

'Right of Children to Free and Compulsory Education Bill, 2008' Proposed Amendments in the Bill¹

[Note: The comments/observations in CAPITAL LETTERS in ITALICS following each proposed amendment are regarding the retrogressive stance or features of the Bill, indicating the Bill's sharp contrast with the concept of Fundamental Right to Education as emerging from the Constitution.]

1. The Bill must be rooted in the framework of a fully public-funded Common School System based on Neighbourhood Schools from pre-primary to Class XII which will place equivalent obligations on all categories of schools including the private unaided schools – diversity, equality and democratization being its touchstone. *A MULTI-LAYERED SCHOOL SYSTEM WITH INFERIOR PARALLEL LAYERS, IS BEING LEGITIMISED BY THE BILL.*
2. We seek guarantee to Education of Equitable Quality with minimum Norms and Standards equivalent to at least those of the Kendriya Vidyalayas. The Bill must spell out a 7-year agenda, along with a phased finance plan, of steady improvement in the Norms and Standards of all categories of schools to initially equal the Norms and Standards of Kendriya Vidyalayas and then to go beyond these. *THE INFERIOR AND DELIBERATELY AMBIGUOUS NORMS AND STANDARDS IN THE SCHEDULE OF THE BILL WILL ONLY PROVIDE GROUNDS FOR EITHER CONTINUING WITH INFERIOR QUALITY EDUCATION IN GOVERNMENT SCHOOLS OR BECOMING COMPLACENT WITH OCCASIONAL AND MARGINAL IMPROVEMENT WHICH WOULD HAVE HAPPENED EVEN WITHOUT THE BILL!*
3. Entirely free education, with no conditionality whatsoever, from pre-primary to Class XII, covering all expenses, contingent or otherwise, including the Opportunity Cost for those below the poverty line. *THE BILL ATTACHES CONDITIONALITY ON AN ARBITRARY BASIS AND DIVIDES CHILDREN INTO TWO CATEGORIES WITH RESPECT TO RIGHT TO FREE EDUCATION – THOSE WITH THE RIGHT AND THOSE WITHOUT IT.*
4. Entirely free pre-primary education of three years in every primary and upper primary school for children in 3-6 year age group (this must not be substituted by *anganwadis*) and a Fundamental right to free early childhood care (balanced nutrition, health care and secure childhood) for all children below six years of age. This is a Constitutional obligation flowing out of Supreme Court's Unnikrishnan Judgment (1993) according to which Article 45 (either the original or the amended) is to be read in "harmonious construction" with Article 21/ 21A. *THE BILL GIVES NO GUARANTEE FOR FREE PRE-PRIMARY WITHIN THE FORMAL SCHOOL AND INTENDS TO FALSELY EQUATE ANGANWADIS WITH PRE-PRIMARY EDUCATION.*

¹Feedback, if any, may please be sent to Email: kbsarokaar@gmail.com or shikshaadhikarmanch.bhopal@gmail.com

5. The Bill must ensure that all children in the 14-18 year age group have equal opportunity to access, participate and complete secondary and senior secondary education of equitable quality. Without this Right, all doors of further education (vocational, technical or professional) and, therefore, related employment or careers remain closed to the vast majority. *THE BILL'S REFUSAL ON THIS COUNT AMOUNTS TO VIOLATION OF FUNDAMENTAL RIGHTS IN ARTICLES 15(1), 16, 19(G) AND 21, APART FROM MAKING ARTICLE 21A ITSELF MEANINGLESS.*
6. There should be explicit provision to transform the conditions in the school in order to guarantee inclusion of the disabled children in the regular classrooms/schools, except in certain extreme cases. This will include, among others, an additional supporting teacher/ staff trained in Special Education, all text material to be available in Braille and use of sign language. *THE BILL'S DEFINITION OF DISABILITY [Section 3(2), Proviso] IN TERMS OF THE PWD ACT, 1996 AS WELL AS ITS LIMITED VISION OF 'BARRIER-FREE ACCESS' IN THE SCHEDULE IS ENTIRELY MISCONCEIVED AND AMOUNTS TO DENIAL OF THE FUNDAMENTAL RIGHT OF THE DISABLED CHILDREN.*
7. Mid-day meals and regular health coverage for all students is part of the Fundamental Right for which the Bill must have an explicit provision. *THE BILL FAILS TO GIVE ANY GUARANTEE FOR THESE CRITICAL REQUIREMENTS OF EQUITABLE CHILD DEVELOPMENT.*
8. There should be an unambiguous requirement for equivalent teacher cadre across various states/ UTs comprising fully qualified and trained teachers as per norms and guidelines under the NCTE Act and dignified pay scales and service conditions consonant with those of the latest Pay Commission. *THE BILL GIVES AMPLE SCOPE TO CONTINUE THE MALPRACTICE INSTITUTIONALISED BY DPEP/ SSA OF DEPLOYING UNDER-QUALIFIED, UNTRAINED AND UNDER-PAID PARA TEACHERS, GUEST TEACHERS OR CONTRACT TEACHERS AND LETTING STATES/UTs TO ACT LAISSEZ FAIRE WITH RESPECT TO TEACHERS AS PER CONVENIENCE.*
9. Pupil:Teacher Ratio of at least 1:30 (with at least one teacher per class/ section) must be guaranteed in each school that is improved steadily to 1:20 over a 7-year time frame. *THE BILL'S PUPIL-TEACHER RATIO NORMS SEEM TO BE WORSE THAN THE NORMS EITHER ALREADY ACHIEVED OR ARE EXPECTED TO BE ACHIEVED SHORTLY WITHOUT THE BILL.*
10. There should be no deployment of the teacher for any non-teaching [TO BE DISTINGUISHED FROM 'NON-EDUCATIONAL'] purpose including census, election duties or disaster relief. For this purpose, all necessary amendments must be made in the "The Representation of The People Act, 1951" forthwith. In case the government does not want to make such an amendment, the non-teaching deployment for census, elections and disaster relief must be an equitable obligation for the teachers of all categories of schools, including the private unaided schools so that the prevailing discrimination against the government school children is halted. *THE BILL HAS REFUSED TO DEAL WITH THIS*

- SOURCE OF DISCRIMINATION [See Section 27] WHICH IS ONE OF THE MAJOR CAUSES OF CYNICISM AMONG TEACHERS. THE BILL'S USE OF 'NON-EDUCATIONAL' PURPOSE IS PROBLEMATIC SINCE IT IS LIABLE TO BE MISUSED WIDELY TO INCLUDE DUTIES SUCH AS SURVEYS, DATA COMPILATION, MANAGING MID-DAY MEALS AND ANSWERING VIDHAN SABHA/ PARLIAMENT QUESTIONS.*
11. A language education policy founded on common principles for all categories of schools, including the private unaided schools, from pre-primary stage to Class XII. The policy will draw upon the strength of multi-lingualism of Indian children and their mother tongue which may not necessarily be the state language. Starting with mother tongue in pre-primary and early (or even later) primary years, the policy shall ensure medium of education in the state language up to Class XII in all schools and equitable quality of learning English as a language for all without discrimination. The discrimination based upon the prevailing language education policy must be eliminated forthwith. The implications of the three-language formula recommended by the Kothari Commission and the 1986 policy need to be reviewed and re-interpreted as per the contemporary needs and future challenges. *THE BILL MAKES A MOCKERY OF THE ISSUE OF MOTHER TONGUE AS MEDIUM OF EDUCATION "AS FAR AS PRACTICABLE", THEREBY INTENDING TO CONTINUE A MAJOR SOURCE OF DISCRIMINATION ROOTED IN THE PRESENT ELITIST AND ANTI-CHILD LANGUAGE POLICY [See Section 29 (2) (f)].*
 12. A vision of democratic governance of the public-funded school system is to be incorporated as an essential requirement for improving the quality of its functioning. The role of the School Management Committees can be defined only in the context of de-bureaucratized governance. *THE BILL LEGITIMISES BUREAUCRATIC GOVERNANCE BY DEFAULT, THEREBY VIEWING SCHOOL MANAGEMENT COMMITTEES ESSENTIALLY AS DISEMPOWERED STRUCTURES. THUS, THE BILL FAILS TO PROVIDE ANY GROUND FOR EXPECTING A WELL-FUNCTIONING SCHOOL SYSTEM.*
 13. All schools within a state/ UT, public-funded or otherwise, to be affiliated with a single Board of Examinations. *THE BILL IS DELIBERATELY SILENT ON THIS CRITICAL MATTER SO THAT THE MULTI-LAYERED SCHOOL SYSTEM AND PRIVATISATION AND COMMERCIALISATION MAY CONTINUE TO BE PROMOTED.*
 14. A provision to completely ban the sale/ leasing/ contracting/ renting/ outsourcing of all state-funded/ state-aided schools, their premises or equipment/ materials is an urgent requirement since this malpractice has become the undeclared agenda of various state/UT governments for which clever ways are devised to steadily reduce enrolment, thereby justifying closure of schools. *THE BILL DOES NOT INTEND TO PREVENT THIS ONGOING PRO-MARKET MALPRACTICE.*
 15. No Public-Private Partnership (PPP) in school education must be allowed. *BY ITS DELIBERATE SILENCE ON THE PPP POLICY OF THE XI PLAN, THE BILL WILL LEGITIMISE THE USE OF PUBLIC FUNDS AND OTHER RESOURCES*

- FOR PROMOTING CORPORATE CAPITAL AND UNABASHED PROFITEERING FROM SCHOOL EDUCATION.*
16. The duties of the state/UT governments and local authorities must include the obligation to regulate the fee structure of all private schools, aided or otherwise, with the objective of preventing profiteering and commercialization of education. *THE BILL HAS REFUSED TO AUTHORISE THE APPROPRIATE GOVERNMENT FOR THIS PURPOSE.*
 17. A 7-year phase-wise financial plan of transformation of the present multi-layered school system into a Common School System based on Neighbourhood Schools must be made an obligation of the State. *THE BILL LACKS A VISION OF A PROGRESSIVE PRO-CHILD SCHOOL SYSTEM AS WELL AS ANY SENSE OF ITS TRANSFORMATION FOR ANYTHING BETTER THAN WHAT WE HAVE TODAY. THIS IMPLIES THAT THE MULTIPLE AD-HOC SCHEMES AND PROJECTS OF SSA WILL CONTINUE TO OPERATE AND ATTRITION THE QUALITY OF GOVERNMENT SCHOOLS.*
 18. Complete justiciability i.e. freedom to seek justice in the court of law, with no exception or dilution whatsoever, not even in the name of “anything which is in good faith done or intended to be done”. *THE BILL IS BEING USED TO ABRIDGE OR LIMIT THE DEFINITION OF THE FUNDAMENTAL RIGHT ITSELF [See Sections 35 and 36].*
 19. Financial Memorandum with a 7-year finance plan for transformation of the school system must be attached to the Bill. *THE BILL SAYS THAT THE FINANCIAL MEMORANDUM IS NOT ATTACHED SINCE “IT IS NOT POSSIBLE TO QUANTIFY THE FINANCIAL REQUIREMENT ON THIS ACCOUNT AT THIS STAGE.” WHO IS THE GOVERNMENT FOOLING?*
 20. There must be compulsion on the State to ensure the Fundamental Right to Education of Equitable Quality, without any excuse of lack of financial resources whatsoever. This is precisely what the Supreme Court ruled in its historic Unnikrishnan Judgement (1993). *IF THE GOVERNMENT CLAIMS THAT IT LACKS ADEQUATE RESOURCES FOR THIS FUNDAMENTAL RIGHT, LET US DEMAND THAT IT SHOULD STOP FUNDING OF THE COMMONWEALTH GAMES 2010, WRITING-OFF LOANS OF CORPORATE HOUSES AND GIVING INCOME TAX EXEMPTIONS AND OTHER SUBSIDIES TO THE PRIVATE NURSERIES/ KINDERGARTENS, SCHOOLS, COLLEGES AND UNIVERSITIES SINCE NONE OF THESE QUALIFY AS THE FUNDAMENTAL RIGHTS OF INDIA INC.!*
-