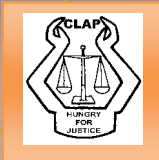


# Consultation on Implementation of Right to Education - A Report



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Venue: OSSTA Conference Hall, Cuttack



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### Collaboration

All Odisha Lower Secondary Teachers Association (AOLSTA).  
All Utkal Primary Teachers Federation (AUPTF).  
Odisha Secondary School Teachers Association (OSSTA).  
Odisha RTE Forum.  
Odisha Alliance on Convention on Rights of the Child (OACRC).  
Forum for Crèches and Child Care Services-Odisha. (Odisha-FORCES)  
National Campaign for ECCE Rights (NCER).  
Campaign Against Child Labour, Odisha Chapter (CACL-Odisha).  
Odisha Budget and Accountability Centre (OBAC)-CYSD.

## Preface

Article 21-A of the Constitution of India recognises Education as a Fundamental Right of Children in the age group of 6-14. Recognising the significance of Early Childhood Care and Education (ECCE), it also provides under Article – 45 that the State Policy on ECCE has to be contemplated by the State. In fact from the very beginning of the debate on making education a fundamental right there has been a systematic demand for early childhood care and education as it has a direct bearing on realisation of right to education. ECCE has always been seen as a major contributory factor for successful realisation of right to education. ECCE and elementary education always go hand in hand in all debates concerning education. It is widely prevalent in the policy debates that education begins with birth. Bearing this in mind the CLAP has organised a Consultation on Implementation of Right to Education with focus on ECCE. The Consultation examined in detail the overall progress of elementary education and made an attempt to locate the status of early childhood care and education as a special component of education. This report contains the processes and proceedings of a consultation with civil society organisations relating to education in general and ECCE in particular. It is important to note that the consultation was organised in the context of call for views and suggestion by the Department related Parliamentary Standing Committee on Implementation of Right to Education Act. The CLAP felt that this is a strategic occasion when the issue of ECCE can be reviewed and the recommendation can be rightly placed for consideration. The consultation was not restricted to a mere review of implementation of RTE Act, but it has a designated session to discuss about drafting of a law on ECCE. The Report presents the process through which the subject of ECCE has been approached in course of discussion of implementation of RTE Act along with the overall recommendation of the civil society organisations about a framework of law on ECCE. Hopefully, the report is going to pave the way for a concerted debate on enactment of a law on ECCE as per the opinion gathered in this consultation from civil society organisations.

**BIKASH DAS**  
**PRESIDENT, CLAP.**

## I. Introduction:

The CLAP has hosted a consultation with frontline civil society organisations and lawyers to review implementation of the RTE Act 2009 and consequentially collect views to formulate a law which can potentially address Early Childhood Care and Education in its totality as it is reasonably understood that the subject is inadequately addressed in course of delivery of facilities and opportunities concerning education. The immediate need for a consultation on implementation of RTE Act arose in the backdrop of Call for Submission on Implementation of RTE Act by the Sub-

A consultation on implementation of RTE Act was organised in the context of call for views and opinion on implementation of RTE Act by Sub-Committee of the Department related Parliamentary Standing Committee. This occasion was strategically used to deliberate upon a case for special law on ECCE as initially at the time of formulation of RTE Act a goal was set for the State to provide Early Childhood Care and Education which did not get translated into action. It was considered that the view of civil society is required to be gathered in the context of implementation of RTE Act on the theme of ECCE to draft a law exclusively on the topic of ECCE

Committee of Department related Parliamentary Standing Committee. The CLAP considered the occasion as an opportunity to review the implementation of RTE Act particularly the provision relating to ECCE and put forth the recommendations for consideration by the appropriate authorities. In view of it the consultation was devoted both for deliberation on the subject and workout a draft law on ECCE. In fact, there has been a consensus globally and at the policy level that a legal framework on ECCE is required to be formulated. In most of the debate the need for a legal framework on ECCE has been significantly focused from the perspective of Right to Education. The CLAP has therefore organised a consultation with civil society organisation to draw opinion for formulation of a law on ECCE. It is pertinent to mention that following the incorporation of provision for ECCE in the Constitution of India under Article 45, the Government of India contemplated National Early Childhood Care and Education (ECCE) Policy in 2013. While this policy provides a comprehensive approach to ECCE, it also suggests that a legal framework may evolve in course of translation of the policy into practice. Hence, the CLAP has organised the consultation to conceptualise ideas for

formulation of essential element which can contribute in the process of development of a legal framework. The consultation while focused on implementation of RTE Act moved beyond this enactment to explore possibility to enact a law which can conveniently address the subject of ECCE in its totality with focus on opportunity for mother tongue based early education for tribal children in India.

## **II. Objective of the Consultation:**

The consultation was held with a number of key objectives which are described below:-

1. To examine implementation of Right to Education Act especially the provision under Section-11 of the RTE Act regarding ECCE.
2. To collect views and recommendation of civil society organisation involved in promotion of education concerning entitlement approach to ECCE.
3. To constitute an Expert Committee to review the preliminary draft law on ECCE and give it a final shape on the basis of recommendation emerged from this consultation.

## **III. About the Organisers:**

The consultation was convened by the Committee for Legal Aid to Poor (CLAP) as the main organiser to gather civil society opinion about implementation of RTE Act and to examine the possibility for formulation of a law covering essential elements for an entitlement approach to ECCE. The CLAP being the main host of the consultation also mobilised key civil society organisation who are considered as major stakeholders in the field of education to collaborate in the process as partners. The following civil society organisations had extended support for the consultation:

1. Committee for Legal Aid to Poor (CLAP).
2. All Odisha Lower Secondary Teachers Association (AOLSTA).
3. All Utkal Primary Teachers Federation (AUPTF).
4. Odisha Secondary School Teachers Association (OSSTA).
5. Odisha RTE Forum.
6. Odisha Alliance on Convention on Rights of the Child (OACRC).
7. Forum for Crèches and Child Care Services-Odisha. (Odisha-FORCES)
8. National Campaign for ECCE Rights (NCER).

9. Campaign Against Child Labour, Odisha Chapter (CACL-Odisha).
10. Odisha Budget and Accountability Centre (OBAC)-CYSD.

It needs to be highlighted that the NCER which is the advocacy outfit of CLAP which demands a law on ECCE in India also participated as one of the collaborative agency through various member organisation.

#### **IV. Participation:**

The consultation was primarily attended by civil society organisations who are actively involved in the advocacy for guarantee of Right to Education which includes early learning and pre-school education. Apart from participation of civil society organisation lawyers also attended the consultation who have direct experience working with young children. These lawyers have long association with CLAP in its mission for development of young children. The participants represented 12 nos. of districts out of 30-districts of Odisha. Even though women representation was not significant, about 9 nos. of women participated in the consultation. The uniqueness of the representatives was that most of them represented various network and federation working on education for children. In view of that the participants are considered to be experts with practical knowledge on the subject.

#### **V. Session Plan:**

The consultation was broadly divided into 3-sessions. In the first session a formally inauguration was held. In the inaugural session all the collaborative agencies addressed the consultation befitting their vision for ECCE and Right to Education. In the second session an open platform was arranged to provide space to direct beneficiaries like the children themselves, parents and also school management committee to throw light on the present situation of early education and also successful transition. The third session was devoted to conceptualise a framework for law where a number of lawyers participated. In this session 3 important aspects were discussed which are given below:-

1. The nature and scope of Article-45 read with Section-11 of RTE Act.
2. Global Perspective on Law on ECCE.
3. Themes for a law on ECCE as envisaged under National Early Childhood Care and Education (ECCE) Policy.

## **VI. Proceedings:**

The one-day consultation on implementation of Right to Education Act and consequential deliberation to develop a legal framework on ECCE has been started under the Chairmanship of Dr. Bikash Das, the President of CLAP. At the beginning a formal welcome address to the participants was delivered by Pramoda Acharya, the Executive Director of CLAP. In his welcome address in the inaugural session Pramoda Acharya said that the consultation has been organised by CLAP in collaboration with 9 nos of representative organisation like All Odisha Lower Secondary Teachers Association (AOLSTA), All Utkal Primary Teachers Federation (AUPTF), Odisha Secondary School Teachers Association (OSSTA), Odisha RTE Forum, Odisha Alliance on Convention on Rights of the Child (OACRC), Forum for Crèches and Child Care Services-Odisha. (Odisha-FORCES), National Campaign for ECCE Rights (NCER), Campaign Against Child Labour, Odisha Chapter (CACL-Odisha) and Odisha Budget and Accountability Centre (OBAC)-CYSD. The programme he said is aimed at thorough deliberation on implementation of RTE Act and the extent to which this enactment addressed the issue of ECCE. He said that there had been a systematic demand for inclusion of detailed provision for ECCE at the time of enactment of the Act, however, very little has been practically made for ECCE under Section-11 of RTE Act. Therefore, it becomes inevitable to review the nature and extend of services attempted by the State with regard to translation of legal provision into action in the matter of ECCE while holding a consultation with premier civil society organisation about implementation RTE Act. He further said in his welcome address that the consultation will also focus on development of a draft law on ECCE, so that, the theme can be separately addressed. Although it is generally considered Right to Elementary Education for which there is a debate currently underway for downward extension of RTE Act to cover ECCE, it would be more relevant and appropriate to have a special legislation on ECCE. He further pointed out that the recently adopted National Early Childhood Care and Education (ECCE) Policy categorically mentioned development of a legal framework for ECCE for which the present consultation would explore the specific themes that needs to be covered under ECCE law. With this background note Pramoda Acharya offered a welcome address to all the delegates of the meeting.

The Chair of the session invited the representatives from all collaborative agencies to speak on the subject. Speaking on the occasion Ranjan Mohanty the Convenor of Odisha Alliance on Convention on the Rights of the Child observed that we have to go a long way to realise the Right to Education as the law is yet to be implemented in its totality. He said under the United Nations Convention on the Rights of the Child, education is an explicit right for children. The RTE Act is one such legislation which can help realise the Right to Education under the Convention. However, in the absence of proper implementation of law this right does not get translated into action. He felt that the entire childhood must be covered under the legal framework concerning Right to Education starting from the opportunity for early childhood education.

Delivering a speech on RTE Act, Sri Anil Pradhan, State Convenor of RTE Forum, Odisha expressed concerned that in spite of many lacunae in the RTE Act which were highlighted before Sub-Committee of the Department related Parliamentary Standing Committee earlier these are not addressed so far. In view of it he expressed doubt that if a memorandum is submitted again it is going to yield result. He said that the major drawback in the present situation is very poor quality of education. He suggested that a strong monitoring mechanism is necessary to ensure effective implementation of law relating to Right to Education. He said it is always considered important that the Right to Education must be extended to early education, so that, children can be well prepared to attend education subsequently.

Hrudananda Dwivedi of All Utkal Primary Teachers Federation (AUPTF) emphasised on the importance of primary education in the life of a child. He said primary education is neglected both in policy and practice level. People preferred to opt for private education in the present scenario due to inadequate infrastructure. Although there was a huge expectation the society that after giving education the status of fundamental right there will be a change in the situation, in practice it did not occur. Rather there is a whole lot of interference in the educational process by the School Management Committee. He highlighted the fact that even though School Development Plans have been formulated in accordance with the Schedule of the Act, practically it has no meaning. So far, no steps are taken for development of schools as per the School Development Plan. In this background he wondered what purpose it serves by giving constitutional and legal status to education. Further he said that the All Utkal Primary

Teachers Federation (AUPTF) very much subscribes the need for pre-school education which prepares children not only for primary education but also it inculcates confidence among children for education. However he felt that more legal sanction will not help early education to grow. Therefore, he suggested that adequate human resource be pulled and infrastructure be created for growth and development of early education. Even he argued that prohibition of corporal punishment in schools leads to absence of control over pupil by the teachers. Finally, he recommended wider consultation with teacher community before formulation of law to recognise right to education.

Expressing the opinion of All Odisha Lower Secondary Teachers Association (AOLSTA) Sri Prakash Chandra Jena said that quality of education in terms of curriculum, teachers training, pedagogy and infrastructure need to be improved for successful education. Education can be adjudged on the basis of improvement of quality of life of students. Success of students in education must be the measurable indicator in all educational plans. The recognition of education as a fundamental right will be more effective if there are consequential changes made at the level of delivery of service. He felt that determination among teachers to groom students is essential.

Addressing in the inaugural session Sri Prakash Chandra Mohanty of Odisha Secondary School Teachers Association (OSSTA) said that there is a need to examine our preparedness to implement Right to Education equitably and qualitatively. He submitted that primary purpose of education is to promote universal human values and respect for culture and ethics. Education is a powerful means to eradicate poverty and it is key to economic development and empowerment. There is no point finding out existing wrongs but to suggest how to improve upon it. He said that state must provide pre-primary education to prepare children for education at the early stage of life. He suggested that the pre-school education system now delivered through Anganwadi must be attached to neighbourhood schools.

Speaking on the occasion Sri Sudhir Sabat, Convenor of Campaign Against Child Labour, Odisha Chapter (CACL-Odisha) pointed out that education has been considered as an opportunity for children which can effectively prohibit child labour. If children attend school surely they will not be in workplace. Therefore, a right based approach is considered important to eliminate



child labour. The CAEL from very beginning demands education for all children below the age of eighteen. It must begin with opportunity for early learning. A comprehensive early childhood care and education system can help children to successfully attend school from very early age and subsequent transition to primary and secondary level. However, the existing law does not provide in detail how ECCE is to be delivered, so that, it reaches equitably to children who are living in most difficult circumstance. In view of it he felt that adequate provision is required on ECCE to meet right to education successful.

The Advocacy Director of National Campaign for ECCE Right (NCER) Sri Purusottam Sahoo spoke on the right to ECCE of young children. He said that the constitutional mandate is to devise a state policy on ECCE. However, instead of a separate law it is made a part of RTE Act. There are two schools of thought. While one school is of the opinion that ECCE is essentially a part of an education system, the other school emphasises on survival and development as the primary focus of ECCE. Therefore, while from policy perspective ECCE is being addressed by downward extension of right to education to cover 3-6 age group children, it is also felt that a separate law is essential. He said the NCER advocates for a comprehensive law on ECCE. A draft law prepared by NCER which was circulated to the participants was also refereed by Sri Sahoo. He said that the draft law is a preliminary attempt of NCER to draw a framework for a law on ECCE. He concluded with the remark that the RTE Act could not address ECCE in spite of the provision made under the Act. Hence, there is need to draft a law on ECCE.

Speaking for Odisha FORCES Gobinda Sathy said that education begins early in life. The present education recognises right of children from the age of 6. It leaves a vast chunk of young child population. Therefore, adequate statutory provision must also be contemplated to cover young children. Provision like crèche and pre-primary education require legislative attention. The right concerning education can be realised if health, nutrition and learning opportunities are duly addressed. This is not possible in a law which is exclusively education oriented. Separate approach is necessary to cater to the needs of young children. In view of this a need emerges for a special law on ECCE.

In his presidential address Dr. Bikash Das consolidated the views of the speakers in the inaugural session and observed that there is almost consensus that special attention is

required to be given to ECCE as it is neglected in the overall debate on education especially in the process of implementation of RTE Act. He said in fact there is a consensus among policy makers that ECCE as a subject deserves policy attention. This notion persuaded the Government to adopt National ECCE Policy. The Policy covers themes like Introduction; Context and Need for the Policy; The Policy; Vision of the Policy; Key Areas of the Policy; Universal Access with Equity and Inclusion; Ensuring Quality; Strengthening Capacity; Monitoring and Supportive Supervision; Research, Evaluation and Documentation; Advocacy; Convergence and Coordination; Institutional and Implementation Arrangements; Partnership; Increase Investment towards Early Childhood Care and Education; Review. The Policy itself suggests that a legal framework on ECCE will be developed in course of time. It means the State proposes a law to evolve to effectively address ECCE in its totality. Now it is for practitioners to suggest whether we need a separate law on ECCE or it would be more appropriate to enlarge the scope of the existing law i.e. the Right to Education Act for promotion of quality early education. While taking a decision we need to bear in mind that in the present context there are various laws which address the specific themes under ECCE like the nutrition aspect which is now a part of the National Food Security Act, 2013. It is therefore necessary to deliberate upon the subject of ECCE to draft a law which this consultation aims to do. With these remarks he announced that the inaugural session is closed and offered vote of thanks to all the speakers. He also requested the participants to join the next session for further deliberation on the subject.

**Open Platform:**

Immediately after the inaugural session, the participants of the consultation joined the next session which was an open session designed to provide a platform to the participants to interact among themselves about implementation of RTE Act with focus on the actual state of ECCE in the post enactment of RTE Act. The open platform was a unique platform as empirical evidences brought to fore by participants were discussed at length. The participation of children and their parents, representative of School Management Committee, ICDS Supervisors, Anganwadi Workers as well as representative of Panchayat institution added value to the consultation with lively dialogue and analysis of practical issues that are confronted in everyday life. It was revealed from the representative of a School Management Committee that for effective implementation of Right to Education, School Management

Committees have been constituted. However, in the absence of financial resources the decisions of the School Management Committees are not hardly translated into action. Broadly the following themes are discussed:

- 1. Access to Elementary Education:** Access to Elementary Education is the central aspect of the law without which the RTE has no meaning. As per Section-3 of the Act every child of the age of 6-14 shall have a Right to Free and Compulsory Education in a neighbourhood school till completion of elementary education. This provision assures every child in the age group of 6-14 access to education. When this provision is read with Section-8 (a) and (b) along with Section-6 under which it is the duty of appropriate Government and Local Authority to establish school, it appears that in spite of this provision there are areas where there is no neighbourhood school available. Studies conducted by civil society organisations reveal that there are 5000 number of communities/areas where there are no schools to enable children to have access and also complete elementary education. Even the Annual Report of the School and Mass Education Department, Government of Odisha admitted that there are 187000 children who are out of school. Hence, access to education is yet to be made available to all eligible children. In this regard the provision to establish new schools under the above mentioned provisions is vital. It is pertinent to mention that the Odisha Right of Children to Free and Compulsory Education Rules, 2010 under Section-6(1) provides that in respect of children in Classes I-V a School shall be established within a walking distance of one kilometre of the neighbourhood. Similarly, for children in Classes VI-VIII there shall be a school to be established within a walking distance of 3-kilometre of the neighbourhood. The Rules also makes provision for upgrading existing Schools. Where the area exists in a difficult terrain, risks of landslides, floods, lack of roads and danger for young children in the approach for their home to school, the Government or Local Authority shall locate the school in such a manner as to avoid such dangers. However, in practice no mapping is made to locate areas to establish school as per the provision. As a result in spite of legal provision access to education is not easily available for eligible children.

In this respect the viability of provision under Section-6(4) of Odisha Right of Children to Free and Compulsory Education Rules, 2010 is required to be reviewed as it goes against of the spirit of the Act by providing scope for relaxation of the limits of establishment of schools in

the neighbourhood. It says “For Children from small hamlets, as identified by the Government/Local Authority, where no school exists within the area or limits of neighbourhood specified under sub-rule (1) the Government/Local Authority shall make adequate arrangements for providing elementary education in a school, in relaxation of the limits specified under sub-rule (1)”. By use of Section – 6 (4) the Government and the Local Authority can escape from their obligation and there shall be no accountability in respect of duty of appropriate Government and Local Authority to establish Schools.

Similarly, the Government of Odisha effected an amendment to State RTE Rules on January 17, 2011, which inter alia stated, “...where no school exists within the area or limits of neighbourhood the Government/ local authority shall make arrangements such as free transportation, escort facilities and residential facilities for providing elemental education in a school in relaxation of the area or limits specified in the.” It implies that the State Government without having to set up neighbourhood schools where they do not exist could manage with such cheaper and ad hoc alternatives as transport and escort facilities etc in contravention of the provision provided for in the principal Act.

- 2. Quality of Education:** Even though many provisions are made in the RTE Act to improve quality of education, but in practice the legislative intents never transferred the situation. A bare reading of the Act reveals that the provision relating to quality education through out the provision of law such as qualification for appointment and terms and condition of services of teachers (Section 23), duty of teachers (Section 24), pupil teacher ratio (Section 25), filling of vacancies of teachers (Section 26), prohibition of deployment of teachers for educational purposes (Section 27), curriculum and evaluation procedure (Section 29) and monitoring of child right to education (Section 31) and either not implemented or if implemented it is inadequately implemented. These aspects are vital to improve quality of education. It is understood that the one of the reasons for non-implementation of provision is non-constitution of Advisory Council in accordance with the provision of Section 34 of the Act to advice the Government on implementation of the provision of the Act in an effective manner. As a result of non-constitution of Advisory Council at the State level practically there is no mechanism to oversee the translation of above legal provisions into action.

- 3. School Development Plan:** It was revealed in the consultation from the representatives who have participated in the consultation that after constitution of School Management Committee it prepared and recommended School Development Plan in accordance with the provision provided under Schedule. However, no follow up action is made or budget has been allocated for actual implementation of School Development Plan. As a result the standard norms provided under the Schedule could not be realised. It is understood that non-compliance of the standard prescribed under the Schedule does not conform to the quality aspect envisaged under the Act.
- 4. Functions of School Management Committee:** It was found that the State Government has framed various Rules and Guidelines under the Act. However, in many cases the Guidelines are unreasonably prepared and irrelevant. One such example is the Guideline relating to composition and function of School Management Committee in elementary schools. While the principal Act under Section 21(2) casts mainly 3-functions like (a) Monitor the working of the school, (b) Prepare School Development Plan, (c) Monitor the utilisation of grant on the School Management Committee, the Guidelines prepared by the State Government in Odisha delineate a huge list of activities to be performed by the School Management Committees. Such imposition of burden on the School Management Committee prevents it from discharging its duty especially the duties articulated under the Act.

The fore-going discussion about the Guideline contemplated by State Government in Odisha imposing several functions of the School Management Committee is irrelevant. Perhaps such huge list had been prepared because the principal Act provided opportunity for preparation of list of functions apart from the 3-main functions given under the principal Act by including the term “Perform such other functions as may be prescribed”. This provision paved the way for enlistment of a huge number of activities as the function of the School Management Committee. The Guideline is unreasonable and inappropriate as the focus on the 3-activities suggested under the principal Act is lost.

- 5. Inclusive Education:** While the RTE Act under Section-3 (1) confers Right to Free and Compulsory Education in a neighbourhood school till completion of elementary education on every child in the age group 6-14 years it also endows a child suffering from disability with a

right to pursue free and compulsory elementary education in accordance with the provision of Chapter-V of Persons with Disability (Equal Opportunities, Protection and Full Participation) Act, 1996. A bare reading of the provision under the above mentioned Act suggests that there are provisions which may not ensure inclusive education and uniform opportunities. Thereby the spirit of Right to Education Act is affected.

- 6. Proof of Age for Admission:** The RTE Act under Section 14 (1) provides for proof of age for admission. It says the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provision of the Births, Deaths and Marriages Registration Act, 1886. However, in India the registration of birth and death is now being registered under Registration of Birth and Death Act, 1969. A uniform practice of birth and death registration is being followed all across the country as per the Registration of Birth and Death Act, 1969. Hence, there is a need for amendment of the RTE Act.
- 7. Prohibition of Physical Punishment:** The RTE Act, 2009 under Section 17(1) made a provision for prohibition of physical punishment and mental harassment to child. However, the provision with respect to contravention of above prohibition is ambiguous. The Act in Section 17(2) provides that whoever contravenes the provisions of sub-section 1 shall be liable to disciplinary action under the Service Rules. As a result of it when the provision is violated by any person they are subjected to Service Rules only. In the event of ambiguous provision under Service Rules it is difficult to impose any kind of penalty. Therefore, a clear provision in the RTE Act itself is necessary.
- 8. Pre-School Education along with Early Childhood Care and Education:** Section 11 of RTE Act 2009 suffers from inadequate legislative policy to get translated into action. Barring few states, hardly any states of India had make any arrangement for providing Early Childhood Care and Education for all children until they complete the age of 6-years as desired under RTE Act. It is needless to say that preparedness of Children is very much essential before Children actually attend elementary education for its success. In India unfortunately children of a large segment do not have access to pre-school education. The Pre-school component as available under Integrated Child Development Services (ICDS) is demonstratively poor in quality and also there is lack of accountability in the system. Absence of Right Based Approach to early childhood

education is the major reason for dismal performance of ICDS in terms of universal coverage, quality services, accessibility and infrastructure. In view of that the NCER urges to recognise Pre-School education along with early childhood care and education as a legal right of young children below the age of 6-years. While it is important to make provision for early education, it is also equally desirable to introduce through law the opportunity for mother tongue based pre-school for tribal children.

### **Thematic Session:**

The thematic session began with an opening remark by Dr. Bikash Das that this session is the core of the overall deliberation as the ideas are now going to be boiled down to finalise a framework of law. He further added that based on the discussion in the previous sessions and also the experiences over the years it can be suggested that there are two ways to approach the subject of ECCE to give it a legal status. In the first instance, he said we can have an amendment to the existing legislation to RTE Act for incorporation of provision relating to ECCE in a detailed manner. It may not be inappropriate to incorporate the provision of ECCE in RTE Act as it has already made a provision in Section-11 which says **“Appropriate**

#### **Main Instrument for Early Childhood Care and Education**

The Universal Declaration of Human Rights (UDHR) states that ‘everyone has the right to education’. The Un Convention on the Rights of the Child (CRC), which is the most extensive international treaty on the rights of children, commits states to ensuring the rights of all children on the basis of equal opportunity. The UN Committee on the CRC presents a holistic view on childhood calling on states to recognise that children are active participants in decisions affecting them and General Comment 7 calls on states to pay special attention to the neglected area of early childhood.

In 1990, the Jomtien Declaration for EFA stated that learning starts at birth and early childhood care and education was indeed made Goal number one. A decade later the Dakar Framework for Action reaffirmed its importance and in 2010, UNESCO held the first global conference on this goal in Moscow, producing a final statement that recognised that children’s right to early childhood care and education begins at birth.

**Government to provide for pre-school education:** *With a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, we appropriate Government may make necessary arrangement for providing free pre-school education for such children”. In fact a process is already started for downward extension of RTE Act to cover 3-6 age group children*

in the purview of RTE Act. However, the inherent danger in it is that it will have education orientation only and overlook care aspect which is essential component in ECCE. Secondly, Dr. Bikash Das said that a special law can be formulated especially on ECCE. If such a decision is taken to enact a statute exclusively on ECCE, it can have sanction of the Constitution of India as Article 45 of the Constitution of India desires the State to decide its Policy on ECCE. Once a status is enacted ECCE becomes a justiciable subject.

He added that the second proposition seems more relevant as the recently adopted National ECCE Policy in Sl. No. 5.2.2 speaks for a Regulatory Framework for ECCE. It is relevant to quote the provision, which says, “A *Regulatory Framework for ECCE to ensure basic quality inputs and outcomes, across all service providers undertaking such services or part thereof, will be developed by the National ECCE Council within one year of its establishment, and shall be implemented by states, with appropriate customisation, within three years of the notification of this Policy. Such implementation may be in a phased manner moving progressively from registration to accreditation and ultimately*

### Conceptual Framework on Early Childhood

Before delving deeply in to the conceptual framework, there is a need to understand the existing construction of early childhood. The following are the stages of early childhood in the present vocabulary concerning young children:

**Prenatal period:** -from conception to birth. During this period nutritional health of the mother has to be ensured. In this period tetanus toxoid injection is to be given to the pregnant woman.

**Neonatal period:** - It covers from birth to 2 weeks. Usually there is mortality, during this period in a large number unless competent medical services are available. To reduce infant mortality the Paediatricians stress special emphasis on this period.

**Infant:** - This period covers from 2 weeks to 1 year. After a live birth, if a child dies during this period, it is described as Infant Mortality. One of the services prescribed in CRC under Article-7, is to be registered immediately after birth. ECCD Centre should take steps to ensure this Right of the child.

**Post Infancy:** - Post Infancy Childhood covers from 1 year to 2 years. Only after the first year various immunization programmes should start unless the doctor prescribes otherwise.

**Early Childhood:** - Early Childhood is covered from 2 years to 5 years.

**Late Childhood:** - Late Childhood covers the sixth, seventh and eighth years of the child. During this period Lower Primary Education as a Fundamental Right starts in India. ECCD centre prepares the child for school going habits as Pre - primary Education.

The paediatric approach to major development periods of the child after birth can be supported by various Laws, Acts, Rules, Regulations or Special Schemes meant for children considered non-discriminatory. **Thus emerges legal paediatrics.**



to regulation of all ECCE service provisions. The quality standards would relate inter alia to building and infrastructure; pupil-teacher interaction; learning experiences planned for children; health, nutrition and protection measure; qualification and professional development of staff; parent and community involvement and organisation and management of the ECCE provision". Similarly, in Sl. No. 10.9 of the Policy it is mentioned that "In addition to the Regulatory Framework proposed in Section 5.2.2, the Government shall bring appropriate legislation for promoting integrated and comprehensive child development detailing age appropriate interventions to address various facets of care, education, survival, protection and development of all children under six years of age assuring the right of the child in early childhood to Integrated Child Development". It suggests that the State has already made its intention clear that the Government shall bring appropriate legislation for promoting integrated and comprehensive child development interventions. This provision in the Policy brings sense to the present discussion. Now that a declaration for a law is already in place we need to delve deeply into the subject to suggest age appropriate interventions for young children to address various facets of care, education, survival, protection and development. Dr. Das in this connection has referred to the United Nations Convention on the Rights of the Child by saying that The Convention on the Rights of the Child is unusual among Human Rights Conventions in that it seeks to promote positive as well as negative rights. Negative Rights, enjoying a longer tradition, stipulate that something not to be done. They are Rights not to be wronged in some specified way. Whereas Positive Rights include the Right to adequate nutrition, primary health care and basic education. Positive Rights are produced goods and services. They are therefore, dependent on resources, the allocation of which may be affected by scarcity and competition. Negative Rights, on the other hand know no such limitations. They do not have to be created, only protected and therefore, feasible to honour them whether a country is a rich or poor. It is worth remembering that some Negative Rights such as the Freedom from violence may well depend for their implementation on their being converted into Positive Rights, for example the Right to protection by Govt. The fact that Negative Rights do not involve direct resource costs make it easier to argue the case for their universality and inviolability. In some cases it may be that an economy may simply not have sufficient resources to enable all to enjoy the Right to adequate nutrition and health care. This raises the disturbing possibility that Negative Rights are inviolable in a way that Positives Rights are not. The question here is how can a Right be considered inviolable, if it is not always

possible to protect it. The Convention on Rights of the Child implicitly recognises the distinction between Negative and Positive Rights. While Article 24 obliges the Govt. of all ratifying countries to diminish infant and child mortality and to combat diseases and malnutrition, Article 4 of the Convention makes the concession that countries shall undertake such measures to the maximum extent of their available resources. He said that the approach of the United Nations Convention on issues of Survival and Development must be taken into consideration while engaging in a brainstorming to draft a law on the subject of ECCE.

With this preliminary remark Dr. Das circulated a draft law prepared by NCER for a brainstorming among the participants to conceptualise a law. Dr. Das asked Namrata Chadha to carry forward the discussion as the chair of the session.

Namrata Chadha as the chair of the session opined that in the present legal regime there are plethora of laws available that have substantial bearing on ECCE like the provision for nutritious food for children through ICDS provided under the National Food Security Act, 2013 which was recently enacted. With this remark she said that there shall be 3-presentations in the consultation for a draft law on ECCE. They are the following:

- 1) Nature and Extent of Article 45 of the Constitution of India.
- 2) Global Legal Perspective on ECCE.
- 3) Review of Section 11 of RTE Act.

In the presentation of Prof. Karnadeva Muduli on the subject of nature and scope of Article 45 of the Constitution of India, he said that the provision originated with the common background to provide education to children as it is a part of the same 86<sup>th</sup> Constitutional Amendment Act. The 86<sup>th</sup> Constitutional Amendment Act incorporated Article 21-A in the Fundamental Right Chapter, replaced education provided under Article 45 by the provision of ECCE and included a Fundamental Duty concerning education by way of insertion of 51-A (k). A bare reading of 86<sup>th</sup> Constitutional Amendment suggests that it has a mission to provide education which is age-appropriate either in the form of pre-schooling or elementary education. Therefore, so far as, Article 45 is concerned the constitutional mandate is to provide the opportunity for early learning to children below the age of 6 and making available

elementary education to children in the age group of 6-14. In this process the constitution by virtue of 86<sup>th</sup> Constitutional Amendment Act envisages education to children until attainment of age of 14 which was the mandate in the original constitution. The new provision in Article 45 only makes an attempt to engage the State to devise care and education for children in their early childhood.

In his presentation on Global Legal Perspective on ECCE Prof. Chinmaya Haldar said that the knowledge concerning legal framework on ECCE is not yet fully developed. There are handful of countries where some kind of legislative arrangement has been made. The process of development of law is still in its insipid stage. A review suggest that countries like Phillipines, Malaysia, New Mexico and Norway have developed statutory provisions on subjects like kindergartens and child care. The existing global legal models indicate that the laws by and large are more regulatory framework for establishment of various care giving institutions. The entitlement aspect is not widely developed. India has comparatively progressed to create entitlement for rendering essential services and enabling environment. Most of the laws of different country provide institutional and regulatory regimes for registration and certification. In India our concerns is to create early childhood care and education as an entitlement which is promised to be delivered by the State. In other countries the law on the subject does not look at the issue from entitlement approach. On the other hand it makes an attempt to regulate private institutions and services who are suppose to arrange and make available care and early education to children.

The third presentation relating to ECCE as envisaged under Section 11 of RTE Act presented by Prof. P.K. Sarkar revolved around the legislative provision that is in operation for ECCE. Prof. Sarkar said that as per the provision of ECCE is not binding on the State as the Statute uses the term **“the State may”** provide ECCE. The discretionary provision does not recognise an entitlement. However, Prof. Sarkar said that ECCE as a subject has already covered under law which can be further enlarged through rule making power. Prof. P.K. Sarkar said that the incorporation of provision regarding ECCE under Right to Education Act can be considered only as an enabling service. He said one cannot argue that the law intends to cover 6-14 age group children only and this particular legislation cannot be intended to children of lesser age. The law can have provision to create an enabling environment to realise the

objective of the statute by addressing the need of children who are not directly covered under the Act.

After the presentation the Chair of the session invited suggestion for preparation of a Draft Law. After a thorough deliberation on the draft law circulated among the participants it was resolved by the house to constitute an Expert Committee under the Chairmanship of Dr. Bikash Das to develop a draft law exclusively on ECCE which can address both essential entitlements and enabling entitlements. The law can cover various issues which are directly related to the young children or those which have substantial bearing on ECCE. In this regard the diagram developed by Mina Swaminathan has been reviewed. Since, there exists many laws, therefore, it was recommended to devise a law which can deal with cross cutting issues relevant to ECCE.

The consultation unanimously recommended to constitute an Expert Committee which will undertake the responsibility to finalise the draft law. It was decided that an Expert Committee will meet as early as possible to decide specific themes which can be brought under the purview of a law on ECCE.

The consultation recommended that various themes like crèche, maternity entitlement, pre-school education and protection issues need to be covered under the draft law. Similarly, the provision pertaining to pre-school education must have a clearly delineated provision for mother tongue based early education as a matter of right to language of children of scheduled tribes and minorities.

With the above discussion the consultation ended with a vote of thanks to CLAP for holding a consultation on Right to Education and to Draft a Law on ECCE.

## **4-Cornerstones to ensure a strong foundation for young children** (Developed by Consultative Group on Early Childhood Care and Development)

The release of the 2007 Education for All Global Monitoring Report: Strong Foundations, focusing on early childhood care and development, inspired the Consultative Group to convene a special session at its Annual Consultation, and the participants from all regions of the world came up with the idea of the 4 Cornerstones of early childhood development. But consensus on the Cornerstones was not easy to achieve. Should they be cross-cutting issues such as the equity of early childhood care and development provision, the quality of early childhood care and development programming, and the need for child-centred, interactive processes? Or should they be based on age ranges within the more and more commonly accepted definition of the young child as aged 0-8 in order to ensure roughly equal attention to each age range by each of the major actors in early childhood care and development – an equality often not achieved? In the final analysis, the latter approach was chosen, with one exception (Cornerstone 4), leading to four cornerstones as outlined in the below summaries.

### **1. Cornerstone 1: Start at the beginning (age 0-3)**

- Integrate, coordinate, and improve services to all young children and their families.
- Promote more positive caregiver/child interaction, stimulating environments, good health and nutrition, and better child care.
- Provide universal access to family support programmes that address holistic child development.

### **2. Cornerstone 2: Provide new opportunities for discovery and learning (age 3-6)**

- Ensure access to at least two years of quality early childhood prior to formal school entry.
- Focus on the development of children's sense of self, their interactions with peers and adults, their confidence as learners, their language competence, and their critical thinking and problem solving skills.
- Provide information and support to parents and caregivers.
- Priorities the most vulnerable and disadvantaged children.

### **3. Cornerstone 3: Make schools ready for children (age 6-8)**

- Ensure a welcoming, appreciative, and inclusive school environment which facilitates the transition from the family or pre-school environment.
- Train and appoint capable teachers to lower primary grades who understand the development needs and learning styles of young children.
- Ensure smaller class sizes and a manageable teacher-child ratio in the early years of primary school.

### **4. Cornerstone 4: Address the development of policies on early childhood (across all age ranges)**

- Develop, implement, and evaluate policies and action plans in the context of a national vision and strategies for young children, expanded investment in their development, and stronger intersectoral coordination.
- Guarantee adequate resources by ensuring that early childhood is integral to national development policies and macroeconomic planning and budgeting.
- Address early childhood, across sectors, in all national and sub-national policies and plans.
- Invest now in ECD policies and programmes which will bring large future returns to individuals, families, communities, and nations.

## **VII. Outcome and Recommendation:**

- a. It is recommended that legal measure be adopted to make an assessment of the existing requirement of schools as per the provision of Section-6 (1) of the Odisha Rules within a stipulated timeframe. As the provision of Rules has a substantial bearing on Section-6 and Section-8 of the Principal Act for its full realisation, such need assessment mapping is necessary to ensure that children in the age group of 6-14 have access to school in their neighbourhood. Since this is a common phenomenon all across the country therefore, legal measure in the principal Act must be made for the entire country with regard to regular mapping of availability of school and establishment of new schools.
- b. In view of the provisions of the Act which are essential to enhance the quality of education, it is recommended that a special provision for imposition of penalty on responsible authorities of appropriate government and local authorities for non compliance for quality assurance in education be inserted/incorporated in the principal Act through an amendment. Accountability must be fixed on responsible authorities.
- c. The School Development Plan particularly with regard to requirement of the number of additional teacher, head teacher, subject teachers and physical requirement of infrastructure as well as equipment must be addressed in a stipulated time period for which a clear provision in the principal Act be made. Any negligence or omission of duty must be made punishable.
- d. It is recommended that through an amendment of the Act, Section – 21 (2)(d) i.e. “Perform such other functions as may be prescribed” be repealed.
- e. It is suggested that the provision regarding Right to Pursue Free and Compulsory Education in accordance with the provision of the Persons with Disability Act, 1996 be reviewed once again and inclusive education be promoted instead of special schools and non-formal education as provided under the above Act.

- f. It is recommended that a suitable amendment be made to Section 14 (1) to replace the existing provision by incorporating the provision for Registration of Birth and Death as per the Registration of Birth and Death Act, 1969.
- g. It is recommended that liability for contravention of provision relating to prohibition of physical punishment and mental harassment may be clearly spelt out and incorporated in the Act through amendment. The penalty for violation for this provision should also be clearly delineated with procedure of imposition of penalty.
- h. In the above backdrop this Memorandum calls on the Sub-Committee of the Department related Parliamentary Standing Committee on Human Resource Development to develop comprehensive strategy for Pre-School education along with early childhood care and education to secure universal, free, high quality and accountable pre-school education for children before they start primary school by incorporating appropriate provision under Section 11 of RTE Act, 2009.
- i. A thorough examination and review of Implementation of Right to Education Act, 2009 reveals that the omission of duty and negligence at the executive level are mostly responsible for non-implementation of the RTE Act. Similarly, the Rules framed at the State level under the Act also defective and in most of the cases leave space to escape from legislative duties by appropriate government and local authorities. Hence, apart from the above stated recommendation, we the undersigned recommend for appropriate amendment for uniform Rule all across the country and also inclusion of provision for fixing liability and punishment for omission or negligence in duty.
- j. There exists a prima facie case for the creation of uniform standards across India for ensuring that young children are entitled to the same ECCE services and core non-negotiable minima. In this regard a draft law will be prepared and to be submitted to Government on ECCE. CLAP is given the responsibility to coordinate the effort. In the draft law adequate provision will be made for mother tongue based early education for tribal children and minorities as a matter of Right to Language. The draft law must unambiguously lay down minimum entitlements of right holders i.e. the young children. The draft legislation already prepared by CLAP shall be further developed with incorporation of provision for crèche facility, pre-school education, mother-

tongue based pre-school education for tribal children and regulation of childcare centres. In this regard a Drafting Committee under the Chairmanship of Dr. Bikash Das is constituted. The Committee shall have 3-other members consisting of Prof. P.K. Sarkar, Prof. U.N. Dash and Dr. V. Prithviraj, Senior Advocate. The Committee is authorised to hold consultation with expert groups and practitioners at various level to give a comprehensive shape to the law. The Draft Law will be presented to the appropriate Ministry and authorities in the form of a proposal for consideration. It is recommended that the draft law can also be shared with Parliamentarians with a request to introduce it as a Private Bill.



## CONSULTATION ON IMPLEMENTATION OF RTE ACT, 2009

**Venue: OSSTA Conference Hall, Cuttack**

**Date: 13.11.2013**

### Programme Schedule

Time	Programme/Activities	Guest/Resource Person
9.30 am	Registration	
10.00 am	Welcome Address	Prakash Chandra Mohanty, General Secretary, OSSTA.
10.10 am	Condolence Prayer for Prof. Abani Kumar Baral	Propose: Prakash Chandra Mohanty, General Secretary, OSSTA.
10.15 am	Keynote Address:	Pramoda Kishore Acharya, Executive Director, CLAP.
<b>10.30 am</b>	<b>Address on Implementation of RTE Act, 2009</b>	Ranjan Mohanty, Convenor, OACRC Anil Pradhan, Convenor, Odisha RTE Forum Hrudananda Dwivedi, Working President, AUPTF. Prakash Chandra Jena, General Secretary, AOLSTA Prakash Chandra Mohanty, General Secretary, OSSTA. Sudhir Sabat, Convenor, CACL Purusottam Sahoo, Director-Advocacy, NCER Gobinda Sethy, Odisha-FORCES
	Address by the Chair	Dr. Bikash Das, President, CLAP
1.00 to 1.30 pm	<b>Open Forum</b> Speech by Representative of School Management Committee, Parents, Children, Students, Teachers and NGO Representatives.	Moderator : Harihar Nayak, Basundhara.
1.40 pm	Vote of Thanks	Jyotiranjana Mohanty, CLAP.

2.00 pm	Lunch	
2.45 pm	<b>Thematic Discussion on Draft Law on ECCE</b> Nature and Scope of Article 45 of Constitution of India Global Legal Perspective on ECCE Review of Section-11 of RTE Act. Review of Draft Law on ECCE prepared by CLAP. Outcome and Recommendation on the Consultation	Chair: Ms. Namrata Chadha. Prof. Karnadeva Muduli  Prof. Chinmaya Haldar Prof. P.K. Sarkar. Participants.  Ms. Namrata Chadha
5.30 pm	Vote of Thanks.	Purusottam Sahoo.

**Organised by:**

**CLAP**

**Collaboration:**

Odisha Secondary School Teachers Association, All Utkal Primary Teachers' Federation,  
 All Odisha Lower Secondary Teachers Association, Odisha RTE Forum,  
 Odisha Alliance on Convention on Rights of the Child, CACL- Odisha  
 Odisha-FORCES, National Campaign for ECCE Right (NCER)

**List of Participants**  
**Consultation on Implementation of RTE Act, 2009**

Date: 13.11.2013

Venue: OSSTA Conference Hall, Cuttack.

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## **Right to Early Childhood Care and Education Bill 2014**

(An Act to put into effect the Right to Early Childhood Care and Education for All Children Up to the Age of Six)

### **Preamble**

Whereas the Preamble to the Constitution resolves to secure to all citizens of India JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY, assuring the dignity of the individual and the unity and integrity of the Nation;

And whereas, despite the original Article 45 of Directive Principles of the Constitution having made it the duty of the State to provide free and compulsory education to all children up to age fourteen in ten years (1960), the number of out of school children has remained very large;

And whereas, the 86th Constitutional Amendment Act 2002 has provided for free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right under Article 21A of the Constitution, in such manner as the State may, by law, determine;

And whereas, the above Act also provides under Article 45 that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years;

And whereas, it is universally recognized that effective early childhood care and education is vital in preparing children for the later stages of education that are recognized as a Fundamental Right under Article 21A;

And whereas, existing schemes for early childhood care and education leave millions of children out, are poorly financed, and vary substantially in quality from region to region in our country;

And whereas, only if Article 45 is implemented with enabling legislation will the Fundamental Right of Education for Children Aged Six to Fourteen become fully capable of realization;

And whereas, it is also imperative to improve the present delivery system of early child care and education by, inter alia, professionalizing staff, developing a strong curriculum that is both scholarship-driven and sensitive to cultural differences, decentralizing program management, and increasing parental involvement to the extent feasible.

Be it enacted by Parliament in the sixty-second year of the Republic as follows:

## Chapter I

### Short Title, Extent and Commencement

(1) This Act may be called the Right to Early Childhood Care and Education Act, 2014.

(2) It shall come into effect upon final enactment into law by action of the President or of the Parliament.

## Chapter II

### Objectives

The objectives of the National ECCE System, which all program activities shall be designed to achieve, are:

(1) To make available to all children from the ages of three to six at least two years of pre-primary education free of charge, and to facilitate a smooth transition for such children from home-based care and pre-primary Education to Primary School;

(2) To achieve improved infant and child survival rates by ensuring that adequate health and nutrition programs are made available to young children and their mothers from the pre-natal period throughout the early childhood years, in a culturally sensitive manner;

(3) To improve the physical, social, emotional, cognitive, psychological, spiritual and language development of young children, including the Disabled;

(4) To enhance the role of parents as effective caregivers and educators of their children from birth onwards;

(5) To enable and sustain the efforts of communities to promote ECCE programs;

(6) To establish an efficient system for early identification, prevention, referral and intervention for developmental disorders and disabilities in early childhood;

(7) To improve the quality standards of ECCE programs through, but not limited to, a training and credentialing system for ECCE professional staff; and

(8) To disseminate information about the availability and importance of ECCE services to all communities nationwide, to assure that every resident of India who is eligible for ECCE services can readily avail themselves of such services on an informed basis.

## Chapter III

### Definitions

(1) In this Act, unless the context otherwise requires:

(a) "**Central Government**" means the government of the Union of India.

(b) "**Academic Advisory Authority**" means the National Council for Education Research & Training ("NCERT").

(c) "**Disabled**" means a person who has any restriction or lack of abilities to perform an activity in the manner or within the range considered normal for a human being. Persons having any of the infirmities listed below will be within the definition of Disabled under this Act:

*Visual Impairment:* A person having no light perception, or having light perception but not able to count the fingers of a hand correctly (using glasses if ordinarily used) from a distance of 3 meters in good day light with both eyes open.

*Hearing Impairment:* A person, who can not hear at all, or could hear only loud sounds, or can hear only shouted words, or can hear only when the speaker is sitting in the front, or usually asking to repeat the words spoken or would like to see the face of the speaker.

*Orthopedic (Locomotor) Disability:* Loss or lack of normal ability of an individual to move himself/herself and /or objects from one place to another.

*Intellectual Impairments (Mental Retardation):* A condition of arrested or incomplete development of a person's mind which is specially characterized by sub-normality of intelligence.

(d) "**Disadvantaged Group**" means scheduled castes, scheduled tribes, Migrant Families, other socially and educationally backward classes, and such other groups disadvantaged due to economic, social, cultural, linguistic, gender, administrative, locational, disability or other factors. The Central Government shall issue notice listing of all groups in addition to scheduled castes, scheduled tribes and Migrant Families that shall be deemed to be disadvantaged groups in relation to an area, within three months of the Effective Date.

(e) "**ECCE Monitoring and Mentoring Committee (EMMC)**" means the organization described in Chapter IV(5) of this Act.

(f) "**Early Childhood Care and Education (ECCE)**" means the full range of health, nutrition, early education and social service programs set forth in Chapter IV(1) of this Act that shall be designed and provided in such manner as to meet the objectives of this Act as set forth in Chapter II.

(g) "**Effective Date**" means the date this statute takes effect.

(h) "**Eligible Children**" mean children from the age of three to six with respect to Pre-Primary Education, and from birth till age six for all other ECCE Services.

(i) "**Eligible Persons**" means those persons who are identified in Chapter IV(1) of this Act as being eligible for receipt of particular ECCE Services.

(j) "**Guardian**" means a child's natural parents, or any other person having the actual charge or control over the child and recognised by the appropriate legal authority as a Guardian.

(k) "**Highly Qualified Teacher**" means a Teacher who can demonstrate that she possesses the training, certification, and other qualifications Prescribed by the Central Government, in consultation with the Academic Advisory Authority, that assures her high competency in providing early childhood education at a professional level.

(l) "**Local Area**" means the area comprised within the territorial jurisdiction of a Local Authority.

(m) "**Local Authority**" means:

(i) a *Panchayat* in respect of rural areas;

(ii) the *Gram Sabha* in case of rural areas situated within scheduled areas, to the extent recognized in the Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996.

(iii) a *Municipality* in respect of an urban area; and

(iv) such other authorities as the Central or State Government may, by notification, specify for a Local Area.

(n) "**Migrant Family**" means a family that normally fails to reside in any one Neighbourhood for more than ninety days in a calendar year.

(o) "**Neighbourhood**" means a Local Area whose boundaries are drawn by State Government in which all Eligible Children attend the same Pre-School. In designating such areas, the State will assure that no child is located at a distance greater than 1 kilometer from the Pre-School to which she is assigned. In addition, each such area shall contain the residence of no more than 300 children aged three to six; provided, however, that reasonable adjustments may be made to account for the needs of Migrant Families.

(p) "**Neighbourhood Pre-School**" means any Pre-School located within the Neighbourhood of a child.

(q) "**Pre-primary Education**" means the component of ECCE described in Chapter (IV)(1)(a).



(r) **“Pre-School”** means an institution or part of an institution, which provides Pre-Primary Education, conforms with the minimum requirements set forth in Chapter (IV)(1)(a) and is recognised as an adequate facility for providing such services by the Central Government, after consultation with the Academic Advisory Authority either as a part of a Primary School or as an independent entity.

(s) **“Prescribed”** means required by rules made under this Act.

(t) **“Primary School”** means a school for children aged six and above.

(u) **“Teacher”** means a person who teaches in a Pre-School and includes the head Teacher of such school.

(v) **“Ward”** means a child who is under the Guardianship of someone other than a parent.

(2) The female gender, wherever used in pronouns includes the male, and the male gender wherever used in pronouns includes the female.

(3) Words and expressions used but not defined in this Act, and defined in the Constitution, shall have the meaning assigned to them in the Constitution.

## Chapter IV

### General Entitlement to ECCE Services and Duties of Governments

**(1) Child’s Right to Early Childhood Care and Education (ECCE):** Every child from birth until the age of 6 years shall have the right to Early Childhood Care and Education (ECCE), including, without limitation, the right to at least two years of Pre-primary Education in a Pre-School environment. Towards the end of fully protecting each such child’s right, pregnant women, and mothers of Eligible Children shall also have the right to the variety of ECCE services applicable to them that are set forth in this Act. These services, which may be added to, from time to time, as may be notified by the Central Government, shall include the following:

**(a) Pre-Primary Education.** At least two years of Pre-primary Education for children aged three to six will be made available at a safe and sanitary facility in each child's Neighbourhood. Each such facility shall include the following minimum features: a readily available source of clean drinking water, sufficient space for children to play and otherwise conduct themselves comfortably, separate toilets for boys and girls, adequate light. Further:

(i) Materials and services shall be present at each facility to meet the needs of the Disabled. An Eligible Child who, due to her severe or profound disability, cannot be enrolled in a program in a Pre-School in her Neighborhood, shall have the right to be provided Pre-Primary education in an appropriate alternative environment as may be Prescribed.

(ii) At least one Teacher shall be assigned to each class, and all Teachers shall be Highly Qualified Teachers as soon as possible, but no later than Four Years after the Effective Date;

(iii) A Certificate of Accomplishment shall be issued to every child who completes the Pre-School program.

**(b) Supplementary Nutrition.** This includes supplementary feeding and growth monitoring; and prophylaxis against vitamin A deficiency and control of nutritional anemia for children below the age of six and pregnant & nursing mothers. Nutrition assistance shall be provided through hot, locally prepared and culturally acceptable meals containing between 300-800 calories, and 8-12 grams of protein. Children shall be periodically weighed and measured and given additional nutritional aid, and such medical referrals as may be necessary if they fail to attain normal growth levels.

**(c) Immunization.** Immunization will be provided to pregnant women and infants protecting children from vaccine preventable diseases, including: poliomyelitis, diphtheria, pertussis, tetanus, tuberculosis and measles.

**(d) Health Check-ups and Services.** Maternal care will include antenatal care of expectant mothers and postnatal care of nursing mothers. Other health services for children will include, at a minimum, regular health check-ups, management of malnutrition, treatment of diarrhoea, deworming and distribution of simple medicines.

**(e) Referral Services.** During health check-ups and growth monitoring, sick or malnourished children in need of prompt medical attention, and those showing signs of disability, shall be referred to a Primary Health Centre or sub-centre.

**(f) Nutrition and Health Education.** Girls and women between the ages of 15-45 will receive basic health and nutrition information related to childcare, infant feeding practices, utilization of health services, family planning and environmental sanitation.

**(2) Duty of the Central Government to Provide ECCE Services:** (a) The Central Government shall, concurrently with State Governments and Local Authorities as provided in this Act, make ECCE services available to all Eligible Persons free of any and all costs and fees, in a manner consistent with the objectives of this Act. Full services shall be available to all Eligible Persons within a period of three years from the Effective Date. To accomplish these goals, the Central Government shall perform the following functions and duties:

(i) Pay all costs and expenses, including those incurred by State Governments and Local Authorities, in planning, developing, administering, and delivering ECCE Services;

(ii) In consultation with stakeholders at various levels, recommend, and when necessary or appropriate, notify, policies and implementing guidelines for the provision of ECCE services that advance the objectives of this Act;

(iii) Establish ECCE program standards that reflect developmentally appropriate and culturally relevant practices in delivery of ECCE services;

(iv) Develop a national system for the recruitment, registration, training, continuing education, and credentialing of ECCE Teachers, Highly Qualified Teachers, other professional personnel, supervisors and administrators to improve and professionalize the provision of ECCE services, in consultation with the Academic Advisory Authority to the extent appropriate;

(v) Evaluate and assess the impact and outcome of various ECCE programs, including the enrolment and participation of Eligible Persons, through a continuous, nationwide, monitoring system;

(vi) Develop and establish a national system for early identification, of early childhood disabilities;

(vii) Develop and maintain a comprehensive database of Eligible Persons, their Neighbourhood, and their residence;

(viii) Ensure that economic, social, cultural, linguistic, gender, administrative, locational, disability or other barriers do not prevent Eligible Persons from receiving ECCE Services;

(ix) Promote high performance by disseminating information regarding best practices in the ECCE field, and providing assistance for planning and capacity building;

(ix) Implement those measures necessary and appropriate in those cases where State Governments and Local Authorities fail adequately to discharge their duties under this Act;

(x) Take such other steps consistent with the Objectives of this Act as the President may, by Order, specify.

(b) With respect particularly to Pre-Primary Education, the Central Government shall:

(i) Ensure that the appropriate State Government or Local Authority makes available a Pre-School for all Eligible Children to attend in their Neighborhood;

(ii) Promulgate, and periodically revise, curriculum parameters for ECCE Pre-Schools that are culturally sensitive but otherwise nationally standardized, upon consultation with the Academic Advisory Authority, other governments, non-governmental organizations, and other concerned stakeholders.

(c) The Ministry of Women and Child Development ("MWCD") shall administer and coordinate the Central Government's exercise of its duties and responsibilities under this Act. All other Ministries and agencies shall fully cooperate with the MWCD in its discharge of those duties.

**(3) Duties of State Governments:** (a) At the expense of the Central government, and pursuant to such guidelines and standards as the Central Government may notify from time to time, State governments shall perform the following duties in connection with ECCE Services:

(i) Provide Pre-School operators in every Neighbourhood with a Pre-School facility for their use that conforms to the specifications set forth in Chapter (IV)(1)(a), through lease, acquisition, rehabilitation, construction, or other appropriate means;

(ii) Determine, procure and distribute the goods and services required by ECCE service providers for effective service delivery;

(iii) Subject to the standards set by the Central Government, set the terms and conditions of employment for Teachers and other ECCE staff, all of whom shall be State Government employees; provided, however, that Highly Qualified Teachers shall be compensated with wages and benefits equivalent to those the State Government pays its skilled employees;

(iv) Assist and evaluate Local Authorities in their discharge of ECCE duties;

(v) Prepare budgets annually for submission to the Parliament setting forth their anticipated costs in fulfilling their ECCE responsibilities, and those of the Local Authorities.

(b) State Governments may delegate performance of the duties listed in Chapter IV(3)(a)(i-iii) or any part thereof, to Local Authorities; provided, however, that State Governments remain ultimately responsible for their performance.

**(4) Duties of Local Authorities:** (a) Subject to the responsibilities of the Central and State Governments, the Local Authority shall, if empowered by a law enacted in pursuance of Article 243G or Article 243W of the Constitution, perform the following functions:

(i) Subject to the standards, terms and conditions, and other requirements set by the Central and State Governments, recruit, employ, deploy, supervise, and evaluate the performance of, all ECCE staff, including the Teachers, social workers, mothers' aides, nurses, midwives, and any other employees needed;

(ii) Oversee and facilitate the proper utilization and upkeep of all ECCE facilities;

(iii) Develop and submit to the State Government, an ECCE Development Plan for every Neighborhood that identifies the supportive materials, facilities, and services that are needed;

(iv) Develop an annual budget, in coordination with EMMC's, setting forth the costs and expenses of making ECCE Services available to all Eligible Persons in every Neighborhood, and submit such budget to the State Government;

(v) Develop, maintain and transmit to the State and Central Governments a record of all Eligible Persons and the extent to which they are receiving services to which they are entitled, with special notation of the number and participation levels of Eligible Persons belonging to each Disadvantaged Group;

(vi) Ensure that the content, value and importance of ECCE services is promoted in every Neighbourhood, and that all Eligible Persons, and in the case of children, their Parents and Guardians, are aware of all ECCE Services to which they are entitled;

(vii) Establish and administer a Parent Education program that provides parents with various formal and alternative means to acquire information, skills, and support systems to assist them in their roles as effective primary caregivers and educators to their children. These shall include home, Pre-School and media-based child-care and education programs;

(viii) In the event any of the foregoing duties are not delegated to a Local Authority by law in pursuance of Article 243G or Article 243W of the Constitution, such undelegated duties shall be performed by the State Government.

**(5) Establishment of ECCE Monitoring and Mentoring Committees and Their Duties:** (a) An ECCE Monitoring and Mentoring Committee (EMMC) shall be constituted in every Neighbourhood composed, to the extent practicable, so that:

(i) At least three-fourths of its members are Parents or Guardians of Eligible Children, with proportionate representation among them of scheduled castes, scheduled tribes and other Disadvantaged Groups;

(ii) The remaining members are drawn from other stakeholder sections of the community including representatives of the local authority, Teachers, social workers and persons/bodies working in the neighborhood to provide, or to help provide, ECCE services, and representatives of non-governmental organizations.

(b) The EMMC shall perform the following functions:

(i) Collaborate with the Local Authority in making ECCE services as effective and widely utilized as possible;

(ii) Evaluate and monitor, the adequacy of ECCE services, and report its findings, along with recommendations for improvement, to the Local Authority;

(iii) Help the professional staff members providing ECCE services, to secure the community/parental input and cooperation they need to accomplish their assigned tasks.

## Chapter V

### Staffing

**(1) Deployment of Teachers:** (a) Every Pre-School shall be open and staffed with a Teacher at least 4 hours per day, five days a week. The Teacher-child ratio shall be maintained at no less than one Teacher for every 30 students.

(b) No Teacher shall be deployed for any non- educational purpose except for decennial population census, election to local authorities, State Legislatures and Parliament, and disaster relief duties.

**(2) Recruitment:** The Central Government shall, within six months of the Effective Date, assess each State's requirement of professionally trained Teachers as set forth under this Act, vis-à-vis the capacity of existing training institutions, and shall in the event of a deficit, take steps to augment such capacity so as to match the requirement within such period not exceeding two years from the Effective Date.

**(3) Teacher Qualifications:** (a) Within two years of the Effective Date, only such persons as possess the qualifications Prescribed by the Central Government to be classified as Highly Qualified Teachers shall be appointed as Teachers, subject to the qualifications in section V(3)(b) below:

(b) In States which do not have adequate pre-service training capacity, Central Government may grant relaxation in this provision for such period, and to such extent, as may be absolutely necessary.

(c) The State Government, subject to reimbursement by the Central Government, shall reimburse all fees payable by a Teacher for acquiring such qualifications, and such other expenses connected therewith.

**(4) Duties of Teachers:** (a) It shall be the duty of every Pre-School Teacher to:

(i) regularly provide teaching services at the Pre-School for the full daily duration of each school session;

(ii) adhere to curriculum guidelines established by the Central Government in a culturally sensitive manner;

(iii) regularly apprise every parent/Guardian about the progress of learning and development of his Child/Ward studying in the school; and

(iv) perform such other functions as may be provided from time to time.

**(5) Staff Training and Accreditation:** (a) The Central Government shall take all necessary steps to ensure suitable training and regular academic support to Teachers, and other support staff including the use of information and

communication technology. In particular, all Teachers shall be provided opportunities for peer interaction and encouraged to engage in innovation.

(b) Teacher and other professional qualification Standards and Accreditation standards shall be established by the Central Government, after consultation with the Academic Advisory Authority, which ensure that each component in the ECCE System complies with national quality standards.

(c) To the extent possible, programs shall be developed that have all Neighborhood staff members trained together to promote inter-staff familiarity and accountability, and to assure staff's common understanding of the objectives, structures and program details of the Local Area ECCE delivery system. Design of training procedures and curriculum details shall be conducted with the broadest possible participation of local stakeholders, consistent with national standards.

**(6) Accountability of Teachers:** (a) Notwithstanding anything contained in any other law, rules, regulation or contract, the power to grant leave to Teachers shall vest in the Local Authority to such extent and subject to such restrictions as regards the nature and duration of leave, and in such manner as may be Prescribed by State Government;

(b) The EMMC shall furnish periodic assessment reports to the Local Authority regarding Teacher performance.

**(7) Minimum Staff Allocation:** The State shall deploy at least two workers in each Neighborhood to provide ECCE services. At least one shall be the Teacher responsible for providing Pre-primary Education. At least one other worker shall be responsible for coordinating, and insuring provision of, all other ECCE services to Eligible Persons in the Neighborhood.

## Chapter VI

### Financial Support

(1) The Central Government shall conduct a study, with input from State Governments and Local Authorities, to determine the full cost of providing services mandated by this Statute during each of the first five years after the Effective Date. The findings of the Report shall be reported to the press, the public and the Parliament. The Study shall be completed by six months after the Effective Date.

(2) An ECCE Fund shall be created within the Ministry of the Treasury. Revenues to the Fund shall be appropriated by the Parliament, and shall be expended exclusively to pay the cost of implementing the duties and obligations created by this Act.

(3) No Eligible Person, or the parent or Guardian of such Person, shall be charged a fee, charge or imposition of any kind for the receipt of any ECCE Service.

## Chapter VII

### Enforcement of Mandate

(1) **Rights of Eligible Persons:** (a) Any Eligible Person may bring an action to compel the provision of ECCE Services before the District Court with jurisdiction over the matter at any time after the expiration of three years from the Effective Date. After hearing held no more than 1 month after the filing of the action, the Court may grant such relief at equity or in law as it deems appropriate, including, but not limited to an order commanding the Central Government to appropriate funds to fulfill the mandate created by this Act. Any order that the Court issues that is not complied with, may be punishable by contempt.

(b) In addition to any remedies the Court may order, it may in addition:

(i) award costs, including attorney's fees to successful plaintiffs in any action brought under this section; and

(ii) impose a fine against any official or officials, including but not limited to any nodal officer, Child Development Project Officer, District Social Welfare Officer, Collector, District Magistrate, or Minister, found to be improperly withholding rights of the plaintiff. The fine may be in an amount equal to 1% of the offending official's annual salary for every day said official failed to perform his duty to provide required services.

(2) **Rights of State Governments:** Any State Government may bring an action in the Supreme Court to compel the provision of services required herein to the citizens of that state at any time more than 3 years after the Effective Date. After hearing held no more than 1 month after the filing of the action, the Court may grant such relief at equity or in law as it deems appropriate, including, but not limited to an order commanding the Central Government to appropriate funds to fulfill the mandate created by this Act.

## Chapter VIII

### Ensuring Participation in Pre-Primary Education

(1) No person shall prevent a child from participating in Pre-School Education.

(2) If any person contravenes the provisions of this section, he shall be punishable with a fine which may extend to Ten Lakh Rupees, and in case of continuing contravention, with an additional fine not exceeding Rupees Ten Thousand for each day during which such contravention continues.



## Chapter IX

### Miscellaneous

**(1) Prohibition of Physical Punishment:** (a) No child shall be awarded physical punishment in any form in a Pre-School.

(b) Violation of sub-section (a) by a Teacher shall amount to professional misconduct, and such Teacher shall be liable to be punished according to the disciplinary rules applicable.

**(2) Integration with Existing Programs and Facilities:** The Integrated Child Development Services (ICDS) Scheme and other government programmes currently provide some ECCE services. To the extent such programmes in particular Neighbourhoods fulfill the mandates of this Act, they need not be changed. To the extent they fall short, they can either be modified to satisfy the requirements of the Act or terminated at the option of the Local Authority.

**(3) Act to be in Addition to, and not in Derogation of Certain Other Laws:** Provisions of this Act in relation to (i) children with disabilities, and (ii) children in need of care and protection, shall be in addition to, and not in derogation of the provisions, respectively, of (i) the Persons with Disabilities [Equal Opportunities, Protection of Rights and Full Participation] Act, 1995 [1 of 1996], and (ii) Juvenile Justice [Care and Protection of Children] Act, 2000 [56 of 2000].

## Chapter X

### Implementing Guidelines, Rules and Regulations

(1) Power of Central Government, State Governments and Local Authorities to Issue General Directions.

(a) Central Government may issue guidelines and give general directions to State Governments regarding implementation of this Act.

(b) State Governments may issue guidelines and give general directions to Local Authorities regarding implementation of this Act.

(c) Local Authorities may issue guidelines and give general directions to ECCE Management and Monitoring Committees regarding implementation of this Act.

(d) The Central Government, and State Governments, may, by notification, make rules consistent with, and in aid of, the discharge of their duties and responsibilities under this Act. Every rule notified by the Central Government, or a State Government under the Authority of this Act, shall be laid, as soon as possible after it is notified, before the appropriate Legislature.

## **Chapter XI**

### **Separability Clause**

If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions of this Act.

## **Chapter XII**

### **Repealing Clause**

All laws, Decrees, executive orders, presidential proclamations, rules and regulations or parts thereof contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

# The Statesman

## Odisha

**RTE: It's still a long way to go**

STATESMAN NEWS SERVICE

Cuttack, 15 November

A state-level consultation on Right to Education (RTE) Act lamented that there is a long way to go for successful implementation of the ambitious Act, while suggesting several measures to make it more pro-active.

“As per section 11 of RTE Act, every child from the age group of three to six years of age should be provided quality early childhood care and education.

“The state, however, is not taking appropriate action in this regard. This results in high drop outs, improper transition from pre-primary to primary education,” said Dr Bikash Das, president, Committee for Legal Aid to Poor (Clap).

Observing that the RTE Act was enacted by the Parliament in 2009 and it was envisaged under the Act to examine the law within a period of three years from the date of commencement of the Act, Dr Das lamented that the quality early childhood education is still a far cry even after three year period.

The consultation was organised by Clap in collaboration with Odisha Secondary School Teachers Association (OSSTA), All Utkal Primary Teachers' Federation (AUPTF), All Odisha Lower Secondary Teachers Association (ALOSTA), Odisha RTE Forum, Odisha Alliance on Convention on Rights of the Child, CACL, Odisha, Odisha-FORCES and National Campaign for ECCE Right (NCER)

Several suggestions, views and comments relating to the “Implementation of the RTE Act” was discussed in the consultation by the representatives of the organisations.

Particularly, the impact on the quality of education, problem areas being noticed in guaranteeing the right to children by the implementing agencies, suggestion for removal of the same, viability of various rules and guidelines framed under the Act, funding pattern and constraints, and monitoring and mechanism aspect figured prominently in the discussions.

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ODISHA BHASKAR

Berhampur.

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BHUBANESWAR

ସାହା ଆପଣଙ୍କ କଥା କହେ

## ଆଦ୍ୟ ଚୈଶବ ଓ ଶିକ୍ଷା ପ୍ରଦାନ ଉପରେ ଗୁରୁତ୍ୱ

କଟକ, (ଆ.ପ୍ର.): ଶିକ୍ଷା ଅଧିକାରୀ ଅଧିକାରୀଙ୍କ ଧ୍ୟାନ ଆଦ୍ୟ ଚୈଶବ ଓ ଶିକ୍ଷା ପ୍ରଦାନ ନିମନ୍ତେ ବ୍ୟବସ୍ଥା ରହିଥିବାବେଳେ ଏ ସମ୍ପର୍କରେ ଆଇନ ଅନୁଯାୟୀ ଦାୟିତ୍ୱ ବହନ କରୁଥିବା ରାଜ୍ୟ ସରକାର ଆଦ୍ୟ ଚୈଶବ ଯତ୍ନ ଓ ଶିକ୍ଷା ସମ୍ପର୍କରେ ଯଥେଷ୍ଟ ଧ୍ୟାନ ଦେବାକୁ ପ୍ରୋତ୍ସାହିତ। ପ୍ରାୟତଃ ପ୍ରକୃତ ହେଲେ ପାଠ୍ୟପୁସ୍ତକ ବ୍ୟତୀତ ଅନ୍ୟାନ୍ୟ ପୁସ୍ତକ ମଧ୍ୟ ଶିକ୍ଷା ଅଧିକାରୀ ଆଇନ ଅନୁଯାୟୀ ଗ୍ରହଣ କରିପାରନ୍ତି। ଯଦି ଗୋଟିଏ ପାଠ୍ୟପୁସ୍ତକ ଗ୍ରହଣ କରାଯାଏ ତେବେ ତାହା ଆଇନ ଅନୁଯାୟୀ ଗ୍ରହଣ କରାଯାଇପାରେ।

କହିଲେ ଯେ ଭାରତୀୟ ସମ୍ବିଧାନର ୨୧ (କ) ଧାରା ଅନୁଯାୟୀ ନିମନ୍ତେ ୨୦୦୯ ମସିହାରେ ମାଗଣା ଓ ବ୍ୟବସାୟକୁ ଶିକ୍ଷା ଶିକ୍ଷଣ ଅଧିକାର ବିଧାନକାରୀ ସମ୍ପର୍କରେ ଦାୟିତ୍ୱ ରହିଥିଲା। ଏହି ବିଧାନ ଅନୁଯାୟୀ ବିଧାନକାରୀ ସମ୍ପର୍କରେ ନିମ୍ନଲିଖିତ କାର୍ଯ୍ୟକ୍ରମ କରାଯିବା ପାଇଁ ବିଧାନ ସଭାରେ ଆଇନ ପ୍ରସ୍ତୁତ ହେଉଥିଲା। ଯଦି ଗୋଟିଏ ପାଠ୍ୟପୁସ୍ତକ ଗ୍ରହଣ କରାଯାଏ ତେବେ ତାହା ଆଇନ ଅନୁଯାୟୀ ଗ୍ରହଣ କରାଯାଇପାରେ।

# ଅନୁପମ ଭାରତ

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ଭୁବନେଶ୍ୱର ଶୁକ୍ରବାର, ୧୫ ନଭେମ୍ବର, ୨୦୧୩

## ଶିକ୍ଷା ଅଧିକାର ଆଇନ ଶିଶୁଙ୍କ ପାଖରେ ଅପହଞ୍ଚି

### ଶିକ୍ଷା ଅଧିକାର ଆଇନ ସମ୍ପର୍କିତ ରାଜ୍ୟସ୍ତରୀୟ କର୍ମଶାଳାରେ କ୍ଲାପ୍ତର ଉଦ୍‌ବେଗ

କଟକ, ୧୪।୧୧(ଅନୁପମ ମିତ୍ରଆ): ଶିକ୍ଷା ଅଧିକାର ଅଧିନିୟମର ଧାରା ୧୧ ଅନୁଯାୟୀ ଆଦ୍ୟ ଶ୍ରେଣୀର ଶିକ୍ଷା ୩ ବର୍ଷରୁ ଉର୍ଦ୍ଧ୍ୱ ଶିଶୁମାନଙ୍କୁ ପ୍ରଦାନ ନିମନ୍ତେ ବିଧି ବ୍ୟବସ୍ଥା ରହିଥିବାବେଳେ ଏ ସମ୍ପର୍କରେ ଆଇନ ଅନୁଯାୟୀ ଦାୟିତ୍ୱ ବହନ କରୁଥିବା ରାଜ୍ୟ ସରକାର ଆଦ୍ୟ ଶ୍ରେଣୀର ଯତ୍ନ ଓ ଶିକ୍ଷା ସମ୍ପର୍କରେ ଯଥେଷ୍ଟ ପଦକ୍ଷେପ ଗ୍ରହଣ କରୁନାହାନ୍ତି । ଫଳ ସ୍ୱରୂପ ବିଦ୍ୟାଳୟକୁ ଯିବା ପୂର୍ବରୁ ଶିଶୁମାନେ ଯଥେଷ୍ଟ ପ୍ରସ୍ତୁତ ହୋଇ ପାରୁନାହାନ୍ତି ବୋଲି ମାନବିକ ଅଧିକାର ସଂଗଠନ କ୍ଲାପ୍ ପକ୍ଷରୁ ଶିକ୍ଷା ଅଧିକାର ଆଇନ ୨୦୦୯ ସମ୍ପର୍କିତ ରାଜ୍ୟସ୍ତରୀୟ କର୍ମଶାଳାରେ ମତ ପ୍ରକାଶ ପାଇଛି । ଏହା ଦ୍ୱାରା ପ୍ରାଥମିକ ଶିକ୍ଷା କ୍ଷେତ୍ରରେ ବାଧାପ୍ରାପ୍ତ ହେଉଛି । ଏଣୁ ପ୍ରତ୍ୟେକ ଶିଶୁକୁ ଗୁଣାତ୍ମକ ଆଦ୍ୟ ଶ୍ରେଣୀର ଶିକ୍ଷା ପ୍ରଦାନ କରିବାକୁ ଆଜି କ୍ଲାପ୍ ପକ୍ଷରୁ ଓଡ଼ିଶା ମାଧ୍ୟମିକ ସ୍କୁଲ ଶିକ୍ଷକ ସଂଘର କକ୍ଷରେ ଯତ୍ନ ସହରେ ଆୟୋଜିତ ରାଜ୍ୟସ୍ତରୀୟ କର୍ମଶାଳାରେ ଦାବା ହୋଇଛି ।

ଶିକ୍ଷା ଅଧିକାର ଆଇନ ଅନୁଯାୟୀ ୬ ରୁ ୧୪ ବର୍ଷ ବୟସର ପ୍ରତ୍ୟେକ ଶିଶୁକୁ

ମାଗଣା ଓ ବାଧ୍ୟତାମୂଳକ ଶିକ୍ଷା ପ୍ରଦାନ କରାଯିବା କଥା । ମାତ୍ର କନ୍ୟା ପିକରଣ ସଠିକ୍ ଭାବେ ହେଉନଥିବାରୁ ଶିଶୁଙ୍କ ବୟସ ଭିନ୍ନ କରିବା କଷ୍ଟ ସାପେକ୍ଷ ହେଉଛି ବୋଲି ଏହି କର୍ମଶାଳାରେ ପୌରୋହିତ କରି କ୍ଲାପ୍ ସଭାପତି ଡ. ବିକାଶ ଦାସ ମତବ୍ୟକ୍ତ କରିଛନ୍ତି । ସେ କହିଲେ ଯେ ଭାରତୀୟ ସମ୍ବିଧାନର ୨୧ (କ) ଧାରାର ସମ୍ପର୍କ ରୂପାୟନ ନିମନ୍ତେ ୨୦୦୯ ମସିହାରେ ମାଗଣା ଓ ବାଧ୍ୟତାମୂଳକ ଶିକ୍ଷା ଶିଶୁ ଶିକ୍ଷା ଅଧିକାର ବିଧେୟକ ଭାରତୀୟ ସଂସଦ ଦ୍ୱାରା ଗୃହିତ ହୋଇଥିଲା । ଏହି ବିଧେୟକ ଅନୁଯାୟୀ ବିଧେୟକ ଗୃହିତ ହେବାର ୩ ବର୍ଷ ମଧ୍ୟରେ ସମ୍ପୂର୍ଣ୍ଣ କାର୍ଯ୍ୟକ୍ରମ କରାଯିବା ପାଇଁ ବିଧି ବ୍ୟବସ୍ଥା ହୋଇଥିଲା । ଇତି ମଧ୍ୟରେ ଆଇନ ଗୃହିତ ହେବାର ୩ ବର୍ଷ ଅତିବାହିତ ହୋଇଥିଲେ ମଧ୍ୟ ଶିଶୁ ଶିକ୍ଷା ଅଧିକାର ଆଇନ ଯଥେଷ୍ଟ ଫଳପ୍ରସ୍ତୁ ହୋଇଥିବା ଦୃଷ୍ଟି ଗୋଚର ହେଉନାହିଁ ବୋଲି ଡ. ଦାସ ପ୍ରକାଶ କରିଥିଲେ ।

କ୍ଲାପ୍ ପକ୍ଷରୁ ଓଷା (ଓଡ଼ିଶା ମାଧ୍ୟମିକ ସ୍କୁଲ ଶିକ୍ଷକ ସଂଘ), ନିଖିଳ ଉତ୍କଳ ପ୍ରାଥମିକ ଶିକ୍ଷକ ଫେଡେରେସନ୍,

(ଏ.ୟୁ.ପି.ଟି.ଏସ୍) ଏବଂ ନିଖିଳ ଉତ୍କଳ ନିମ୍ନ ମାଧ୍ୟମିକ ଶିକ୍ଷକ ସଂଘ (ଓଷା), ଓଡ଼ିଶା ଆର୍.ଟି.ଇ ଫୋରମ୍, ଓ.ଏ.ସି.ଆର୍.ସିର, ସି.ଏ.ସି.ଏଲ୍, ଏନ.ସି.ଇ.ଆର୍, ଓଡ଼ିଶା ଫୋର୍ସେସ୍ ପକ୍ଷରୁ ମିଳିତ ଭାବରେ ଆୟୋଜିତ ଏହି କର୍ମଶାଳାରେ ଓଷାର ସାଧାରଣ ସମ୍ପାଦକ ପ୍ରକାଶ ଚନ୍ଦ୍ର ମହାନ୍ତି, ଅଲ୍‌ଓଷାର ସାଧାରଣ ସମ୍ପାଦକ ପ୍ରକାଶ ଚନ୍ଦ୍ର ଜେନା, ଏ.ୟୁ.ପି.ଟି.ଏସ୍ କାର୍ଯ୍ୟକାରୀ ସଭାପତି ହୃଦାଞ୍ଜୟ ଦ୍ୱାବେଦୀ, ଆର୍.ଟି.ଇ ଫୋରମ୍ ଅଧ୍ୟକ୍ଷ, ଓ.ଏ.ସି.ଆର୍.ସିର ରଜନ ମହାନ୍ତି, ସି.ଏ.ସି.ଏଲ୍ ପୂଧାର ସାବତ, ଏନ.ସି.ଇ.ଆର୍ ପୁରୁଷୋତ୍ତମ ସାହୁ, ଓଡ଼ିଶା ଫୋର୍ସେସ୍ ରୋବିନ୍ ସେଠୀ, ଆଇନଜୀବୀ ଜ୍ୟୋତି ରଞ୍ଜନ ମହାନ୍ତି, ବସୁନ୍ଦରୀ ହରିହର ନାୟକ ପ୍ରମୁଖ ଅଂଶ ଗ୍ରହଣ କରି ଗୁଣାତ୍ମକ ଆଦ୍ୟ ଶ୍ରେଣୀର ଶିକ୍ଷା ପ୍ରଦାନ ଉପରେ ଆଲୋଚନା କରିବା ସହ ଏହି ଆଇନରେ ରହିଯାଇଥିବା ତ୍ରୁଟି ବିଚ୍ୟୁତି ସମ୍ପର୍କରେ ମଧ୍ୟ ଆଲୋଚନା କରିଥିଲେ । ବିଶେଷ କରି ବାସ୍ତବ କ୍ଷେତ୍ରରେ ଶିକ୍ଷକ/ଶିକ୍ଷୟତ୍ରୀମାନେ ସମ୍ମୁଖୀନ ହେଉଥିବା

ବହୁ ବିଧି ସମସ୍ୟା ସମ୍ପର୍କରେ ଆଲୋଚନା କରାଯାଇଛି । କ୍ଲାପ୍ ଅଧ୍ୟକ୍ଷ ଡ. ବିକାଶ ଦାସଙ୍କ ସଭାପତିତ୍ୱରେ ଅନୁଷ୍ଠିତ ଏହି ରାଜ୍ୟସ୍ତରୀୟ କର୍ମଶାଳାରେ ରାଜ୍ୟର ବିଭିନ୍ନ ପ୍ରାନ୍ତରୁ ବହୁ ବିଶିଷ୍ଟ ଶିକ୍ଷାବିତ୍, ଶିକ୍ଷକ ସଂଘର କର୍ମକର୍ତ୍ତା, ଦୁର୍ଭିକାରୀ ପ୍ରମୁଖ ଯୋଗ ଦେଇ ଗୁଣାତ୍ମକ ଶିକ୍ଷା ଉପଲକ୍ଷ ହେବା ଉଚିତ୍ ବୋଲି ମତବ୍ୟକ୍ତ କରିଥିଲେ ।

କ୍ଲାପ୍ କାର୍ଯ୍ୟକାରୀ ନିର୍ଦ୍ଦେଶକ ପ୍ରମୋଦ କିଶୋର ଆଚାର୍ଯ୍ୟ ପ୍ରାରମ୍ଭରେ ଶିକ୍ଷା ଅଧିକାର ଅଧିନିୟମ ସମ୍ପର୍କରେ ବିସ୍ତୃତ ବିବରଣୀ ପ୍ରଦାନ କରିଥିଲାବେଳେ ଓଷାର ସାଧାରଣ ସମ୍ପାଦକ ପ୍ରକାଶ ଚନ୍ଦ୍ର ମହାନ୍ତି ସ୍ୱାଗତ ଭାଷଣ ପ୍ରଦାନ କରିଥିଲେ । କର୍ମଶାଳା ଆରମ୍ଭରେ ବିଶିଷ୍ଟ ଶିକ୍ଷାବିତ୍ ସ୍ୱର୍ଗତ ଅବନୀ ବରାଳଙ୍କ ବିୟୋଗରେ ନୀରବ ପ୍ରାର୍ଥନା କରାଯାଇ ସ୍ମରଣ ଆତ୍ମା ପ୍ରତି ଶ୍ରଦ୍ଧା ସୁମନ ଅର୍ପଣ କରାଯାଇଥିଲା । ଏହି କର୍ମଶାଳାକୁ ଦେବବ୍ରତ ମାନସ କୁମାର ମାନସିଂ, ସେକ୍ କୁରେଶୀ, ଅନୁଲ୍ୟ କୁମାର ପଣ୍ଡା, ଆଲୋକ ମହାରଣା, ପ୍ରତାପ ରୁଦ୍ର ଚୌଧୁରୀ ପ୍ରମୁଖ ପରିଚାଳନା କରିଥିଲେ ।

# ସମେୟା

THE PRAMEYA

ସମ୍ବଲପୁର • ଶ୍ରୀକାକୁଳମରେ ମୁଦ୍ରିତ • RNI REGD NO: ORIORI/2011/37619 • POSTAL REGD NO: BN/208/12-14

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## ଶିକ୍ଷା ଅଧିକାର ଆଇନ ଶିଶୁଙ୍କ ପାଖରେ ଅପହଞ୍ଚ



କଟକ, ୧୩।୧୧ (ବୁଧବେଳା): ଶିକ୍ଷା ଅଧିକାର ଅଧିନିୟମ ଧାରା ୧୧ ଅନୁଯାୟୀ ଆଦ୍ୟ ଶ୍ରେଣୀର ଶିକ୍ଷା ୩ ବର୍ଷରୁ ଉର୍ଦ୍ଧ୍ୱ ଶିଶୁଙ୍କୁ ପ୍ରଦାନ ନିମନ୍ତେ ବିଧି ବ୍ୟବସ୍ଥା ରହିଛି । ମାତ୍ର ସରକାର ଆଦ୍ୟ ଶ୍ରେଣୀର ଯତ୍ନ ଓ ଶିକ୍ଷା ସମ୍ପର୍କରେ ଯଥେଷ୍ଟ ପଦକ୍ଷେପ ନେଉନାହାଁନ୍ତି । ଫଳସ୍ୱରୂପ ବିଦ୍ୟାଳୟକୁ ଯିବା ପୂର୍ବରୁ ଶିଶୁ ଯଥେଷ୍ଟ ପ୍ରସ୍ତୁତ ହୋଇପାରୁନାହାଁନ୍ତି ବୋଲି କ୍ଲାମ୍ପ ପକ୍ଷରୁ ଶିକ୍ଷା ଅଧିକାର ଆଇନ ୨୦୦୯ ସମ୍ପର୍କିତ ରାଜ୍ୟସ୍ତରୀୟ କର୍ମଶାଳାରେ ମତ ପ୍ରକାଶ ପାଇଛି । ପ୍ରତ୍ୟେକ ଶିଶୁକୁ ଗୁଣାତ୍ମକ ଆଦ୍ୟ ଶ୍ରେଣୀର ଶିକ୍ଷା ପ୍ରଦାନ କରିବାକୁ ଆଜି କ୍ଲାମ୍ପ ପକ୍ଷରୁ ଓଡ଼ିଶା ମାଧ୍ୟମିକ ସ୍କୁଲ ଶିକ୍ଷକ ସଂଘ ସମ୍ମିଳନୀ କକ୍ଷରେ ଆୟୋଜିତ ରାଜ୍ୟସ୍ତରୀୟ କର୍ମଶାଳାରେ ଏହି ଦାବି ହୋଇଛି । ଶିକ୍ଷା ଅଧିକାର ଆଇନ ଅନୁଯାୟୀ ୬ ରୁ ୧୪ ବର୍ଷ ବୟସର ପ୍ରତ୍ୟେକ ଶିଶୁଙ୍କୁ ମାଗଣା ଓ ବାଧ୍ୟତାମୂଳକ ଶିକ୍ଷା ପ୍ରଦାନ ପାଇଁ ବ୍ୟବସ୍ଥା ଥିବାବେଳେ କନ୍ଦୁ ପଞ୍ଜିକରଣ

ଠିକ୍ ଭାବେ ହେଉନଥିବାରୁ ଶିଶୁଙ୍କ ବୟସ ସ୍ଥିର କରିବା କଷ୍ଟ ସାପେକ୍ଷ ହେଉଛି ବୋଲି ଏହି କର୍ମଶାଳାରେ ଯୌରୋହିତ କରି କ୍ଲାମ୍ପ ସଭାପତି ଡକ୍ଟର ବିକାଶ ଦାସ ମତବ୍ୟକ୍ତ କରିଛନ୍ତି । ସମ୍ବିଧାନର ୨୧(କ) ଧାରାର ସଫଳ ରୂପାୟନ ପାଇଁ ୨୦୦୯ ମସିହାରେ ମାଗଣା ଓ ବାଧ୍ୟତାମୂଳକ ଶିକ୍ଷା ଅଧିକାର ବିଧେୟକ ସଂସଦ ଦ୍ୱାରା ଗୃହିତ ହୋଇଥିଲା । ବିଧେୟକ ଗୃହିତ ହେବାର ୩ ବର୍ଷ ମଧ୍ୟରେ କାର୍ଯ୍ୟକ୍ଷମ ପାଇଁ ବ୍ୟବସ୍ଥା ହୋଇଥିଲା । କିନ୍ତୁ ମଧ୍ୟରେ ୩ ବର୍ଷ ଅତିବାହିତ ହୋଇଥିଲେ ମଧ୍ୟ ଶିଶୁ ଶିକ୍ଷା ଅଧିକାର ଆଇନ ଫଳପ୍ରସ୍ତୁତ ହୋଇପାରିନାହିଁ ବୋଲି ବକ୍ତାମାନେ ମତ ଦେଇଥିଲେ । କର୍ମଶାଳାରେ ଓଷା ସାଧାରଣ ସମ୍ପାଦକ ପ୍ରକାଶ ଚନ୍ଦ୍ର ମହାନ୍ତି, ଅଲଓଷା ସାଧାରଣ ସମ୍ପାଦକ ପ୍ରକାଶ ଚନ୍ଦ୍ର ଜେନା, ହୃଦାନନ୍ଦ ଦ୍ୱିବେଦୀ ପ୍ରମୁଖ ଯୋଗଦେଇ ଆଲୋଚନାରେ ଅଂଶ ଗ୍ରହଣ କରିଥିଲେ ।

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BHUBANESWAR, THURSDAY, NOVEMBER 14, 2013

## 'RTE has to go a long way to achieve goal'

**Cuttack, Nov 13:** Though the Right to Education (RTE) Act-2009 envisages quality childhood care and education for children in the age group of 3-6 years, the government not taking appropriate action in this regard has resulted in deprivation of quality childhood, high dropout rates, improper transition from pre-primary to primary education. This was revealed at a state-level consultation on RTE-2009 held at OSSTA conference hall here Wednesday.

The Act was enacted by Parliament in 2009 and it was envisaged under the

Act to examine the law within three years from the date of commencement of the Act. It came up during the deliberations that though more than three years have elapsed quality early childhood education has remained a far cry.

Implementation of free and compulsory education to 6-14 years children under the Act was also discussed with key players and major stakeholders in this consultation. Suggestions, views, comments from the interested organisations/individuals on different aspects of the issue also figured the discussions.

PNN

# ସମ୍ମତମ୍

The Prajatantra

ପ୍ରତିଷ୍ଠା-ଉତ୍କଳକୋଶରୀ ଉତ୍କଳ ହିନ୍ଦୁକୁଳ ପତ୍ରପାତ୍ର

ମସିର ୨୦୧୩ • ବିଛା ୦୧ ସାଲ ୧୪୧୮ • CUTTACK FRIDAY 15 NOVEMBER -2013 • ମୂଲ୍ୟ: ୨ଟଙ୍କା • RNI R

## ଶିକ୍ଷା ଅଧିକାର ଆଇନ ସମ୍ପର୍କିତ ରାଜ୍ୟସ୍ତରୀୟ କର୍ମଶାଳାରେ କ୍ଲବ୍‌ର ଉଦ୍‌ବେଗ ଶିକ୍ଷା ଅଧିକାର ଆଇନ ଶିଶୁଙ୍କ ପାଖରେ ଅପହଞ୍ଚ

କଟକ (ପିପିଏସ୍) : ଶିକ୍ଷା ଅଧିକାର ଅଧିନିୟମର ଧାରା ୧୧ ଅନୁଯାୟୀ ଆଦ୍ୟ ଶ୍ରେଣୀର ଶିକ୍ଷା ୩ ବର୍ଷରୁ ଉର୍ଦ୍ଧ୍ୱ ଶିଶୁମାନଙ୍କୁ ପ୍ରଦାନ ନିମନ୍ତେ ବିଧି ବ୍ୟବସ୍ଥା ରହିଥିବାବେଳେ ଏ ସମ୍ପର୍କରେ ଆଇନ ଅନୁଯାୟୀ ଦାୟିତ୍ୱ ବହନ କରୁଥିବା ରାଜ୍ୟ ସରକାର ଆଦ୍ୟ ଶ୍ରେଣୀର ଯତ୍ନ ଓ ଶିକ୍ଷା ସମ୍ପର୍କରେ ଯଥେଷ୍ଟ ପଦକ୍ଷେପ ଗ୍ରହଣ କରୁନାହାନ୍ତି । ଫଳ ସ୍ୱରୂପ ବିଦ୍ୟାଳୟକୁ ଯିବା ପୂର୍ବରୁ ଶିଶୁମାନେ ଯଥେଷ୍ଟ ପ୍ରସ୍ତୁତ ହୋଇ ପାରୁନାହାନ୍ତି ବୋଲି ମାନବିକ ଅଧିକାର ସଂଗଠନ କ୍ଲବ୍, ପକ୍ଷରୁ ଶିକ୍ଷା ଅଧିକାର ଆଇନ ୨୦୦୯ ସମ୍ପର୍କିତ ରାଜ୍ୟସ୍ତରୀୟ କର୍ମଶାଳାରେ ମତ ପ୍ରକାଶ ପାଇଛି । ଏହା ଦ୍ୱାରା ପ୍ରାଥମିକ ଶିକ୍ଷା ବହୁଳ ଭାବରେ ବାଧାପ୍ରାପ୍ତ ହେଉଛି । ଏଣୁ ପ୍ରତ୍ୟେକ ଶିଶୁକୁ ଗୁଣାତ୍ମକ ଆଦ୍ୟ ଶ୍ରେଣୀର ଶିକ୍ଷା ପ୍ରଦାନ କରିବାକୁ ଆଜି କ୍ଲବ୍ ପକ୍ଷରୁ ଓଡ଼ିଶା ମାଧ୍ୟମିକ ସ୍କୁଲ ଶିକ୍ଷକ ସଂଘର କନଫରେନ୍ସ ହଲରେ ଆୟୋଜିତ ରାଜ୍ୟସ୍ତରୀୟ କର୍ମଶାଳାରେ ଦାବା ହୋଇଛି । ଶିକ୍ଷା ଅଧିକାର ଆଇନ ଅନୁଯାୟୀ ୬ ରୁ ୧୪ ବର୍ଷ ବୟସର ପ୍ରତ୍ୟେକ ଶିଶୁଙ୍କୁ



ମାଗଣା ଓ ବାଧ୍ୟତାମୂଳକ ଶିକ୍ଷା ପ୍ରଦାନ କରାଯିବା କଥା । ମାତ୍ର ଜନ୍ମ ପଞ୍ଜିକରଣ ସଠିକ୍ ଭାବେ ହେଉନଥିବାରୁ ଶିଶୁଙ୍କ ବୟସ ସ୍ଥିର କରିବା କଷ୍ଟ ସାପେକ୍ଷ ହେଉଛି ବୋଲି ଏହି କର୍ମଶାଳାରେ ପୌରୋହିତ କରି କ୍ଲବ୍‌ର ସଭାପତି ଡ. ବିକାଶ ଦାସ ମତବ୍ୟକ୍ତ କରିଛନ୍ତି । ସେ କହିଲେ ଯେ ଭାରତୀୟ ସମ୍ବିଧାନର ୨୧ (କ) ଧାରାର ସଫଳ ରୂପାୟନ ନିମନ୍ତେ ୨୦୦୯ ମସିହାରେ ମାଗଣା ଓ ବାଧ୍ୟତାମୂଳକ ଶିକ୍ଷା ଶିଶୁ ଶିକ୍ଷା ଅଧିକାର ବିଧେୟକ ଭାରତୀୟ ସଂସଦ ଦ୍ୱାରା ଗୃହିତ ହୋଇଥିଲା । ଏହି ବିଧେୟକ

ଅନୁଯାୟୀ ବିଧେୟକ ଗୃହିତ ହେବାର ୩ ବର୍ଷ ମଧ୍ୟରେ ସମ୍ପୂର୍ଣ୍ଣ କାର୍ଯ୍ୟକ୍ରମ କରାଯିବା ପାଇଁ ବିଧି ବ୍ୟବସ୍ଥା ହୋଇଥିଲା । ଇତି ମଧ୍ୟରେ ଆଇନ ଗୃହିତ ହେବାର ୩ ବର୍ଷ ଅତିବାହିତ ହୋଇଥିଲେ ମଧ୍ୟ ଶିଶୁ ଶିକ୍ଷା ଅଧିକାର ଆଇନ ଯଥେଷ୍ଟ ଫଳପ୍ରସ୍ତୁତ ହୋଇଥିବା ଦୃଷ୍ଟି ଗୋଚର ହେଉନାହିଁ ବୋଲି ଡ. ଦାସ ପ୍ରକାଶ କରିଥିଲେ । କ୍ଲବ୍ ପକ୍ଷରୁ ଓଷା (ଓଡ଼ିଶା ମାଧ୍ୟମିକ ସ୍କୁଲ ଶିକ୍ଷକ ସଂଘ), ନିଖିଳ ଉତ୍କଳ ପ୍ରାଥମିକ ଶିକ୍ଷକ ଫେଡେରେସନ (ଏ.ୟୁ.ପି.ଟି.ଏଫ) ଏବଂ ନିଖିଳ ଉତ୍କଳ ନିମ୍ନ ମାଧ୍ୟମିକ ଶିକ୍ଷକ

ସଂଘ (ଓଲଷା), ଓଡ଼ିଶା ଆର୍.ଟି.ଇ ଫୋରମ୍, ଓ.ଏ.ସି.ଆର୍.ସି.ର, ସି.ଏ.ସି.ଏଲ୍.ର, ଏନ.ସି.ଇ.ଆର.ର, ଓଡ଼ିଶା ଫୋର୍ସେସ୍ ପକ୍ଷରୁ ମିଳିତ ଭାବରେ ଆୟୋଜିତ ଏହି କର୍ମଶାଳାରେ ଓଷାର ସାଧାରଣ ସମ୍ପାଦକ ପ୍ରକାଶ ଚନ୍ଦ୍ର ମହାନ୍ତି, ଅଲଓଷାର ସାଧାରଣ ସମ୍ପାଦକ ପ୍ରକାଶ ଚନ୍ଦ୍ର ଜେନା, ଏ.ୟୁ.ପି.ଟି.ଏଫ୍‌ର କାର୍ଯ୍ୟକାରୀ ସଭାପତି ହୃଦାନନ୍ଦ ଦ୍ୱାବେଦୀ, ଆର୍.ଟି.ଇ ଫୋରମ୍‌ର ଅନାଲ୍ ପ୍ରଧାନ, ଓ.ଏ.ସି.ଆର୍.ସି.ର ରଞ୍ଜନ ମହାନ୍ତି, ସି.ଏ.ସି.ଏଲ୍‌ର ସୁଧାଂଶୁ ସାବତ, ଏନ୍.ସି.ଇ.ଆର.ର ସୁରୁଷୋଭନ ସାହୁ, ଓଡ଼ିଶା ଫୋର୍ସେସ୍‌ର ଗୋବିନ୍ଦ ସେଠୀ, ଆଇନଜୀବୀ ଜ୍ୟୋତି ରଞ୍ଜନ ମହାନ୍ତି, ବସୁନ୍ଦରୀର ହରିହର ନାୟକ ପ୍ରମୁଖ ଅଂଶ ଗ୍ରହଣ କରି ଗୁଣାତ୍ମକ ଆଦ୍ୟ ଶ୍ରେଣୀର ଶିକ୍ଷା ପ୍ରଦାନ ଉପରେ ଆଲୋଚନା କରିବା ସହ ଏହି ଆଇନରେ ରହିଯାଇଥିବା ତ୍ରୁଟି ବିଦ୍ୟୁତି ସମ୍ପର୍କରେ ମଧ୍ୟ ଆଲୋଚନା କରିଥିଲେ । ବିଶେଷ କରି ବାସ୍ତବ କ୍ଷେତ୍ରରେ ଶିକ୍ଷକ/ ଶିକ୍ଷୟତ୍ରୀମାନେ ସମ୍ମୁଖୀନ ହେଉଥିବା କହିବିଧି ସମସ୍ୟା ସମ୍ପର୍କରେ ଆଲୋଚନା କରିଥିଲେ ।



## EXPLORE ARTICLE 45 OF THE CONSTITUTION OF INDIA

### -THE NEED FOR A LAW ON ECCE/ECCD-

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The current policy dialogue concerning down-ward extension of the Fundamental Right to Education along with the Right of Children to Free and Compulsory Education to address development issues pertaining to children in their early childhood instead of making a special law on ECCE/ECCD seems to be inappropriate on various counts. This paper makes an attempt to examine the lessons learnt from the application of law relating to right to education and consequentially touch upon some of the issues having bearing on ECCE/ECCD with an intension to argue a case for special legislative arrangement to address the issues of young children in India. It draws the sanction for a special law in India relating to ECCE/ECCD from Article 45 of the constitution.

**Lessons Learnt:** An engagement with the existing constitutional mandate and legal provision indicates that the Fundamental Right to Education as envisaged in Article 21-A of the Constitution of India which flows into the Right of Children to Free and Compulsory Education Act, 2009 is very poorly formulated, for which at the level of enforcement, this law suffers inadequacies to translate the entitlements into benefits/opportunities – (actual realisation by those for whom the law was enacted). Perhaps this law is the best example of the Black Letter Law tradition in India, where the right is certain under law but is hard to accomplish the goal envisaged by the statute, due to inherent deficiencies within the law- which is deliberately made to make sure that the rights are offered but it is impossible to realise by the right holder. I termed it a deliberate attempt primarily because of the normative approach of RTE Act, 2009. The normative approach is structured in a manner where neither it would be possible to access the entitlements nor anyone in any level of governance could be held accountable for denial of entitlement or to cause deprivation from legal rights. Practically speaking the law does not create any institution of governance to secure free and compulsory education for children. Some of the major drawbacks in the law as understood from practical application of RTE Act can be reviewed in the following manner:

- A. **Access Right with Tricky Remedies:** In the matter of Access to Compulsory Education (Elementary Education), if such right is denied, the remedy available under the law is to

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<sup>1</sup> NCER stands for National Campaign for Early Childhood Care and Education Right. It is a juridical advocacy initiative led by CLAP.

approach the local authority (Panchayat or Municipality as the case may be) for redressal of grievances. The Right to Education or securing the Access Right is a duty on the part of all the authorities at the Central and State Government level as well as local authorities. However, In the event of violation of the right or in case of omission of duty, the remedy provided for is; a written complaint can be filled with the local authority having jurisdiction which shall be decided within a period of 3-months (See Section 32 of RTE Act). In case, any person is aggrieved by the decision of the local authority, an appeal can be preferred to State Commission for Protection of Child Right or otherwise a complaint can be lodged with the National Commission for Protection of Child Right. The Commission thereafter shall inquire into the complaint and take necessary step under Section 15 and 24 of Commission for Protection of Child Rights Act.

One can easily make out from the remedies provided under the act that how difficult it is in India, mostly in rural areas to ascertain the fact as to who has the actual authority over the school and accordingly decide the authorities to be approached. In Odisha it is observed that the existing schools are run by various governments; central, state and local self government. Besides, many schools are aided by government in different form. In addition to that, the law does not make it compulsory to establish a special desk or empower one person (as done in RTI for appointment of PIOs) to deal with complaints. Compensation for denial of right and recovery of compensation amount from the specific public authorities is an essential part, which is overlooked.

- B. **Equal Opportunity depends on working of allied law:** In the case of Children with Disability, the Act prescribes that the matter of education shall be governed by Chapter-V of Persons with Disability Act. Since, the present subject law ( i.e. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995) is demonstratively failed the right holders, hence, a reference to it does not bear any legal meaning.
- C. **Prohibition of Corporal Punishment is a Mockery:** Similarly, the Act prohibits physical punishment and mental harassment. However, the remedy is given in the shape of a reference that whoever, contravenes the provision shall be liable to disciplinary action under the Service Rules. It is widely known that none of the Service Rules make any arrangement for disciplinary action. Apart from it, the Act does not make it clear the manner in which action to be initiated and the complaint mechanism for it.

The above 3-major aspects are tips of the ice-berg. The Right to Education Act, therefore, requires a whole lot of changes and reform in the body of the statute before any decision is taken for its downward or upward extension. In the present shape, the rights recognised under the statute are only rhetoric.

Apart from the above points, the educational orientation of Article 21-A and the Right of Children to Free and Compulsory Education Act 2009 may have similar approach of institutional education, when it is applied to the young children without giving attention to the care aspect which is essential for securing early childhood care, education and development. The attempt for a down-ward extension of

RTE Act would end up addressing the only one component that is preparing children for elementary education before they enter into primary education, that too partially.

It is in this backdrop there is a need for a special law which can cater to the needs of young children from conception to completion of six years of age covering care and education component to make sure that early childhood development is realised as a matter of right. At this stage of life, young children must be endowed with survival, development and protection rights by virtue of legislative arrangement. In fact these are the rights which are envisaged under United Nations Convention on Rights of Child (UNCRC). As a state party to the convention, the state in India is duty bound under International Law to abide by its commitments.

Considering the above points, it is essential to make a demand for a special legislative arrangement for young children concerning ECCE/ECCD in its comprehensive form. A demand for a public policy or a law on ECCE/ECCD has already a sanction with it based on Article 45 of the Constitution of India. On the other hand mere inclusion of pre-school education in the ambit of RTE Act can be held to be an enabling arrangement for realisation of fundamental right to education, but cannot serve the broad purpose of development of young children.

## **Legal Dimension of Draft Policy on ECCE**

### **Review and Recommendation by CLAP**

The recent move of the Government of India in the Ministry of Women and Child Development to formulate three major policies having bearing on Early Childhood Care and Development in the draft formats has generated, in a sense national polemics by champions of young child right (or child right in early childhood) of the contemporary society who have been advocating for strong policy environment encompassing early childhood care and education. There could be several different motivations for attempting to review the draft policies in different spheres. One fundamental motivation stems from a concern with regard to its applicability from the present legal perspectives. The present paper revolves around the legal aspect of the policy and its consequential implications. It seeks to build a broad-spectrum understanding with regard to the policy framework vis-a-vis the regulatory mechanism to locate the interface between both the instruments. Based on the understanding developed through the review, an attempt shall be made in this paper to offer certain policy recommendation to resolve the issue at the point of formulation of policy.

To begin with, there is a need to appreciate the progress made in the sphere of policy making agencies of the state and the role performed by the esteemed ministry in the best interest of young children of India. The attempt to formulate policies assumes significance as there is now a demonstrated endeavour by the executive bodies to address the issue of young children through a systemic policy measure. In view of this, it would not be overstated to hold that the present policy initiative is going to witness a formal departure from a mere constitutional proviso— thereby it shatters the status-quo which has been maintained since 2002 after incorporation of the provision of ECCE in Article 45 in the Directive Principle of State Policy by 86<sup>th</sup> Constitutional Amendment Act. Therefore, it deserves public acknowledgement. Hopefully, the draft policy when it is finalised would shape the framework for action and institutional arrangement for effective governance. Article 45 of Constitution of India and Section 11 of RTE Act which never saw the light of the day since its origin in their respective domain may have the occasion to move beyond the dormant condition.

Amidst the fond aspiration of the democratic society, a wave of concern simultaneously emanates at the very stage of formulation of policy for various reasons. It is anticipated that

such an engagement of the ministry would merely end up with formulation of a policy by the executive agency of the state and would not produce a statutory policy on Article 45, notwithstanding the fact that it is going to bring in a public document in the democratic domain. But what is indispensable in the present legal environment perhaps is to afford legislative sanction to the subject as a fundamental legal need. The following lines succinctly outlined below attempt to locate some of the major policy concerns and the need for legislative sanction:

### **1. Legal Incongruity:**

The major concern relating to the draft policy emerges in the broader premise that an attempt has been made at the central level (Union Government level) to contemplate a policy while a central legislation i.e. the Right of Children to Free and Compulsory Education Act, 2009 in Section 11 provides that: **“with a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government may make necessary arrangement for providing free pre- school education for such children”**. This will have serious implications and may cause governance deficit immediately after the policy comes into force in the matter of regulation. In fact, the whole exercise is an attempt which undermines the statutory provision. Although there is no denying the fact that the legal provision in Sec.11 of RTE Act is very much limited in its approach and does not address the whole notions of early childhood care and development which are essential for the holistic development of young children (from the stage of conception to 6 years), in a logical and jurisprudential assertion it is comprehensible that the constitutional mandate in Article 45 had already received (in a limited manner) statutory recognition in Section 11 of RTE Act which explicitly mandated that the appropriate government ( mostly state government and local bodies) may undertake the duty in relation to ECCE. It is essential to mention that this proposition was heavily contested when the RTE Act made an attempt to sift the burden of addressing ECCE on Appropriate Government. However, the statutory provision has already been made to that effect and it is in force in the present context. When the matter stands like that, again bringing the ball to the court of central government is bound to create a tension between public policy in one hand and statutory provision on the other without making an amendment to the provision provided under Section 11 of RTE Act. The tension would be compounded further by the very fact that in the present juncture the financial autonomy completely rests with central government in the matter of implementation of Integrated Child Development Scheme (it is understood that 75% of the total cost is borne by the central government under ICDS). It implies that the public policy (an executive decision) is going to prevail over the statutory provision made by the supreme authority e.g. the parliament. In view of the aforementioned discussion it is now desirable on the part of the central government to make its stand clear as to how the policy is going to be converged with the legislative provisions which is in force in the present juncture.

### **Policy Recommendation:**

It would be worth to recommend that a provision be explicitly provided in the policy to the effect that legislative process shall be initiated by the Ministry to make an amendment to the provision contained in Section 11 of Children’s Right to Free and Compulsory Education Act, 2009 with the objective of bringing in reform in the legislative arrangement for effective governance and uniformity in respect of Article 45 of the Constitution of India. Fortunately, the Draft Policy has already made its intention clear with regard to statutory back-up by holding that a legal framework on the subject would be attempted. However, the Policy also suggests that it will be done after assessment of its being operationalised. Planning a legal framework after bringing the Policy in to operation may not be a judicious decision as Section 11 would stand as an impediment on the way to operationalise the Policy for the above cited reason. Therefore, a clear stand is essential with regard to Sec 11 of RTE which governs the subject in the present context.

### **2. Not Informed with Principles of Child Right:**

In a context where rights of children are primary and paramount consideration in all policy matter due to the obligation of the state under United Nations Convention of Rights of the Child, all policies on children are required to be informed with the provision envisaged under United Nation’s Convention on Rights of the Child (UNCRC). However, a bare reading of the draft policy indicates that basic principles are conspicuously absent in the design and formulation. In a nutshell the basic principles of UNCRC do not inform the policy while setting the tone. Some important aspect like the best interest of the child and also the evolving capacity and inherent potential of young children need to be given proper policy orientation. Similarly, the themes pertaining to Rights of the Child like the Right to Identity (UNCRC Article 8), Parental Care and Family Environment (UNCRC Article 9 at e) are required to be incorporated in the policy to unfold the principle as to how it is to be addressed. One of the fundamental ideals of the convention is to empower the parents and family to enable them to undertake the responsibility of holistic development of the child (see the preamble of the convention). Hence, it is always essential to delineate the approach of the policy. Above all what is perhaps more important in the Indian context is assistance for performance of child rearing and creating opportunity for care of children and provision of child care services (UNCRC Article 18).

### **3. Commitment of a Nation:**

A bare reading of the draft policy does not bring to the attention any explicit commitment of the policy for progressive realisation of early childhood development in its totality rather the policy reaffirms the commitment of the Government of India to provide integrated services. It implies that as a nation our commitment is on providing services but not progressively realise early childhood development (with indicators and milestones). Even

though the difference is difficult to locate as it is by and large inherent in the spirit of the commitment, but it is going to have serious long term consequences with marginal attempt to deliver services, with as far limited resources as possible, then focusing on the outcomes of the endeavour. Delivery of service as a matter of policy commitment is a non-negotiable element; as such a proviso fits well into a rule or a guideline for operation. It is essential to spell out the nature of entitlement, its delivery mechanism, the authorities who are suppose to do it and provision of grievance redressal with adequate measures for accountability and budget allocation. What is always important in a public policy is pronouncement in unambiguous terms the purpose the policy is going to fulfil in response to the aspiration of the society. In view of it the policy must spell out the vision which it is going to accomplish rather than reaffirming its commitment to provide services.

#### **4. Institutional Arrangement with Accountability and Cost Analysis:**

There are several Committees being envisaged to be constituted to give effect to different provision of the policy such as ECCE Cell/Division within MWCD as a nodal agency, a thematic ECCE Committee, ICDS Mission Steering Group, National, State and later at District level ECCE Council, Village Education Committees, Mothers' (Parents') Committees, Village Resource Groups etc.

Most of them are very much centralised including the proposal to have Child Development Resource Centre in 5-regions instead of state wise resource centre. It is really difficult to comprehend how these Committee are going to be managed (line of administration), role and functions. The policy, however, does not make it clear the mechanism through which the decision of the Committees at different level is to be carried out. The apex agencies are purportedly to be the decision makers. Hence the line of communication among various institutions is required to be drawn up. It would be really helpful if an overall cost analysis is also made with indication about the sources of fund for proper enforcement of any scheme planned under the policy. Similarly, the accountability aspect of the institutions envisaged under the plan in terms of programme management, budget allocation, engagement of skilled human resource and protection of children- violence free lives of children must be addressed as a fundamental requirement.

## **ARGUMENTS FOR A LAW ON ECCE/ECCD**

### **- A Proposal -**

*This paper has examined government policy and provision of early childhood care and education/development in India; it has surveyed law, policy and practice in other countries; and it has considered the broader international and human rights framework for early childhood services. Various shortcomings and deficiencies have been identified in the services at present available to children in India; and the policy framework in India is less well developed than in many other countries. This paper considers the rationale for government interventions in ECCE, and explores how various justifications relate to future advocacy for early childhood services in India.*

#### **1. Justification for Government intervention in ECCE/ECCD:**

Across continents and nations, we see two main types of argument deployed to justify government intervention in early childhood care and education. These may be categorized as ‘intrinsic’ arguments and ‘instrumentalist’ arguments:

##### **1.1 Intrinsic arguments:**

Intrinsic arguments focus on children’s inherent rights to develop their potential and the inescapable obligation falling on states to assist and promote children’s development through the provision of services to them and to their parents. Discourse based on intrinsic arguments sees the UN Charter on the Rights of the Child as fundamental. Intrinsic arguments are often used



to press governments for comprehensive action on children's services, stressing the need for universal services, the indivisibility of the child's development needs, and the importance of integrated and comprehensive provision. Intrinsic arguments frequently stress the interdependence of early childhood education and childcare.

However, appeals to human rights arguments do not necessarily persuade governments to take legislative action across the board to support ECCE. If governments accept human rights arguments, they are frequently selective about the rights they are prepared to enshrine in legislation. Pragmatic and economic considerations explain this: the cost of granting universal rights to ECCE is immense; and many governments are approaching this area of welfare provision incrementally, focusing first on what they consider the most fundamental rights. For many states, the right to early education comes first in terms of a universal entitlement, not least since it supports and strengthens the universal right to school education, which is very widely recognized.

Intrinsic arguments also have to cope with the fact that international human rights instruments are generally cast in broad and general terms, calling for example on states to develop a 'legal and policy framework' for ECCE. This is not the same thing as insisting on universal and enforceable rights to the full range of ECCE services. The UN Committee on the Rights of the Child recognizes that universal access to extensive services is a long term goal which must – as a matter of practical politics – be approached progressively.

Intrinsic arguments do however provide powerful backing to calls for integrated policy making and for a strategic approach to services, even if those services cannot immediately be universalized or cast as citizen's rights. As we have seen, many states have developed comprehensive strategies for early childhood services and, within those, have identified some services as

universal and others as targeted on the children and families who are most vulnerable or disadvantaged.

Intrinsic, human rights-based arguments also stress the importance of equitable access to services for all children; of provision without discrimination; and of quality standards to ensure consistently good services for all children.

### **1.2 Instrumentalist arguments**

Instrumentalist arguments appeal to the results of government intervention in ECCE. They point to the gains – in terms of social cohesiveness, improved performance at school, enhanced cognitive functioning throughout life, greater capacity to acquire and use skills in the workplace – that investment in early childhood services yields. These arguments may be broadly termed ‘return on human capital’ lines of reasoning. They say, in effect, that investment in early childhood services makes good economic sense for states, since in the long term they will reap large rewards in terms of having a more skilled and versatile workforce and citizens who are well-adjusted, emotionally and socially.

The evidence to back instrumentalist arguments is extensive and weighty and has clearly influenced many states towards substantial investment in ECCE. In particular, the work of Heckman (in the US) and Melhuish (in the UK and elsewhere) has had extensive international exposure. Many studies in the field of neuroscience which offer instrumentalist support to ECCE examine early childhood brain development and point to the benefits in terms of mental functioning, emotional development, social adjustment and general wellbeing associated with appropriate childcare and early education.

Another important strand of instrumentalist argument concerns social integration, the overcoming of social inequalities, and the promotion of

inclusive communities. Some studies have shown how children, particularly from disadvantaged backgrounds, perform better at school and also in terms of their wider social adjustment and fulfillment in later life if they have had access to good quality early childhood services. Such evidence offers a powerful incentive to governments.

Again, however, governments have to grapple with the issue of priorities – if they cannot resource the totality of ECCE services on a universal basis, which services do they prioritize, and how do they defend their choice? We have seen from the international comparisons that many countries listen and act on instrumental arguments for universal pre-school education. They seem to have accepted the argument that, in the long run, the all-round benefits of universal provision of early education exceed the costs. So far as childcare and family support services are concerned, many states interpret the research evidence as pointing to the need to focus their limited resources on the most disadvantaged and excluded children and families.

## **2 State of ECCE in India:**

The development of children has been an integral part of national planning since 1951 and for which government of India has formulated policies, schemes and plan of action for children. References to early childhood care, development (holistic development), education (pre-primary education) are made in National Policy for Children (1974), National Policy For Education (1986), and National Plan of Action for Children (1992 & 2005), National Five-Year Plans, Integrated Child Development Services Schemes, Rajiv Gandhi National Crèche Scheme, and Sarva Sikshya Abhijan. This study makes attempt to review the national policies, programmes, and schemes that have direct or indirect bearing to early childhood care and education and to examine to what extent these are benefiting the children in real life situation.

Here is presented some of the key findings, which are elaborated in the foregoing chapters.

### **2.1 Lack of Conceptual Clarity:**

By incorporating early childhood care and education in the constitutional provision, the lawmakers have acknowledged its importance in great deal. Subsequently, all efforts have been made by the government in delivering the early childhood care and education service through ICDS. The 10th five year plan have put enormous emphasis on early childhood care and education with special focus to strengthen pre-school component of ICDS and the 11<sup>th</sup> plan has recommended for one year pre-school education for children before entering into primary schools. What concern is that the terminology of ECCE is not defined in the policy level. Since the elements of early childhood care and education are not delineated in the policy framework, different people understand the subject in different way. Lack of conceptual clarity is tended to create ambiguity even among the service delivery personnel.

### **2.2 Non-Existence of ECCE Policy:**

The subject of early childhood care and education has been integrated in the constitution from 2002. However, India is yet to finalise national policy on early childhood care and education. It is generally understood that ECCE broadly covers health, nutrition, and education (pre-primary education). But there is no pre-school education policy in India although the issue of health and nutrition is touched upon in the National Health Policy, and National Nutrition Policy.

### **2.3 Unsatisfactory Progress:**

Integrated Child Development Services (ICDS) is the only flagship programme that looks for the holistic development of young children. As a part of early childhood care and education, pre-school education is being provided to children under ICDS. Thus the subject of pre-primary education including the

care of pre-school children has been transferred to the Ministry of Women and Child Development through an amendment to the Government of India (Allocation of Business) Rules, 1961. In order to comply the supreme court directives, government of India has putting efforts to universalize the ICDS service with expansion of anganwadis to all settlements and improving the quality of service. However, the coverage of ICDS is still inadequate. As on March 31, 2009, there were 13.5 lakh sanctioned anganwadis across the country against the minimum requirement 18 lakh. The unavailability of basic facilities at the anganwadis is also a major concern. A study conducted by National Council of Applied Economic Research in 2004 revealed that around 40% of AWCs were not housed in ICDS building nor in the rented building; more than 45 % of anganwadis did not have toilet facilities and 27% aganwadis did not drinking water facilities.

#### **2.4: Uncoordinated Linkage between Early Childhood Care and Pre-School Education:**

ICDS programme does not have the balance linkage between health, nutrition and pre- primary education. ICDS is a programme of basic health (i.e. immunization, health check-up) and supplementary feeding rather than a programme for early childhood education (i.e. pre-primary education). From policy approach to actual implementation, there are plenty of problems ICDS particularly related to pre-school activities. Pre-school education at Anganwadi centers is hampered largely due to (i) lack of basic infrastructure (i.e. building, space, play & game materials, learning kits), (ii) untrained or inadequately trained pre-school instructor (AWW), (iii) absence of standard pre-school curriculum indicating learning methods for pre-school activities, language to be used for communication; (iv) lack of monitoring and supervision; (v) absence of community participation.

#### **2.5 Discrimination:**

Apart from government initiatives, private sectors, corporate bodies, and missionaries are also providing early childhood education in the form of kindergarten, nursery or pre-school education in a variety of modes and varying degree of quality. The children of rich families and elite classes can afford to receive high quality early childhood education, whereas children of poor and unprivileged families are either deprived of getting early childhood education or integrated with the ICDS that renders poor quality service. Children from advantaged families tend to arrive at schools with higher level of school readiness, advanced cognitive skills, and positive approach to learning. Conversely, children entering into schools without pre-primary education have lower level of motivation, cognitive skills and are more often faced with difficulties to cope with the school systems. While the syllabi and curriculum adopted by Public English Medium for pre-primary education have forward linkage with the primary education, ICDS sponsored pre-school education does not have such linkage.

### **2.6 ICDS does not have school readiness programme:**

The importance of early childhood for educational achievement in later years is internationally recognized and strongly evidenced in many research findings. Good beginnings of learning in early years in positive setting may ensure a smooth transition of from pre-school to primary school education. Hence, ECCE nurtures important dispositions and attitudes towards learning and positively supports educational achievements. Transition is a process and that starts from pre-school and continues until the child is established and coped with the formal education system in the primary level.

The successful transition from pre-school to primary school is overwhelmed with two separate but interconnected factors- *“School Readiness”* and *“Ready Schools”*. The former stresses the role of ECCE in promoting children development and adapting them to the practice and environment of primary

schools. School readiness includes development of 5 distinct but interconnected areas<sup>1</sup>:

- 1) Child health and physical development;
- 2) Social and emotional development;
- 3) Approaches to learning (i.e. enthusiasm, curiosity, persistence)
- 4) Language and communication skills;
- 5) Cognitive development and Problem solving skills.

Ready School emphasizes the school adaptation to the child's development needs. It focuses on the accessibility of primary schools, quality environment, trained teachers, method driven teaching. Ideally the entire gamut of educational system should start with pre-primary education moves to highest ladder covering the primary elementary, and secondary education. Although the pre-primary education constitutes a part of ICDS component, it receives least importance. There is no structured curriculum and standardized norms for anganwadi workers to follow for pre-school education. The objective of early childhood care and education programme is to provide joyful learning environment and to follow play based learning activities in order to foster all round development of the child. However, it is observed that anganwadi workers tend to follow to formal learning method and give emphasis on reading, recitation and writing. Furthermore, Anganwadi center is not recognized as the pre-unit for child entry in primary education. The transition of the child to primary education is also not monitored at the anganwadi level.

### **2.7 Need –Based Approach:**

ECCE in the form of child care, health care, pre-school education, and supplementary nutrition feeding is being given through ICDS Scheme, Rajiv Gandhi National Crèche Scheme, SSA Programme. These are merely schemes and its execution rests on the moral precepts and political will of the

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<sup>1</sup> UNESCO; 2006, EFA Global Monitoring Report: Strong Foundation

government. Thus ECCE, in the present context, is considered as vital need of the child rather than a right. Even if the lawmakers have recognized ECCE as a contributory factor for realization right to education, the opportunity for services are fragmented and varied in quality.

The above-mentioned points make it clear that the subject of early childhood care and education is not yet addressed in right –based perspective even though this has been incorporated in the Constitution since 2002. Whatever the services being offered through ICDS are not universal and more importantly these services lack quality. Thus, the immediate concern of the government to provide equal, indiscriminate, and quality ECCE service to all children.

## **2.8 Unequal access & transition experience**

Various providers in the private sector (companies, private schools, missionaries) are providing early childhood education (in the form of kindergarten, nursery or pre-school). The quality is variable. The children of high-income parents can buy access to pre-school education, though the purchase does not always guarantee quality provision. The children of poor and disadvantaged families either have no pre-school education at all or have to make do with a generally poor service as part of ICDS. Where provision is of a high standard, children arrive at primary school with advanced cognitive skills and a positive approach to learning. Where children have been exposed to no pre-primary provision, or provision of poor quality, they start school less able to make a smooth transition (especially where the primary school is not expert in dealing with the diversity of children's pre-primary experience and adopts too formal a style in the early grades).

ICDS does not have any explicit programme to help children prepare for school. By 'prepare for school', we do not refer to the kind of attempts made in some private institutions to advance the primary school curriculum or subject children to formal teaching methods, but to the gentle introduction of



positive attitudes towards learning. There are no formal linkages between ICDS centres and primary schools that enable children to be prepared – and which would encourage schools to be ‘ready for children’.

### **2.9 Gaps in quality assurance & accountability**

Pre-primary education is the neglected component of ICDS, receiving least attention. There are no national guidelines for the pre-school curriculum (although a ‘framework’ was produced in 2005). There is little appreciation of the need for play-based and informal learning: Anganwadi workers tend to follow a formal learning method and emphasise reading, recitation and writing.

ICDS was conceived as a welfare scheme, catering for the needs of the most disadvantaged. Even as it is expanded, the philosophy is need-based, not rights-based. As a scheme, without statutory backing, it gives users no entitlements to service – even though the incorporation of ECCE within the 2002 Act signals that legislators recognize early education as an enabler for the right to school education.

Where ECCE is wholly a matter of ‘schemes’, there is no certainty for citizens about access to services. They receive benefits, not their legal entitlement. Schemes are optional – governments can implement them or withdraw them as they choose, whereas entitlements, enshrined in legislation, are binding on governments. If entitlements are infringed or withheld, the citizens can use the law to challenge government and enforce performance.

### **3. Rationale for Demanding Legal Framework on ECCE/ECCD:**

In order to promote early childhood programs and their quality, it is necessary to provide a legal framework of standards and norms that serve as the foundation of those programmes. Based on this framework, there will be increased accountability of the government and more financial allocation for

implementation of the programmers. Here is provided some arguments for why legal framework is necessary as a statutory support to article-45 of the Constitution of India.

First argument is that early childhood care and education is a core issue of human development. Early years of children lives are a time of tremendous opportunity for stimulating brain growth and development. Worldwide researches have claimed that early exposure to learning experiences in a stimulating environment will lead children to perform better in primary schools.

The second argument is based on India's obligation to international convention such as the United Nations Convention on the Rights of the Child, United Nations Declaration on Education For All, and Dakar Action Framework. The UNCRC affirms children right to Survival, Development, Protection, and Participation. The Education For All Declarations at Jometin in 1990, and Dakar in 2000, recognizes that children are born with the right to learning. These international doctrines have recognized early childhood care, education and development as the right of children. Further, the UN committee on the Rights of the Child had gone a step ahead by interpreting every child's right to education as beginning at birth and closely tied to right to development, as spelt out in Article 6.2 of the UNCRC.<sup>2</sup> The Committee also recommends that States Parties shall pay greater attention to, and actively support, a right-based approach to early childhood programs. The Committee calls on States Parties to provide a legislative framework for the provision of quality, adequately resourced services. As India is the state party to the Convention, it is the responsibly of the government of India to comply the general recommendation of the Committee.

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<sup>2</sup> A Guide to General Comment 7: Implementing child rights in early childhood (2006) by the UN Committee on the Rights of the Child, UNICEF

Thirdly, ECCE/ECCD in the present policy context is not seen as a right of the child. Whatever the policies and schemes made by the government for addressing ECCE are largely based on humanitarian approach but not as a constitutional mandate. The basic difference between the law and scheme is that the former mandates the State to implement it, whereas the execution of the latter is obligatory for the state. Law usually permits a protective mechanism and violation of law by the State challenged in the Court of law, on the contrary a policy or scheme lacks such. Law is made by the legislature and is amended by the legislature. The policy and schemes are just like executive made law and the executive at any point of time can abdicate these policies as per their conveniences. On the other hand, a law is enforceable in the court of law.

Fourthly, early childhood care and education need to be addressed from the perspective of educational development plan. The importance of early childhood care and education as the foundation of the pyramid of education system has accorded priority in India in the National Policy for Education (NPE), 1986 and the Programme of Action (POA) drawn in 1992 for implementation of the NPE. The NPE viewed ECCE as crucial input as the strategy for human resource development, and a feeder and support programme for primary education. In the policy framework, for the first time NPE put enormous importance to early childhood care and education with the proposition that child's capacity for learning at primary level depends on past learning in the pre-primary level. Although subject ECCE has been incorporated in the constitution by virtue of 86<sup>th</sup> amendment, it does not mandate the government to act upon it. The directive, under article-45, "State shall endeavour to provide early childhood care and education...." is only a direction and not subject to judicial scrutiny if State fails to comply this constitutional obligation. It was hoped that government would formulate a policy/ legal framework on ECCE with an objective to translate the constitutional direction in a right-based approach. No substantial

improvements are made so far in delivering of ECCE service even though a good number of years have passed since the insertion of early childhood care and education in the framework of constitution. Even though the importance of early childhood care and education (Pre-school education) is recognized in Section-11 of the Right of Children to Free and Compulsory Education Act, 2009, there is no hints of reference of service delivery systems of ECCE

The Fifth argument is that provisions contained in the directive principles require statutory support. The Directive Principles of State Policy are guiding principles for the central and state governments of India to follow while framing laws and policies. Many of the provisions of the directives principles have been supported by legal framework. Few of these include, The Minimum Wages Act and Equal Remuneration Act, The National Rural Employment Guarantee Act for Article-39 relating to right to work, right to adequate means of livelihood, equal pay for equal work for both men and women ; The Maternity Benefit Act to give effect to Article-42 that directs the state to have provision for securing just and humane conditions of work and maternity relief. The Legal Services Authority Act for Article-39 (A) dealing with equal justice and free legal aid; The Protection of Environment and Wildlife Act to give effect to Article-48 (A) concern with protection and improvement of environment and safeguarding of forest and wildlife.

### **Conclusion**

Against this background – the arguments for state intervention in ECCE and specifically in early education and the gaps and shortcomings in provision in India - we submit that the immediate concern of the government should be to develop a strategic and over-arching policy framework for early childhood services and, within that, to grant all children a legally enforceable right to access high quality pre-school education.

In view of the foregoing discussions, the following broad principles and approaches are recommended to be considered in formulation of legal framework

- Adopting Right Based Approach
- Defining ECCE in order to remove the ambiguities between early childhood care, early childhood education, and early childhood care and education
- Laying down the duties of central government, state government and local self-government for delivering the service.
- Explaining the type of activities to be conducted.
- Prescribing standardized norms and guidelines for service delivery mechanisms, early childhood education curriculum.
- Prescribing standards regarding infrastructure, and programme quality.
- Laying down the provisions for recruitment, training, and orientation of staffs for human resource development.
- Prescribing norms for allocation of funds.
- Adopting integrated approach for coordination, convergence, and accountability.
- Prescribing guidelines for formation of management committee, community participation as well as for monitoring and evaluation of programme.
- Prescribing procedure for redressing of complaint.