction in learning levels, we should see a comparatively downward or stagnant trend in student performance across the states in India (*Assumption 2*). This trend would be observed as the students would be promoted to the next grade without any compulsion of learning. Further, any tracking of the performance of specific cohorts of students being promoted under the NDP, should reflect stagnant levels of performance as those students move into later years of schooling without the requisite levels of skills (*Assumption 3*), *i.e.* if low-performing students are promoted and NDP dis-incentivizes learning, then the performance levels of the cohort taught only under the NDP system would be expected to stagnate. This section of the article attempts to find empirical evidence for expected findings articulated above.

As a major portion of our population lives in the rural areas, we expect ASER data to be indicative of the student learning levels in math and reading, as the report is a result of a survey conducted in rural households. For the purposes of this paper, we use ASER data from the years 2006 to 2016 and analyze the math performance of students<sup>1</sup>, as Math skills are regarded to be a good measure of "school effectiveness" (Azam, Kingdon, and Wu, 2015).

We start by plotting the All-India percentage of students in upper primary classes (*i.e.* Grades 6, 7 and 8), who could solve division based problems when the survey was conducted from 2006 to 2010, and is depicted in Fig. 1. As the RTE Act came into effect on 1st April 2010, we assume that the students had not undergone the experience of the no-detention policy till the academic year 2010-11. We observe that across the grades there is an average drop of nine percentage points<sup>2</sup> during this time interval (2006-2010). This finding runs contrary to *Assumption 1* made by us and propounded by many, *i.e.* under the detention system, the performance of students in a given grade would either improve or remain stagnant as they would necessarily need to meet or exceed the required minimum levels of performance.

The mathematical concept of division is taught at the Grade 4/5 level, and hence we look at the performance of Class 5 students in our analysis. Data at the state level shows that while some states such as Tamil Nadu and Manipur depict an increased level of performance from the academic year 2010-11, *i.e.* post implementation of NDP, the largest state of India (Uttar Pradesh) shows a stable level of performance (Fig. 2). Moreover, the densely populated of West Bengal has been able to arrest the rapid decline in learning levels post implementation of NDP. This finding runs contrary to *Assumption 2* made by us, *i.e.* NDP would lead to systematic reduction in learning levels of students across states as they would be promoted to the next grade without any compulsion of learning.

Finally, we trace the math skills of student cohorts who attended grade 3 in the years 2009, 2010, 2011 and 2012 (Fig. 3). For this, we consider the ability of a student to perform subtraction, a concept taught in grades 2 and 3, as a measure of math performance. Figure 3 shows that the learning levels of students in grade 3 in the year 2012 have not stagnated, and approximately match the learning levels achieved by grade 3 students in the years 2010 and 2011. To put it in other words, the students who have been completely taught under the NDP are able to show the same level of performance as those students who have partly been taught the same concept under the detention system, by the time they reach Class 7. This finding runs contrary to *Assumption 3* made by us, *i.e.* if NDP dis-incentivizes learning, then the learning levels of a student cohort only taught under the NDP system would stagnate over time.



**Fig 1: Graph of Math abilities of students in Grades 6, 7 and 8 from 2005-06 to 2009-10**



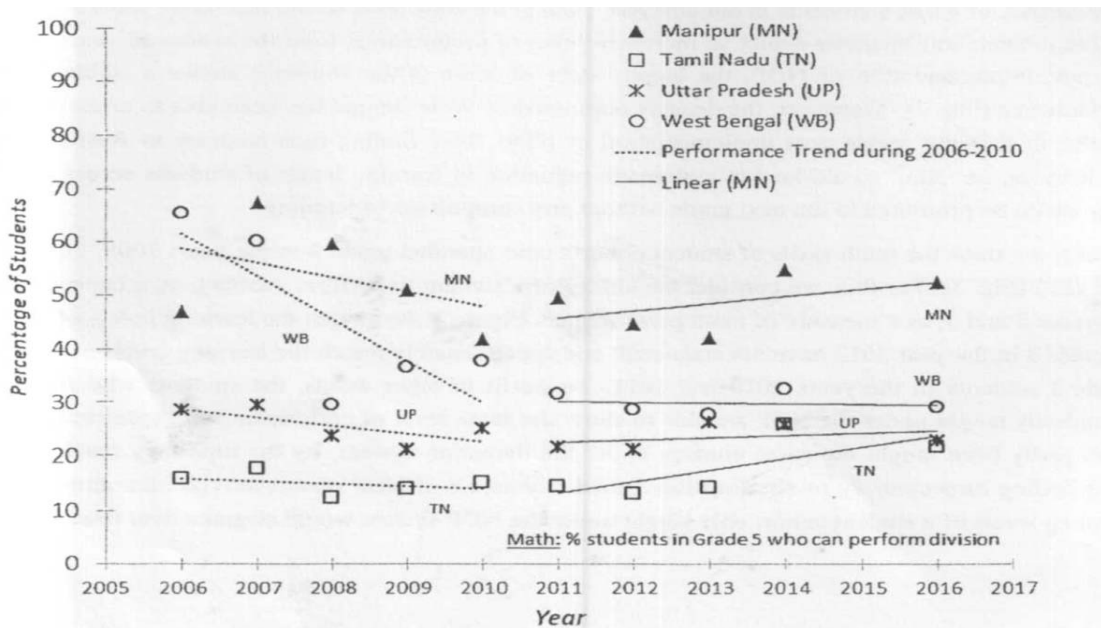


Fig 2: Graph of Math abilities of students in Grade 5 in select states from 2006-07 to 2015-16

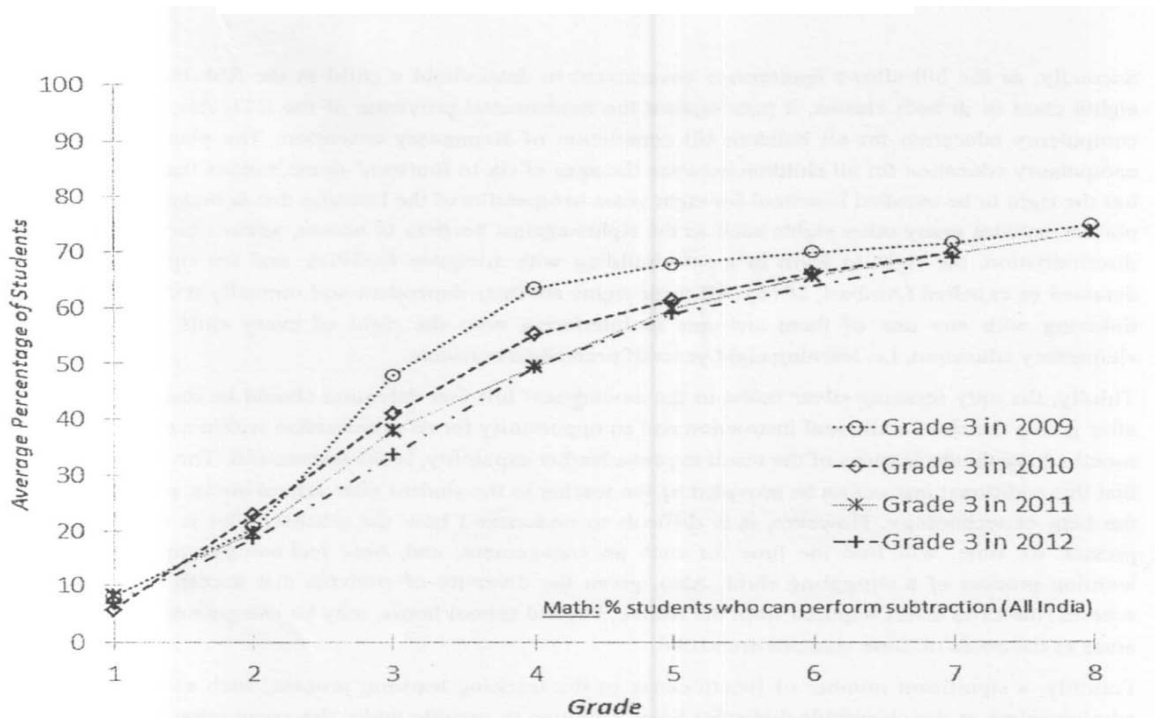


Fig 3: Graph of Math abilities of students in the same cohort

**No Detention Policy- Flawed Policy or Flawed Implementation?**

The implementation of the NDP under the RTE Act, 2009 suffers from several fallouts. For instance, the basic fact that NDP and CCE must go hand in hand, has been grossly overlooked. This

has been exacerbated by the misconception that no-detention means 'no assessments', although the same has been clarified by the MHRD in 2012. Despite issuance of guidelines by CBSE, NCERT, MHRD and state-level bodies at various points in time with respect to CCE (Ambast & Gaur, 2015), there continues to exist a lack of awareness regarding the finer aspects of CCE and its implementation. The concerted opposition towards NDP by several state governments and the consequent bill amending Section 16 of the Act is problematic for multiple reasons. Firstly, such an opposition to NDP for low learning levels rests the blame solely on the child and ignores the role of teachers, schools, and the government (Nawani, 2016). The basic question left out in this outright opposition to NDP is- "Why penalize the child, when the problem lies in the system?"

Secondly, as the bill allows appropriate government to detain/hold a child in the fifth class or in the eighth class or in both classes, it goes against the fundamental provision of the RTE Act, *i.e.* free and compulsory education for all children till completion of elementary education. The phrase 'free and compulsory education for all children between the ages of six to fourteen' doesn't mean that every child has the right to be enrolled in school for eight years irrespective of the learning that is being gained. The phrase includes many other rights such as the rights against barriers to access, against harassment and discrimination, the right to learn in a safe building with adequate facilities, and the right to not be detained or expelled (Ambast, 2016). All these rights are inter-dependent and mutually reinforcing, and tinkering with any one of them amounts to interfering with the right of every child to complete elementary education, *i.e.* learning eight years of prescribed curricula.

Thirdly, the only seeming silver bullet in the amendment bill that detention should be resorted to only after giving the child additional instruction and an opportunity for re-examination within a period of two months from the declaration of the result to prove his/her capability, looks impractical. The suggestion is that this additional instruction be provided by the teacher to the student after school hours, probably with the help of technology. However, it is difficult to understand how the teacher, who is mostly hard-pressed for time, will find the time for such an engagement, and, how technology would help the learning process of a straggling child. Also, given the diversity of students that access the state-run schools, the extra effort required from the teacher beyond school hours, may be categorised into several areas as the needs of these students are varied.

Fourthly, a significant number of functionaries in the teaching-learning process, such as teachers and administrators at the cluster/block/district level, continue to operate under the assumption that students cannot learn in the absence of fear of failure (Sharma, 2016), despite a lack of evidence that it can do so. Therefore, it seems that the problem of implementation may in fact be a problem of beliefs (amongst the teachers and administrators) in the underlying philosophy of NDP and CCE.

Lastly, failures in implementation of the policy are being interpreted as failure of the policy itself. NDP becomes useless in an environment where there is no, little or mis-implementation of the CCE policy. Due to lack of basic awareness and capacity for effective implementation of CCE, there is gap in the system of comprehensive assessment at the school-level, and thus the view of NDP as that of automatic promotion to the next grade, with or without learning. CCE, that assesses both cognitive and non-cognitive skills, and both academic and non-academic areas, gives the required buffer against the

need to fail children on a set of narrow and rigidly defined indicators of learning (Shanna, 2016). However, in its current form, CCE has been reduced to a series of assessments, resulting in multiple forms to be filled, and not as assessments that help timely teacher interventions. Flawed implementation doesn't mean flawed policy.

Hence, it is important that the failures of implementation of other key provisions of the RTE Act, such as CCE, pupil-teacher-ratios (PTRs) and availability of (qualified) teachers, are critically examined. It is unrealistic to expect that CCE would work in classrooms with high PTRs, and thus, any decrease in learning levels cannot be solely attributed to the NDP. We also need to recognize that this bill comes at a time when most teachers country-wide are still struggling to fully understand what CCE means or how the NDP impacts the learning processes inside the classrooms. This amendment bill comes due to questioning of the efficacy of the CCE model, rather than an active debate, involving multiple stakeholders, on the systematic adoption of the twin approaches of NDP and CCE, and integration of these policies with practices at the ground level. Scrapping section 16 of no detention policy is a retrograde step which will legitimize a system of education based on textbook (rote) learning, and would in effect take us back to the 'wastage in education' problem of the 1990s (UNESCO, 1998). Moreover, reliance on a system of detention for progress into the next grade tries to mask the incapacity of the system to teach first-generation learners and children with special needs.

## Conclusion

Our findings on the performance levels of students during the detention policy system are in line with the existing literature, which shows no positive impact of detention on learning (Jimerson, 2001; Manacorda, 2012; Diris, 2016). Our data analysis and resultant findings challenge the recommendation of bringing back detention at the upper primary stage to improve the learning levels. Based on our analysis of the current context, we conclude that education reform that consists of concepts like NDP and CCE should not be made scapegoat for the problems that lie at the heart of the education system. It would be unfair to attack the child-centric policy of NDP, as the constituency that gets most affected by it cannot speak for itself (Ambast, 2016), especially when enough time has not been given for the effective realisation and shaping of the radically different teaching-learning process envisaged by CCE and NDP. The Ministry of Human Resource Development must re-look at the current design and implementation failures to find solutions to them, instead of throwing the baby out with the bath water.

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## Notes:

<sup>1</sup> We also analyzed the ASER reading data and find similar results.

<sup>2</sup> Drop in performance in percentage points in 8th grade: 8.4, 7th grade: 9.6 and 6th grade: 9.2

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Keywords: NEP, RTE, Education, Policy, NDP, CCE

**Memorandum No.3**

**PRS LEGISLATIVE RESEARCH**

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November 6, 2017

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**Sub: The Right of Children to Free and Compulsory (Education (Second Amendment) Bill, 2017**

Dear Sir,

This is with reference to the press release by the Department Related Parliamentary Standing Committee on the Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017 inviting views on the Bill.

We enclose our comments in the attached note. Do let us know if you need any further analysis. We would be happy to give oral evidence before the Committee, if desired.

Best regards,

**CC: Chairman and Members of the Committee**

**PRS LEGISLATIVE RESEARCH**

**Comments on The Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017 submitted to the Standing Committee on Human Resource Development**

We wish to draw the attention of the Committee to three issues:

1. In relation to the rationale behind detention of children:
  - (i) *Advantages and disadvantages of detention:* There are two views on the practice of detaining children in school. It has been argued that automatically promoting all children to the next class reduces the incentive for children to learn, teachers to teach, and consequently contributes to lower learning outcomes. On the other hand, it has also been noted that detaining and compelling a child to repeat a class is de-motivating and leads to them dropping out of school.
  - (ii) *Systemic issues affecting learning outcomes:* Experts have highlighted that repeating a class due to failing in an exam presumes that the child is at fault and does not acknowledge the role of other factors that affect learning outcomes of children. These factors include teachers, school settings, nature of assessment, and age appropriate training.
2. Provisions of the Bill regarding assessment and detention are at variance with what most states have demanded. The question is whether these details should be determined by the centre or left to states.
3. An examination has to be conducted at the end of classes five and eight. It is unclear as to who will design and administer this examination: the centre, state, or the school.

**1. Rationale behind detention of children**

*[Clause 16] (1) There shall be a regular examination in the fifth class and in the eighth class at the end of every academic year.*

*(2) If a child fails in the examination referred to in sub-section (1), he shall be given additional instruction and granted opportunity for re-examination within a period of two months from the date of declaration of the result.*

*(3) The appropriate Government may allow schools to hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed, if he fails in the re-examination referred to in sub-section (2):*

*Provided that the appropriate Government may decide not to hold back a child in any class till the completion of elementary education.*

*(4) No child shall be expelled from a school till the completion of elementary education.*

*[Clause 38] (fa) the appropriate government will determine the manner and the conditions subject to which a child may be held back under sub-section (3) of section 16.*

### Issue: Advantages and disadvantages of detention

The Right of Children to Free and Compulsory Education (RTE) Act, 2009 specifies that children in classes one to eight cannot be detained. The Bill amends this provision to state that a regular examination will be held at the end of classes five and eight. If a child fails the examination he will be given additional instruction and will be required to take a re-examination. If the child fails the re-examination, the relevant central or state government have the choice to detain the child, and may allow schools to do so. There are two views on whether children should be detained or not for failing examinations.

Some experts argue that automatically promoting all children to the next class reduces the incentive for children to learn and for teachers to teach.<sup>1</sup> The Central Advisory Board on Education (CABE, 2014), National Achievement Survey (2012), and the Economic Survey (2016-17) observed declining and differential learning levels in elementary education even after the implementation of the RTE Act.<sup>2,3,4</sup> In 2016, 57.5% of children in Class III were unable to read a Class I level text. At the national level, 72.8% of children in Class III were unable to do basic arithmetic.<sup>4</sup> The CABE committee (2014) recommended that an assessment of learning outcomes is required to determine promotion to the next class. This would also improve accountability of schools and teachers to deliver quality education. Further, in 2015, 23 states requested changes in the RTE Act to allow detention of children on account of poor learning outcomes.<sup>5</sup>

Others argue that the no detention provision in the RTE Act addresses the issue of examinations being used to eliminate children who obtain poor marks, and that compelling a child to repeat a class is de-motivating and leads to them dropping out of school.<sup>2</sup> Experts have highlighted that repeating a class due to failing in an exam presumes that the child is at fault and does not acknowledge the role of other factors that affect learning outcomes of children.<sup>6</sup> These include lack of professionally qualified teachers, teacher absenteeism, limited infrastructure, and inadequate roll out of the Continuous and Comprehensive Evaluation method of teaching and assessment.<sup>2,7</sup> Note that the RTE (Amendment) Act, 2017 was passed in August 2017 to extend the deadline for teachers to acquire the minimum qualifications prescribed under the RTE Act by four years. This extension was given as states have not completed training of in-service untrained teachers.<sup>8</sup>

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<sup>1</sup>"Report of the Committee for Evolution of the New Education Policy". Ministry of Human Resource Development, April, 30, 2016 <http://www.nuepa.org/New/download/NEP2016/ReportNEP.pdf>.

<sup>2</sup>"Report of CABE Sub Committee on Assessment on implementation of CCE and no detention provision", 2015, Ministry of Human Resource Development, <http://mhrd.gov.in/sites/uploadfiles/mhrd/files/document-reports/AssmntCCE.pdf>.

<sup>3</sup>A summary of India's National Achievement Survey, Class VIII, 2012, National Council of Educational Research and Training, <http://mhrd.gov.in/sites/upload/files/mhrd/files/uploaddocument/11-March-National-Summary-Report-NAS-Class-VIII.pdf>.

<sup>4</sup>Economic Survey, 2016-17, <http://indiabudget.nic.in/es2016-17/echapter-vol2.pdf>.

<sup>5</sup>"Change in No-Detention Policy", Press Information Bureau, Ministry of Human Resource Development, March 9, 2017, <http://pib.nic.in/newsitc/PrintRelease.aspx?rclid=159006>.

<sup>6</sup>Wasted Opportunities: When Schools Fail Repetition and drop-out in primary schools, UNESCO, 1998, <http://unesdoc.unesco.org/images/0011/0011396.pdf>.

<sup>7</sup>Dissent note of Prof. Nargis Panchapakesan in the Report of the CABE Sub Committee.

<sup>8</sup>Statement of Objects and Reasons, RTE (Amendment) Bill, 2017.

### Issue: Systemic factors that affect the quality of learning outcomes

It has been observed that various factors affect the implementation of RTE and consequently have a bearing on low quality of learning outcomes. Various expert bodies like the CABE committee (2014), Committee for Evolution of the New Education Policy (2016), Comptroller and Auditor General of India (2017), among others have highlighted that the current education system is not equipped adequately to fully implement the RTE.<sup>1,9,10</sup> Some of these factors are explained below:

- **Teachers:** Experts have identified various issues with regard to teachers to address the challenges confronting elementary education. These include: (i) low teacher accountability and appraisal, (ii) poor quality of the content of teacher-education and changes required in the curriculum of B. Ed and D. Ed courses, (iii) need for continuous in-service teacher training and upgradation of skill set, (iv) inadequate pupil teacher ratio due to poor mobilisation of teachers and deployment of existing teachers for non-educational purposes, and (v) teacher vacancies.
- **School accountability:** CABE (2014) has recommended introducing performance management processes for all teachers, school leaders, and department officials, with performance measures linked with student learning level outcomes. Such measures of school accountability exist internationally. For example, in the United States of America, under the No Child Left Behind Act, schools are required to do annual assessment of learning outcomes in reading and mathematics for students from classes three to eight. If the school fails to achieve minimum test scores then the consequences include an option for students to transfer to another school, school restructuring or closure, removal from service of teachers or headmaster, or free tutoring.<sup>11</sup>
- **Nature of assessment:** Under the RTE Act, the Continuous and Comprehensive Evaluation (CCE) is the evaluation mechanism for elementary education. CCE (e.g., paper-pencil test, drawing and reading pictures, and expressing orally) does not mean no evaluation, but it means an evaluation of a different kind from the traditional system of examinations. It has been noted that CCE has not been adequately implemented or monitored. Further, it has been recommended that proper design of assessment and using this information can help improve the quality and innovate in terms of teaching and learning in schools.<sup>12</sup>
- **Age appropriate training:** Under the RTE Act, children are enrolled in the class that corresponds to their age, irrespective of their learning levels. This results in a situation where in the same class, depending on when they are enrolled in school, children may have different learning requirements. It has been recommended that special training be organised and is of flexible duration. Such training should be designed to enable the child to be at par with other children and ensure his integration with the class.<sup>10</sup>

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<sup>9</sup>"Implementation of Right of Children to Free and Compulsory Education (RTE) Act, 2009", Comptroller and Auditor General of India, July 21, 2017, <http://www.cag.gov.in/content/report-no23-2017-compliance-audit-union-government-implementation-right-children-free-and>.

<sup>10</sup>"Report to the People on Education", 2011-12, Ministry of Human Resource Development, [http://mhrd.gov.in/sites/upload\\_files/mhrd/files/document-reports/RPE\\_2011-12.pdf](http://mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/RPE_2011-12.pdf).

<sup>11</sup>K-12 Education: Highlights of the No Child Left Behind Act of 2001, Library of Congress. Congressional Research Service, February 28, 2005, <https://digital.library.unt.edu/ark:/67531/metadc824710/m1/1/>.

<sup>12</sup>World Development Report, 2018, World Bank, <http://www.worldbank.org/en/publication/wdr2018>.



## 2. Flexibility to states to determine examinations and detention

*[Clause 16] (1) There shall be a regular examination in the fifth class and in the eighth class at the end of every academic year.*

*(2) If a child fails in the examination referred to in sub-section (1), he shall be given additional instruction and granted opportunity for re-examination within a period of two months from the date of declaration of the result.*

*(3) The appropriate Government may allow schools to hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed, if he fails in the re-examination referred to in sub-section (2):*

*Provided that the appropriate Government may decide not to hold back a child in any class till the completion of elementary education.*

*(4) No child shall be expelled from a school till the completion of elementary education.*

### Issue: Central legislation specifying details of implementation at the state level

The Bill amends the RTE Act, 2009 to require assessment of learning levels through examinations in class five and class eight. The Bill allows states to determine whether to detain children upon failing in these examinations. While several states have requested for a modification of the no detention provision in the RTE Act, the provisions of the Bill are at variance with views of several states with regard to assessing learning outcomes and detention.<sup>13</sup> For example, with regard to conducting examinations, (i) Himachal Pradesh suggested internal examinations in class three and third party examination in classes five and eight, and (ii) Punjab and Odisha suggested that examinations should be conducted in every class from class one to class eight. With regard to detention: (i) Andhra Pradesh and Himachal Pradesh suggested detention in class three as well, (ii) Delhi suggested detention from class four onwards, and (iii) Maharashtra and Telangana suggested continuing with the current no detention provision under the RTE Act.<sup>13</sup>

Education is a concurrent subject under the Constitution, and the central law will override the state law. The policy question is whether the central law should specify details such as which classes should be subject to examination and detention or whether such decisions should be left to the states to make.

## 3. Lack of clarity on who administers the examination

*[Clause 16] (1) There shall be a regular examination in the fifth class and in the eighth class at the end of every academic year.*

*(2) If a child fails in the examination referred to in sub-section (1), he shall be given additional instruction and granted opportunity for re-examination within a period of two months from the date of declaration of the result.*

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<sup>13</sup>Unstarred question no 641, Ministry of Human Resource Development, Lok Sabha, February, 2017 <http://164.100.47.190/loksabhaquestions/annex/11/AU641.pdf>.

(3) *The appropriate Government may allow schools to hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed, if he fails in the re-examination referred to in sub-section (2):*

*Provided that the appropriate Government may decide not to hold back a child in any class till the completion of elementary education.*

(4) *No child shall be expelled from a school till the completion of elementary education.*

**[Clause 38]** *(fa) the appropriate government will determine the manner and the conditions subject to which a child may be held back under sub-section (3) of section 16.*

**Issue: Lack of clarity on whether centre, state or school administers the examination**

The Bill amends the RTE Act to require a regular examination to be conducted in class five and class eight at the end of the academic year in all schools. However, the Bill does not specify who will administer the exam *i.e.*, whether the exam will be conducted by the centre, or states, or the school.

If schools were to administer the examination, there may be a potential conflict of interest as the schools may want to ensure higher pass percentages rather than design an exam that accurately assesses learning outcomes in classes five and eight. In the 2017-18 Union Budget speech, the finance minister stated that the central government proposed to introduce a system of measuring learning outcomes on an annual basis in schools.<sup>14</sup> Section 29 of the RTE Act, allows the respective state governments to determine the curriculum and evaluation procedure in schools. Therefore, it could mean that the state government may administer the examination. In this context, it is unclear whether there will be standardised examination at the central, state or school level to assess learning levels of children in classes five and eight.

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<sup>14</sup>Budget Speech, para 48, 2017-18, <http://indiabudget.nic.in/ub/2017-18/bs/bs/pdf>.

**RIGHT TO EDUCATION FORUM**

**Submission by Right to Education Forum on NDP**

To,

Honourable Members,  
Parliamentary Standing Committee  
Rajya Sabha, Secretariat Room No. 222  
2nd Floor, Parliament House Annexe  
New Delhi-110001

It is our submission that the No-Detention Policy has been made a scapegoat, and the bid for its removal in the name of 'learning outcomes' covers intentions other than those stated in 'Objects and Reasons' for this Bill. Our objection to the proposed RTE Amendment is :

**(a) Content not aligned to stated objectives**

The stated Objects and Reasons and the remedial measures proposed in the Bill are not in tune with each other. The first reason - that of states 'raising the issue of adverse effect on the learning level' is not supported by evidence. On the contrary, ASER data shows consistent decline, not just from 2010, but from 2005 when both board exams and detention existed. Nor has a cause-effect link been established between 'learning levels' and 'No-Detention Policy' before deciding to change this clause. It is surprising that the 'issue of adverse effect on the learning level' was not raised in the context of 25 per cent teachers still being untrained despite 15 years of SSA, 7 years of RTE and 70 years of independence. Poor quality of education where 50% schools lack head masters, 8% of primary schools have only one teacher and 90% schools lack the minimum infrastructure laid down by law is likely to have an effect on learning outcomes. Despite these omissions and commissions of the government, it is the child who has somehow been identified as the one who must be declared as 'failed'.

The second stated rationale claims the object of the Bill to be "to improve the learning outcomes in the elementary classes". Yet, no methods for improvement of outcomes (of learning) are suggested in the Bill. The lack of alignment between the stated objectives and the measures proposed naturally raise doubts regarding improvement of learning as the prime motive of this Bill.

**(b) It puts at risk the internal coherence of the RTE 2009**

The provisions of the RTE Act, 2009 are built around the now well acknowledged principle that knowledge cannot simply be transferred from teacher to pupil. Each child interprets and constructs his/her own understanding and learning with the help of the teacher acting as a facilitator rather than 'giver' of knowledge. This principle enunciated in the NCF 2005 (notified under Section 7.6 of the RTE Act

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as the Framework of National Curriculum) is the basis of a number of provisions in the Act which work together as an organic whole. Pulling out the no detention clause, one of the most critical parts, puts the entire Act at risk of disintegration. Some of the other provisions that it puts at risk include:

- Admission in age-appropriate class
- 25% reservations since it incentivizes failing EWS children who have been frequently seen as "pulling down" learning outcomes in private schools.
- Abolition of screening procedures at the time of admission is meaningless if students are to be subsequently failed and not supported.
- SMC members' voice risks being stifled given the new threat of their child's detention as a potential price for complaining about wrongdoing within the school.
- Focus on "outcomes" deflects attention away from non provision of inputs, paving the way for projection of Inputs as being irrelevant to 'outcomes'.
- Learning through CCE will fall further out of focus.

The greatest negative impact will be on disadvantaged groups. First generation learners and Adivasi students whose mother tongue is other than the language of instruction in the school may be expected to have higher rates of detention. Similarly, education of children with disabilities would be expected to suffer on account of 'outcome' based criteria in the absence of measures to ensure inclusive education within the public education system.

Had the intention been to dismantle the RTE Act, which many find inconvenient, then the doing away of this one clause could serve the purpose. The NITI Aayog in its 'Three Year Action Agenda'<sup>1</sup> has in fact declared as a key 'deliverable' by March 2018 to 'Modify RTE requirements on inputs and change towards outcomes' (p 142) towards reformation of the RTE Act into a 'Right to learning'. It has already stated:

*"To remedy this situation, all the requirements on inputs such as school buildings, playgrounds and pupil teacher ratios should be removed or relaxed to take the form of guidelines, and the focus should shift to outcomes instead."*

- Para 20.10 p.136

The content of the amendment Bill appears to be more aligned to NITI Aayog's Action Agenda rather to its own stated 'Objects and Reasons'. This alone provides sufficient reason to distrust the motivations of this Bill. Once the main clauses of this Act are rendered incoherent - what remains of the Right to Education?

**(c) It is a decision made ignoring evidence.**

The CABE "Sub Committee on Assessment and Implementation of Continuous and Comprehensive Evaluation (CCE) in the Context of the No Detention Policy of the Right of Children to Free and

<sup>3</sup> NITI Aayog (2017) Three year Action Agenda. Retrieved from <http://niti.gov.in/writereaddata/files/coop/IndiaActionPlan.pdf>

Compulsory Education Act 2009" (*aka the Gita Bhukkal Committee Report*) Report cites research that shows that repeating does not help children perform better. It also reports findings that repeating has adverse academic and social effects on the child. Despite this, the committee's recommendation of amending the roll out of the 'no detention policy' is not consistent with the evidence it has itself presented. The notes of dissent by the only two academic members of the Committee raise issues regarding the existence of a political bias in favour of detention. This needs to be probed.

**(d) It is a decision prompted by backlash against implementation of a wrong CCE.**

As per SO 749 E, the Central Government notified the NCERT as the Academic Authority to lay down the curriculum and evaluation procedure for elementary education and the NCF 2005 as the Framework of National Curriculum under the RTE Act. In pursuance of the same, NCERT developed exemplars for CCE. However, instead of adopting the NCERT procedure, the Central schools and many states adopted the CBSE pattern of CCE. This was never questioned. Moreover, the CBSE CCE was developed for the secondary stage, and was not in conformity with the NCF 2005. The CBSE CCE comprised a series of tests, with little or no feedback to learners – a critical element for facilitating learning. This turned CCE into a massive record keeping exercise, with a focus on measuring and not improving learning and led to a massive backlash against both NDP and CCE. The situation was not helped by the fact that teachers were not sensitized to the original intention of the RTE, or to its principles of learning. Nor did the already overworked teachers understand the rationale for this unnecessary and arduous 'CCE' exercise.

It is critical to reiterate here that this entire process was contrary to the RTE Act's National Curriculum Framework and at least in the case of Central schools, not prescribed by their Academic Authority under the RTE Act. In fact, the NCPCR and SCPCRs could and should have intervened in this situation but did not. The CBSE itself has now withdrawn its CCE.

Analysis of the minutes of the 59th CABE committee in 2012 shows that the "*Sub Committee on Assessment and Implementation of Continuous and Comprehensive Evaluation (CCE) in the Context of the No Detention Policy of the Right of Children to Free and Compulsory Education Act 2009*" was set up in response to persistent issues raised regarding "*discontinuation of board exams and starting of CCE*". Only one state, Tripura had raised '*apprehensions*' (not even based on evidence) regarding outcomes.

To add threats of failure to a situation where children were already at the wrong end of the stick would only add to the wrongs committed in the name of the right to education.

**(e) It penalizes students (and their parents) for the failure of the system.**

The many acts of omission and commission by the government in implementation (and non implementation) of the RTE Act have already failed the child in more ways than one. It would be against all norms of natural and social justice, to now institute a law in a National Act – ironically for the right to education – to enable states to 'fail' children.

**Consequently, we strongly oppose the proposed amendment as being contrary to the best interest of children. Leaving the choice to the States puts at risk the internal coherence of the legislation, and therefore the Right to Education of India's children.**

**Thanks and Regards,**

**Ambarish Rai**

**National Convener, RTE Forum**

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Note: This Submission is prepared after the discussions with the representatives of several organisations, educationists, activists, Teachers' Associations, NGOs and RTE Forum State Chapters in 20 states.

Kindly acknowledge our Submission and do the needful.

**About RTE Forum**

*RTE Forum is a collective of CSOs, educationists, Teachers' Unions, SMCs, Activists and NGOs across 20 states with a strength of ten thousand organisations working to strengthen the public system of education and bring about systemic reforms within it. Every year it brings an Annual Stocktaking Report on the same for translating the provisions in the Act into implementation on the ground.*

**Memorandum received from individuals/organisations regarding "The Right for Children to Free and Compulsory Education (Second Amendment) Bill, 2017" – Examination by the Department Related Parliamentary Standing Committee**

Sl. Memo. No.	Comments/Suggestions Received	Name of the Organisation/ Individual	Response of Department of School Education and Literacy
1	2	3	5
1.	11	Mannohan Aggarwal, Raipur	The suggestion is not related to the proposed amendment but has been noted.
2.	10.	Care India, Noida, Uttar Pradesh	The 'No Detention' provision was made in the Right of Children to Free and Compulsory Education (RTE) Act, 2009. However, in recent years, States and UTs have been raising the issue of the adverse effect on the learning levels of children due to the 'No Detention' policy. This matter was deliberated in the meetings of Central Advisory Board of Education (CABE) and in pursuance of a resolution adopted in the 59th meeting of CABE, a Sub-Committee under the Chairpersonship of the Education Minister of Haryana, Smt. Geeta Bhukkal was constituted on 6th June, 2012 for assessment of implementation of Continuous and Comprehensive Evaluation (CCE) in the context of 'No-Detention' provision in the RTE Act, 2009. The Bhukkal Sub-Committee submitted its report in August, 2014. The Sub-Committee, in its report, has analyzed the declining trend in

(iv). Build teacher capacity to enable teachers to support students with diverse learning levels and needs

learning levels during the last 3-4 years in detail in Para 2.1.a and 2.2. It has noted that this has been aggravated by the commonly misunderstood interpretation of the "No Detention" policy. Therefore, after wide deliberations with all the stakeholders, it is proposed to substitute section 16 so as to empower the appropriate Government to take a decision as to whether to hold back a child in the fifth class or in the eighth class or in both classes, or not to hold back a child in any class, till the completion of elementary education.-In the proposed amendment, if a child fails in the said examination, he shall be given additional instruction and granted opportunity for re-examination within a period of two months from the declaration of the result. In case the child fails in the second attempt, the appropriate Government may allow schools to hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed. The appropriate Government may also decide not to hold back a child in any class till the completion of elementary education. Further, no child shall be expelled from school till the completion of elementary education.Detailed Guideline and advisory would be issued to the States outlining the safeguards to be adopted before detaining a child.

3. 9. (i) Learning should not be fear driven. It should be made easy and interesting for children through innovative ideas.  
(ii) Better implementation of CCE methods and spreading awareness among all the stakeholders are alternative steps that can be taken.
- Ms Maansi Verma,  
Founder, Madhyam,

- Section 29 (2) of the RTE Act provides for a curriculum and evaluation procedure that promotes all round development of the child; building up child's knowledge, potentiality and talent; development of physical and mental abilities to the fullest extent; and (e) learning through activities, discovery and exploration in a child friendly and child-centered manner. The National Curriculum Framework (NCF), 2005, adopted as the curriculum under the RTE Act, 2009 states that '*at the primary stage, the child should be engaged in joyfully exploring the world around and harmonising*



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					<p>it. The objectives at this stage are to nurture the curiosity of the child about the world (natural environment, artifacts and people), to have the child engage in exploratory and hands-on activities for acquiring the basic cognitive and psychomotor skills through observation, classification, inference, etc.; to emphasise design and fabrication, estimation and measurement as a prelude to the development of technological and quantitative skills at later stages; and to develop basic language skills: speaking, reading and writing not only for science but also through science'. This Framework has been adopted by all States and UTs.</p>		
					<p>-Section 29(2)(h) of the RTE Act, 2009 provides for Comprehensive and Continuous Evaluation (CCE) of child's understanding of knowledge and his/her ability to apply the same. Continuous and Comprehensive Evaluation, as a pedagogical tool to assess the child continuously through the year and provide the remedial teaching, if required, has been part of the National Education Policy of 1986 and 1992. <b>The proposed amendment is not abandoning the evaluation process.</b> As far as conducting examination in classes V and VIII is concerned, a clarification shall be issued to all the States and UTs that central to the concept of the CCE is an understanding that the children will be evaluated on learning outcomes at regular intervals and not merely at the end of the year. Further, this does not mean that the schools cannot evaluate their students on a regular basis using unit tests or any other evaluation procedures.</p>		
			<p>4. 8. (i) It is suggested to include pre-primary education under</p>	<p>Shri A.P. Jithender Reddy, M.P. (Lok Sabha)</p>	<p>-The proposed amendment provides a child who fails in the regular examination (in class V and/or VIII) with additional</p>		

the ambit of RTE Act, 2009.  
(ii) The proposed amendment  
**would lead to increased  
dropouts.**

instruction and an opportunity for re-examination within a period of two months from the date of declaration of the result. **It also provides that no child shall be expelled from a school till the completion of elementary education.** Further, the RTE Act, 2009 places responsibilities on parents/guardians, appropriate Governments and local authorities to ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years. It is therefore evident that adequate safeguards have been built in the proposed Bill.

Further, detailed Guideline and advisory would be issued to the States outlining the safeguards to be adopted before detaining a child.

5. 7. (i) Infrastructural needs to be met.  
(ii) The quality and availability of teachers should be taken in account while amending the provision. Teachers should be kept out of non-teaching activities such as during elections, surveys of various Government programs etc.

Shri Sushil Kumar Singh,  
M.P. (Lok Sabha)

- Section 19 of the RTE Act, 2009 lays down the minimum norms and standards to be adhered by schools depending upon the location of the school to provide standard education, safety, security, hygienic measures and all round development of a child. *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. The Central Government is supporting the States and UTs to achieve the infrastructural requirements to achieve the objectives of the Act.

The objective of Section 27, RTE Act, 2009 is to free teachers from deployment to non-educational assignments and enable them to spend more time on school and classroom related activities. This Department has issued guidelines in accordance with the Hon'ble Supreme Court decision in the case of Election Commission of India Vs. St. Mary's & others. The guidelines state that "Duties relating to election to the local authority or the State Legislatures or Parliament relate to conduct of elections and the consequent deployment of teachers on the days

of poll and counting, the time spent on training imparted to them and collection of election material for such deployment. All other duties relating to electoral roll revisions will be undertaken on holidays and during non-teaching hours and non-teaching days."

6. It is stated that CCE system should be restored and further improved.
- Ms Kusum Jain  
(mrskjain@gmail.com)  
representing Parents'  
Forum for meaningful  
Education
- Section 29(2)(h) of the RTE Act, 2009 provides for Comprehensive and Continuous Evaluation (CCE) of child's understanding of knowledge and his/her ability to apply the same. Continuous and Comprehensive Evaluation, as a pedagogical tool to assess the child continuously through the year and provide the remedial teaching, if required, has been part of the National Education Policy of 1986 and 1992. **The proposed amendment is not abandoning the evaluation process.** As far as conducting examination in classes V and VIII is concerned, a clarification shall be issued to all the States and UTs that central to the concept of the CCE is an understanding that the children will be evaluated on learning outcomes at regular intervals and not merely at the end of the year. Further, this does not mean that the schools cannot evaluate their students on a regular basis using unit tests or any other evaluation procedures.

7. 5. It is stated in the representation that an amendment of the NDP should only be introduced after a comprehensive consultation to determine the manner in which detention ought to be regulated. Some factor are as below:
- Vidhi Centre for Legal  
Policy
- Please refer to Point 2.  
These points have been noted for formulating the guidelines and advisory to be issued after the amendment comes into force.

- I. The years in which such detention may be permitted;

- II. The maximum no. of times that a child may be detained;
  - III. The duty of teachers to identify children at risk of being detained and the subsequent obligation to provide special training or additional instruction;
  - IV. The final authority to determine whether or not a child should be detained;
  - V. The duty to inform and consult with parents before making a decision to detain a child;
  - VI. The duty to counsel a child who has been detained to prevent psychological or emotional damage;
  - VII. The factors that ought to be taken into account in determining whether or not a child should be detained. The NCERT could take an active role in framing guidelines in this regard;
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VIII. The possibility of appealing a decision of detention and the process that such appeal should follow.

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|----|----|-----------------------------------|---|
| 8. | 4. | Ankit Saraf and Ketan S. Deshmukh | The amendment has been proposed after consultation with various stakeholders. Further, detailed Guideline and advisory would be issued to the States outlining the safeguards to be adopted before detaining a child and the interface of the amended provision with various other provisions of the Act.   |
| 9. | 3  | PRs Legislative Research          | Refer to replies at point 3. Further, The Department of School Education and Literacy has incorporated the learning outcomes in Central Rules <i>vide</i> Gazette Notification dated 20th February, 2017 to include reference to class-wise, subject-wise Learning Outcomes (Annexure-IV). The Learning Outcomes for each class in Languages (Hindi, English and Urdu), Mathematics, Environmental Studies, Science and Social Science up to the elementary stage have, accordingly, been finalized and shared with all States and UTs <i>vide</i> letter dated 21st March, 2017. These would serve as a guideline for states and UTs to ensure that all children acquire appropriate learning level. |
|    | 3  | PRs Legislative Research          | The Department, in collaboration with States and UTs, is making concerted efforts to create awareness of these learning outcomes among teachers, parents and other stakeholders. Further, training of teachers on adaptation of pedagogy to achieve these learning outcomes   |

is being conducted so that every child achieves the grade appropriate level learning.

The Central Government is supporting the States and UTs to achieve the infrastructural requirements to achieve the objectives of the Act.

Further, detailed Guideline and advisory would be issued to the States outlining the safeguards to be adopted before detaining a child.

Right to Education  
Forum.

10. 2. (i) It is stated that schools lack the minimum infrastructure laid down by the Act and this likely have an effect on learning outcomes.

(ii) It is argued that the negative impact of the proposed amendment will fall on disadvantaged groups. First generation learners and Adivasi students whose mother tongue is other than the language of the instruction in the school may be expected to have higher rates of detention.

Delhi Commission for  
Protection of Child  
Rights

11. 1. (i) the Commission has suggested to apply 'No Detention Policy' to Class I, II, and III and link attendance of students to detention criterion for Class IV, VI, VII. (ii) It is suggested to penalize the erring officials of the department on failing to disburse funds on time.

- Please refer to replies at point 2.