

PARLIAMENT OF INDIA
RAJYA SABHA

**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HUMAN RESOURCE DEVELOPMENT**

TWO HUNDRED THIRTEENTH REPORT

ON

**THE RIGHT OF CHILDREN TO FREE AND COMPULSORY
EDUCATION BILL, 2008**

**(PRESENTED TO THE RAJYA SABHA ON 18TH FEBRUARY, 2009)
(LAID ON THE TABLE OF LOK SABHA ON 18TH FEBRUARY, 2009)**

**RAJYA SABHA SECRETARIAT
NEW DELHI**

FEBRUARY, 2009/MAGHA, 1930 (SAKA)

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**COMPOSITION OF THE COMMITTEE ON HRD
(2008-09)**

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RAJYA SABHA**

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SECRETARIAT

Shri N.C. Joshi, Secretary
Smt. Vandana Garg, Joint Secretary
Shri M.K. Khan, Director
Shri J. Sundriyal, Joint Director
Shri Sanjay Singh, Committee Officer

INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Human Resource Development, having been authorized by the Committee, present this Two Hundred and Thirteenth Report of the Committee on the Right of Children to Free and Compulsory Education Bill, 2008.*

2. The Right of Children to Free and Compulsory Education Bill, 2008 was introduced in the Rajya Sabha on 15th December, 2008. In pursuance of Rule 270 relating to Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha, referred the Bill on the 18th December, 2008 to the Committee for examination and report within three months.

3. The Committee considered the Bill in two sittings held on the 12th and 23rd January, 2009.

4. On the 12th January, 2009, the Committee heard the Secretary, Department of School Education & Literacy and considered the various provisions of the Bill.

5. The Committee, while drafting the report, relied on the following:

- (i) Background Note on the Bill received from the Department of School Education & Literacy;
- (ii) Note on the clauses of the Bill received from the Department of School Education & Literacy;
- (iii) Verbatim record of the oral evidence taken on the Bill; and
- (iv) Presentation made and clarification given by the Secretary, Department of School Education & Literacy.

6. The Committee considered its Draft Report on the Bill and adopted the same in its meeting held on 23rd January, 2009.

7. On behalf of the Committee, I would like to thank the officials of the Department of School Education & Literacy for providing necessary inputs and clarifications during the consideration of the Bill.

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

NEW DELHI;
January 23, 2009
Magha 3, 1930 (Saka)

* Published in Gazette of India Extraordinary Part II Section 2 dated 15th December, 2008

** Rajya Sabha Parliamentary Bulletin Part II No. 45623 dated 18th December, 2008

REPORT

1. INTRODUCTION

1.1 The Right of Children to Free and Compulsory Education Bill, 2008 had been the most eagerly awaited legislation which promises to fulfill one of the most cherished dreams of the country in providing free and compulsory education to all children between the age group of 6-14 years till the completion of elementary education. As mentioned in the Statement of Objects and Reasons of the Bill, the purpose of

the Bill is to universalize elementary education for strengthening the social fabric of democracy through provision of equal opportunities to all. The goal of universalizing elementary education is already laid down in the Directive Principles of State Policy. The 86th Constitution Amendment Act passed in 2002 inserted a new Article 21 A to provide for free and compulsory education for all children in the age group of 6 to 14 years as a fundamental right. The present Bill is an attempt to provide elementary education to all children including the ones who have dropped out of school before the completion of their elementary education. It is also a recognition of the fact that despite concerted efforts made till now, universal elementary education continues to elude us.

1.2 The National Policies on Education adopted in 1968, 1986 and revised in 1992 contained provisions regarding universal elementary education. The National Policy on Education, 1986 had aimed to achieve universal elementary education by 1995, the time frame for which was extended by another five years in its 1992 version as mentioned below:-

“The New Education Policy, will give the highest priority to solving the problem of children dropping out of school and will adopt an array of meticulously formulated strategies based on micro-planning, and applied at the grass roots level all over the country, to ensure children’s retention at school. This effort will be fully co-coordinated with the network of non-formal education. It shall be ensured that free and compulsory education of satisfactory quality is provided to all children up to 14 years of age before we enter the twenty-first century. A national mission will be launched for the achievement of this goal”.

However, target of universal elementary education as envisaged in the Policy of 1992 could not be achieved even by end of the century.

1.3 India has a population of 19.5 crore (as per 2004-05 figures) children between 6-14 years age group in 12 lakh habitations. As per the Government records (2000-2001), the dropout rate from Class I to V was 40.67 per cent in 2000-2001. In 2005-2006, Gross Enrolment Ratio for all children at the elementary stage stood at 94.92% while drop out rate in classes I-VIII was as high as 48.71%. Drop out rate among Scheduled Caste children was 55.25% and in the Scheduled Tribe children, it was 62.95%. Girls’ drop out rate among Scheduled Caste and Scheduled Tribe was 57.28% and 63.20% respectively. The legislation aims to bring into its ambit all the drop outs and all children between 6-14 years of age. It makes provisions for non-admitted children to be admitted to an age appropriate class.

1.4 Presently, 18 States and 2 Union Territories have their own legislations dealing with compulsory elementary education. The Committee noted that experiences of these States in implementation of their laws has not been very encouraging and to a large extent, they have remained unimplemented. One of the reasons for the State laws remaining largely ineffective is that these laws do not actually make elementary education compulsory. In fact, they merely contain enabling provisions by which States could notify areas and schemes for free and compulsory education. The focus in the State laws had been on determining the regulatory authority to pass attendance orders and impose penalty on defaulting parents. Another reason for their ineffectiveness was the weak and negligible community involvement which has made these Acts purely administrative in nature. The Committee was informed that the State Acts make no commitments whatsoever for improving the quality of education. **The Committee wonders whether the experiences of these States and UTs have been fully taken into account while drafting the Central legislation. The Committee is of the opinion that problem areas and short-comings noticed in the implementation of these State laws should be taken into account so that these are ameliorated**

beforehand in the present legislation. Community involvement and participation is an essential ingredient for the successful implementation of the provisions of the Bill.

1.5 The Constitution 86th amendment Act, 2002 received presidential assent on 13th December, 2002. This Act was to come into force from such date as the Central Government may by notification in the Official Gazette appoint. However, this notification has not been issued up till now pending enactment of a consequential legislation envisaged under Article 21A. The present Bill is meant for this purpose only. **The Committee is of the view that the proposed legislation has been brought after several stages and modifications and a considerable time has elapsed since the inception of the idea of bringing a legislation providing for universalisation of elementary education. Universalisation of Elementary Education has been a long awaited dream since the independence of our country and it is high time, the proposed legislation is given effect to at the earliest.**

1.6 The proposed Bill is preceded by a series of Bills following the insertion of Article 21A in the Constitution stipulating right of children to compulsory education till 14 years of age. These follow up Bills were:- The Free and Compulsory Education for Children Bill, 2003, The Free and Compulsory Education for Children Bill, 2004, The Right to Education Bill, 2005 (CABE Bill), The Right to Education Bill, 2005 (August), and Model Right to Education Bill, 2006. List of experts/individuals/organizations consulted by the Department while finalizing the Bill is at Annexure.

1.7 The Committee was given to understand that the focal points of the said Bill have been the provision of compulsory education, free education, duties and responsibilities of the appropriate Government authority, schools, teachers and parents. It is for the first time that the obligation of the appropriate Government authority, schools, teachers and parents is specifically laid down. Under the present law, they would be responsible for providing elementary education to the targetted children. It has been made mandatory for the appropriate Governments to provide for a school within the neighbourhood within a period of three years from the commencement of the Act. It also states that the Central and State Governments shall bear the responsibility for providing funds for the implementation of the legislation. However, the Bill does not specify the formula for sharing of the funds between the Centre and States.

2 CLAUSE 1

2 The Committee recommends that the title of the Bill in its Hindi Version should be ‘Nishulk aur Anivarya Bal Shiksha kaa Adhikar Vidheyak, 2008’ instead of “Balkon kaa Nishulk aur Anivarya Shiksha kaa Adhikar”.

3. CLAUSE 2

3 Clause 2 (n) of the Bill entails the definition of a School which defines school as any recognized school imparting elementary education. The Committee however, feels that this would result in keeping primary schools outside the purview of the proposed legislation. The Committee recommends that definition of school needs to be amended as given below;

‘(n) “School” means any recognized school including primary schools and schools imparting elementary education and includes-’

4. CLAUSE 3

4 Committee's attention was drawn to the term "neighbourhood school" as provided in Clause 3 (I) of the proposed Bill. The Committee notes that this term has not been defined to enable the State Governments to determine and prescribe the criteria for a neighbourhood school on varied factors like geographical, cultural and social specificity of the State. **The Committee, however, would like the inclusion of distance/time for commutation as one of the criteria for neighbourhood schools so that young children do not have to commute long distances which may cause exertion. This criterion can be different for plains, mountainous regions, deserts etc. The Committee, therefore, recommends that the term "neighbourhood school" be defined appropriately.**

5. CLAUSE 7

5.1 Clause 7 of the Bill deals with the sharing of financial and other responsibilities between the Central Government and the State Governments. The clause provides that the Central Government shall prepare the estimates of capital and recurring expenditure for the implementation of the Act. The Central Government shall provide to the State Governments, as grant-in-aid of revenues, such percentage of expenditure as determined in consultation with the State Governments. This consultation will begin after the legislation is passed. The clause further stipulates that the Central Government may also request the President to make a reference to the Finance Commission under Article 280 (3) (d) for providing additional resources to the States in order to enable them to meet their financial liabilities for implementing the provisions of this Act.

5.2 According to the Ministry, the revised financial requirement made by NUEPA in 2007 for the seven year period from 2008-09 to 2014-15, worked out to Rs. 2.28 lakh crores. This period covers four years of the 11th Plan and three years of the 12th Plan. However, the total requirement for the period 2008-09-2011-12 falling in the 11th Plan was estimated at Rs. 1.51 lakh crore, of which Rs. 1.02 lakh crores was committed as the Centre share and the remaining to be borne by the States. **The Committee observes that the projected financial requirement does not reflect the actual distribution of the burden between the Centre and the States. The Government can not afford to ignore the fact that many State Governments have expressed their inability to bear the huge financial burden estimated for the implementation of the Act. In fact some States have advocated that the Central Government should assume full financial responsibility for the same. The Committee is of the opinion that in the absence of any formula for sharing of funds between Centre and States, the State Governments may end up facing acute financial constraints. The Committee is of the view that this formula should be finalized and reflected in the financial memorandum attached to the Bill. The formula for sharing of the funds should also be clearly stated and in the absence of any other credible formula should state that "till a revised formula is worked out through appropriate consultations, the present sharing formula would continue."**

5.3 The Committee was informed that the 13th Finance Commission has been apprised of the said Bill becoming an Act soon and also about the resources of the country for implementing the provisions of the Act. A memorandum has been submitted to the Finance Commission for equalization principles for elementary education expenditure to take into account financial requirements under SSA and the enhanced costs of making elementary education a fundamental right. **The Committee feels that for enabling the Finance Commission to make appropriate recommendations both the over all financial cost as well as the sharing formula between the Centre and the States must be settled. The Committee recommends that necessary steps be taken to ensure that the State Governments discharge their basic responsibility of providing elementary education.**

5.4 Clause 7 (6) of the Bill specifies the other responsibilities of the Central government like developing a framework of national curriculum with the help of academic authority, developing and enforcing standards for training of teachers and providing technical support and resources to the State Government for promoting innovations, researches, planning and capacity building. **The Committee feels that in addition to all this, the Central Government may consider for a provision for development of skills of children through vocational training which should be an integral part of the school education at an appropriate level of elementary education.**

6. CLAUSES 8, 9 & 10

6 Clauses 8, 9 & 10 specify the duties of the appropriate Government, local authority and duties of parents and guardians. Both the appropriate government and local authority have to ensure that every child is provided free and compulsory elementary education. It is the duty of parents/guardians also to send their children/wards to the neighbourhood school. **The Committee would like to point out that there is no provision of a monitoring mechanism to ensure the compliance of the provisions by the appropriate Government authority, local authority and parents. The Committee emphasizes that a fool proof monitoring mechanism should be put in place to oversee the strict compliance of these provisions because a single instance of non-compliance would defeat the purpose of the legislation. The Committee also recommends that measures should be taken to create mass awareness about this social legislation and that regular monitoring of its implementation should also be ensured.**

7. CLAUSE 12

7.1 Clause 12 (c) lays down that unaided schools shall be reimbursed expenditure incurred on providing free and compulsory education to 25 per cent of children belonging to weaker sections and disadvantaged groups in the neighborhood subject to expenditure by State-run schools or the unaided school whichever is less.

7.2 The Ministry has shared the following figures for average expenditure per child for the years 2003-04, 2004-05 and 2005-06:-

Year	Total Expenditure (in crore)	Total Children (in crore)	Average per child expenditure
2003-04 (actual)	36,365.97	17.70	2,054.57
2004-05 (RE)	44,083.33	18.20	2,422.16
2005-06 (BE)	50,952.03	18.43	2,764.62

7.3 **The Committee finds the above figures quite old. The schools propose to enhance the fee from the ensuing academic session and the liability of unaided school for per child average expenditure is likely to go up substantially. The Committee would like to be apprised about the mechanism for ensuring the admission of eligible students to private schools under this provision.**

7.4 Apprehensions have been voiced about the implication of Clause 12 providing that every private school has to give free admission to underprivileged children subject to 25 per cent of their admission capacity. In the absence of full reimbursement of fees, the remaining 75 per cent children may be required to bear the additional burden. **The Committee recommends that arrangements be made to see that expenditure incurred on 25 percent of underprivileged children is not passed on to the remaining 75 percent of children. For ensuring this, the reimbursement formula must be**

determined on the basis of norms by a Group of Experts and in consultation with the Planning Commission. Committee also recommends that the aided or unaided schools should give 25 percent of their admissions to the children of underprivileged class from the very beginning i.e from nursery class itself and not from class I as it may not be possible for such children to compete and cope up with the standard of the remaining children in class I. This procedure based on the aforesaid principle should be reflected in Clause 12 (b) of the proposed Bill.

8. CLAUSES 13, 14, 15, 18 & 19

8.1 Clauses 13, 14, 15, 18 & 19 in the Bill provide for penalty in respect of capitation fee, scrutiny procedure for admission, non-denial of admission due to lack of proof of age, mandatory requirement for certificate of registration and norms and standards for schools. **The Committee appreciates the inclusion of such provisions which would pave the way for equal opportunities to all children in completion of their elementary education without any fear, trauma or anxiety. These provisions would provide a level playing field especially to the children of the poorer sections and disadvantaged groups to complete their elementary education without any social, physical or financial stress. The Committee notes that there is no provision of a monitoring mechanism to ensure implementation of these provisions. The fear of penalties may arrest the alleged irregularities and corruption in the field of education but it requires a foolproof monitoring mechanism for its effective implementation so that no school denies admission to any child.**

8.2 Clause 14 (2) of the Bill specifies that no child shall be denied admission in a school for lack of age proof. **The Committee feels that this is a blanket provision which needs to be spelt out clearly. The Committee is of the view that the provision for admission without age proof is not desirable in society which is developing at a rapid speed. Age is an important criterion for the children to encourage competition and to grow. In case the age proof is not available, there should be a provision for production of an affidavit from the parents or an age certificate from the chief of the village panchayat/local counselor.**

8.3 Clause 15 of the Bill specifies that a child shall be admitted in a school at the commencement of the academic year or within such extended period as may be prescribed. **The Committee observes that it is not clear as to which authority will be deciding about extended period for admission. The Committee is of the opinion that there should be some provision with regard to the extended period of admission in the manner of completing study if admitted after the extended period. In this regard, rules may be framed for the same.**

9. CLAUSE 16

9.1 Clause 16 provides that no child admitted in a school shall be held back in any class from school till the completion of his/her elementary education. **The Committee considers this clause as somewhat counter-productive in so far as the quality of education is concerned. In the absence of any method of evaluation of the child, there would be no motivation for the child to complete and improve. There needs to be an element of fear through proper evaluation lest the non performers may become a liability for the society at large. An evaluation record should be maintained and shared with the Child and the Parents encouraging improved performance particularly in cases where the child fails to meet acceptable quality. The Committee is of the opinion that a minimum level of grading or standardisation should be fixed for the child to be promoted to the next class instead of blanket promotion.**

9.2 Clause 16 also lays down that no child admitted in a school shall be expelled from school till the completion of elementary education. In other words, after the enactment of this Bill, no school authority will be having any power to expel any student even if on valid grounds. **This provision seems to be a sweeping one and a rational consideration seems to be called for. The Committee is of the opinion that in cases where a child is habitually deviant or repeatedly creates nuisance and vitiates academic atmosphere of the school, in the first instance, suitable counseling be arranged through experts and academicians. If that does not work, suitable action may be taken against such a child in deserving cases. The action of expulsion should not debar him/her from taking admission in some other school.**

10. CLAUSE 21

10 Clause 21 of the Bill provides for the constitution of a School Management Committee by a school consisting of elected representatives of local authority, parents of guardians of children admitted in such schools and teachers. **The Committee observes that in the composition of the School Management Committee, there is no representation of women who are a major stakeholder in imparting elementary education to children. The Committee therefore, opines that there should be adequate representation of women in the School Management Committee.**

11. CLAUSE 26

11 Clause 26 deals with the filling up of vacancies of teachers by the appointing authority. Vacancy of teachers in a school shall not exceed ten percent of the total sanctioned strength of teachers. **The Committee would like to point out that our educational institutions including the school education is presently faced with the problem of huge vacancies of teachers. In this context, filling up of vacancies which should not exceed ten percent of the sanctioned strength is a daunting task. Delays in recruitment of teachers against vacancies often take 3-4 years. The gaps are managed by employing para-teachers. It is not clear as to what would be the status of para teachers in view of these provisions. Further, it is not clear whether States would be given autonomy in matters of recruitment of teachers and also filling up of vacancies. The Committee presumes that the Central Government has taken cognizance of the actual vacancies of teachers in the States and worked out the strategy to fill up these vacancies. This exercise is absolutely necessary to ensure that there is no conflict between State and Centre laws with regard to the recruitment of teachers and filling up of vacancies.**

12. CLAUSE 30

12 Clause 30 (2) provides that every child completing his/her elementary education shall be awarded a certificate, in such form and in such manner, as may be prescribed. **The Committee is of the opinion that for awarding a certificate to a child for completion of his/her elementary education, a standardized assessment of that child should be done periodically to enable the child to know his level and improve accordingly.**

13. CLAUSE 31

13 Clause 31 requires the National Commission for Protection of Child Rights to monitor the effective implementation of the proposed legislation and to inquire into complaints relating to child's

right to free and compulsory education and to take steps under Section 15 and 24 of the Commission for Protection of Child Rights Act. **The Committee notes that in the event of inquiry into complaints and the steps taken under Section 15 and 24 of the said Act, the party against whom an order is passed by the Commission may feel aggrieved by that order. There does not seem to be any provision in the proposed Bill to provide for an appeal against such an order. Therefore, a provision enabling an appeal may be inserted in the Clause.**

14. CLAUSE 32

14 Clause 32 deals with redressal of grievances by the local authority or by State Commission for Protection of Child Rights. In sub clause 2 of Clause 32, it is laid down that the local authority shall decide the matter as early as possible after affording a reasonable opportunity of being heard to the parties concerned. **The Committee is of the opinion that the use of the term “as early as possible” is a vague expression. Therefore, a time frame of three months, needs to be specified for the final decision of the local authority. Similar time frame for giving decision needs to be specified even for the State Commissions for Protection of Child Rights thereby safeguarding the interests of the child.**

15. CLAUSE 33

15 Clause 33 deals with the constitution of the National Advisory Council to advise the Central Government on implementation of the provisions of the Act in an effective manner. **The Committee believes that the National Advisory Council would be able to fulfill its function only when the monitoring of the implementation of the proposed legislation is done for the whole country. Council on similar lines at State levels need to be constituted to ensure monitoring of the enactment of the legislation and reporting the problem areas. The State Advisory Council would then be able to advise the Central Government on removal of the lacanue and pave the way for effective implementation of the legislation. The Committee therefore recommends for constitution of Advisory Councils at the State level first.**

16. CLAUSE 34

16 Clause 34 lays down the power of the Central Government to issue guidelines and directions to the appropriate Government or local authority for the purposes of implementation of the provisions of this Act. **To what extent the guidelines and directions of Central Government would be binding on the State Governments is a moot question. The Committee recommends that in keeping with the constitutional scheme of division of powers between the Centre and States, the words “and directions” appearing in this Clause be deleted.**

17. The Committee adopts the remaining clauses of the bill without any amendments.

18. The enacting formula and the title are adopted with consequential changes.

19. The Committee recommends that the Bill may be passed after incorporating the amended additions suggested by it.

20. The Committee would like the Department to submit a note with reasons on the recommendations/suggestions which could not be incorporated in the Bill.

RECOMMENDATIONS/OBSERVATIONS OF THE COMMITTEE

1. INTRODUCTION

Presently, 18 States and 2 Union Territories have their own legislations dealing with compulsory elementary education. The Committee noted that experiences of these States in implementation of their laws has not been very encouraging and to a large extent, they have remained unimplemented. One of the reasons for the State laws remaining largely ineffective is that these laws do not actually make elementary education compulsory. In fact, they merely contain enabling provisions by which States could notify areas and schemes for free and compulsory education. The focus in the State laws had been on determining the regulatory authority to pass attendance orders and impose penalty on defaulting parents. Another reason for their ineffectiveness was the weak and negligible community involvement which has made these Acts purely administrative in nature. The Committee was informed that the State Acts make no commitments whatsoever for improving the quality of education. The Committee wonders whether the experiences of these States and UTs have been fully taken into account while drafting the Central legislation. The Committee is of the opinion that problem areas and short-comings noticed in the implementation of these State laws should be taken into account so that these are ameliorated beforehand in the present legislation. Community involvement and participation is an essential ingredient for the successful implementation of the provisions of the Bill.

(Para 1.4)

The Constitution 86th amendment Act, 2002 received presidential assent on 13th December, 2002. This Act was to come into force from such date as the Central Government may by notification in the Official Gazette appoint. However, this notification has not been issued up till now pending enactment of a consequential legislation envisaged under Article 21A. The present Bill is meant for this purpose only. The Committee is of the view that the proposed legislation has been brought after several stages and modifications and a considerable time has elapsed since the inception of the idea of bringing a legislation providing for universalisation of elementary education. Universalisation of Elementary Education has been a long awaited dream since the independence of our country and it is high time, the proposed legislation is given effect to at the earliest.

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The Committee recommends that the title of the Bill in its Hindi Version should be '*Nishulk aur Anivarya Bal Shiksha kaa Adhikar Vidheyak, 2008*' instead of '*Balkon kaa Nishulk aur Anivarya Shiksha kaa Adhikar*'.
(Para 2)

3. CLAUSE 2

Clause 2 (n) of the Bill entails the definition of a School which defines school as any recognized school imparting elementary education. The Committee however, feels that this would result in keeping primary schools outside the purview of the proposed legislation. The Committee recommends that definition of school needs to be amended as given below;

(Para 3)

'(n) "School" means any recognized school including primary schools and schools imparting elementary education and includes-'

4. CLAUSE 3

Committee's attention was drawn to the term "neighbourhood school" as provided in Clause 3 (I) of the proposed Bill. The Committee notes that this term has not been defined to enable the State Governments to determine and prescribe the criteria for a neighbourhood school on varied factors like geographical, cultural and social specificity of the State. **The Committee, however, would like the inclusion of distance/time for commutation as one of the criteria for neighbourhood schools so that young children do not have to commute long distances which may cause exertion. This criterion can be different for plains, mountainous regions, deserts etc. The Committee, therefore, recommends that the term "neighbourhood school" be defined appropriately.**

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According to the Ministry, the revised financial requirement made by NUEPA in 2007 for the seven year period from 2008-09 to 2014-15, worked out to Rs. 2.28 lakh crores. This period covers four years of the 11th Plan and three years of the 12th Plan. However, the total requirement for the period 2008-09-2011-12 falling in the 11th Plan was estimated at Rs. 1.51 lakh crore, of which Rs. 1.02 lakh crores was committed as the Centre share and the remaining to be borne by the States. The Committee observes that the projected financial requirement does not reflect the actual distribution of the burden between the Centre and the States. The Government can not afford to ignore the fact that many State Governments have expressed their inability to bear the huge financial burden estimated for the implementation of the Act. In fact some States have advocated that the Central Government should assume full financial responsibility for the same. The Committee is of the opinion that in the absence of any formula for sharing of funds between Centre and States, the State Governments may end up facing acute financial constraints. The Committee is of the view that this formula should be finalized and reflected in the financial memorandum attached to the Bill. The formula for sharing of the funds should also be clearly stated and in the absence of any other credible formula should state that "till a revised formula is worked out through appropriate consultations, the present sharing formula would continue."

(Para 5.2)

The Committee was informed that the 13th Finance Commission has been apprised of the said Bill becoming an Act soon and also about the resources of the country for implementing the provisions of the Act. A memorandum has been submitted to the Finance Commission for equalization principles for elementary education expenditure to take into account financial requirements under SSA and the enhanced costs of making elementary education a fundamental right. The Committee feels that for enabling the Finance Commission to make appropriate recommendations both the over all financial cost as well as the sharing formula between the Centre and the States must be settled. The Committee recommends that necessary steps be taken to ensure that the State Governments discharge their basic responsibility of providing elementary education.

(Para 5.3)

Clause 7 (6) of the Bill specifies the other responsibilities of the Central government like developing a framework of national curriculum with the help of academic authority, developing and enforcing standards for training of teachers and providing technical support and resources to the State Government for promoting innovations, researches, planning and capacity building. The Committee feels that in addition to all this, the Central Government may consider for a provision for development of skills of children through vocational training which should be an integral part

of the school education at an appropriate level of elementary education.

(Para 5.4)

6. CLAUSES 8, 9 & 10

Clauses 8, 9 & 10 specify the duties of the appropriate Government, local authority and duties of parents and guardians. Both the appropriate government and local authority have to ensure that every child is provided free and compulsory elementary education. It is the duty of parents/guardians also to send their children/wards to the neighbourhood school. The Committee would like to point out that there is no provision of a monitoring mechanism to ensure the compliance of the provisions by the appropriate Government authority, local authority and parents. The Committee emphasizes that a fool proof monitoring mechanism should be put in place to oversee the strict compliance of these provisions because a single instance of non-compliance would defeat the purpose of the legislation. The Committee also recommends that measures should be taken to create mass awareness about this social legislation and that regular monitoring of its implementation should also be ensured.

(Para 6)

7. CLAUSE 12

The Committee finds the above figures quite old. The schools propose to enhance the fee from the ensuing academic session and the liability of unaided school for per child average expenditure is likely to go up substantially. The Committee would like to be apprised about the mechanism for ensuring the admission of eligible students to private schools under this provision.

(Para 7.3)

Apprehensions have been voiced about the implication of Clause 12 providing that every private school has to give free admission to underprivileged children subject to 25 per cent of their admission capacity. In the absence of full reimbursement of fees, the remaining 75 per cent children may be required to bear the additional burden. The Committee recommends that arrangements be made to see that expenditure incurred on 25 percent of underprivileged children is not passed on to the remaining 75 percent of children. For ensuring this, the reimbursement formula must be determined on the basis of norms by a Group of Experts and in consultation with the Planning Commission. Committee also recommends that the aided or unaided schools should give 25 percent of their admissions to the children of underprivileged class from the very beginning i.e from nursery class itself and not from class I as it may not be possible for such children to compete and cope up with the standard of the remaining children in class I. This procedure based on the aforesaid principle should be reflected in Clause 12 (b) of the proposed Bill.

(Para 7.4)

8. CLAUSES 13, 14, 15, 18 & 19

Clauses 13, 14, 15, 18 & 19 in the Bill provide for penalty in respect of capitation fee, scrutiny procedure for admission, non-denial of admission due to lack of proof of age, mandatory requirement for certificate of registration and norms and standards for schools. The Committee appreciates the inclusion of such provisions which would pave the way for equal opportunities to all children in completion of their elementary education without any fear, trauma or anxiety. These provisions would provide a level playing field especially to the children of the poorer sections and disadvantaged groups to complete their elementary education without any social, physical or

financial stress. The Committee notes that there is no provision of a monitoring mechanism to ensure implementation of these provisions. The fear of penalties may arrest the alleged irregularities and corruption in the field of education but it requires a foolproof monitoring mechanism for its effective implementation so that no school denies admission to any child.

(Para 8.1)

Clause 14 (2) of the Bill specifies that no child shall be denied admission in a school for lack of age proof. The Committee feels that this is a blanket provision which needs to be spelt out clearly. The Committee is of the view that the provision for admission without age proof is not desirable in society which is developing at a rapid speed. Age is an important criterion for the children to encourage competition and to grow. In case the age proof is not available, there should be a provision for production of an affidavit from the parents or an age certificate from the chief of the village panchayat/local counselor.

(Para 8.2)

Clause 15 of the Bill specifies that a child shall be admitted in a school at the commencement of the academic year or within such extended period as may be prescribed. The Committee observes that it is not clear as to which authority will be deciding about extended period for admission. The Committee is of the opinion that there should be some provision with regard to the extended period of admission and the manner of completing study if admitted after the extended period. In this regard, rules may be framed for the same.

(Para 8.3)

9. CLAUSE 16

Clause 16 provides that no child admitted in a school shall be held back in any class from school till the completion of his/her elementary education. The Committee considers this clause as somewhat counter-productive in so far as the quality of education is concerned. In the absence of any method of evaluation of the child, there would be no motivation for the child to complete and improve. There needs to be an element of fear through proper evaluation lest the non performers may become a liability for the society at large. An evaluation record should be maintained and shared with the Child and the Parents encouraging improved performance particularly in cases where the child fails to meet acceptable quality. The Committee is of the opinion that a minimum level of grading or standardisation should be fixed for the child to be promoted to the next class instead of blanket promotion.

(Para 9.1)

Clause 16 also lays down that no child admitted in a school shall be expelled from school till the completion of elementary education. In other words, after the enactment of this Bill, no school authority will be having any power to expel any student even if on valid grounds. This provision seems to be a sweeping one and a rational consideration seems to be called for. The Committee is of the opinion that in cases where a child is habitually deviant or repeatedly creates nuisance and vitiates academic atmosphere of the school, in the first instance, suitable counseling be arranged through experts and academicians. If that does not work, suitable action may be taken against such a child in deserving cases. The action of expulsion should not debar him/her from taking admission in some other school.

(Para 9.2)

10. CLAUSE 21

Clause 21 of the Bill provides for the constitution of a School Management Committee by a school consisting of elected representatives of local authority, parents of guardians of children

admitted in such schools and teachers. The Committee observes that in the composition of the School Management Committee, there is no representation of women who are a major stakeholder in imparting elementary education to children. The Committee therefore, opines that there should be adequate representation of women in the School Management Committee.

(Para 10)

11. CLAUSE 26

Clause 26 deals with the filling up of vacancies of teachers by the appointing authority. Vacancy of teachers in a school shall not exceed ten percent of the total sanctioned strength of teachers. The Committee would like to point out that our educational institutions including the school education is presently faced with the problem of huge vacancies of teachers. In this context, filling up of vacancies which should not exceed ten percent of the sanctioned strength is a daunting task. Delays in recruitment of teachers against vacancies often take 3-4 years. The gaps are managed by employing para-teachers. It is not clear as to what would be the status of para teachers in view of these provisions. Further, it is not clear whether States would be given autonomy in matters of recruitment of teachers and also filling up of vacancies. The Committee presumes that the Central Government has taken cognizance of the actual vacancies of teachers in the States and worked out the strategy to fill up these vacancies. This exercise is absolutely necessary to ensure that there is no conflict between State and Centre laws with regard to the recruitment of teachers and filling up of vacancies.

(Para 11)

12. CLAUSE 30

Clause 30 (2) provides that every child completing his/her elementary education shall be awarded a certificate, in such form and in such manner, as may be prescribed. The Committee is of the opinion that for awarding a certificate to a child for completion of his/her elementary education, a standardized assessment of that child should be done periodically to enable the child to know his level and improve accordingly.

(Para 12)

13. CLAUSE 31

Clause 31 requires the National Commission for Protection of Child Rights to monitor the effective implementation of the proposed legislation and to inquire into complaints relating to child's right to free and compulsory education and to take steps under Section 15 and 24 of the Commission for Protection of Child Rights Act. The Committee notes that in the event of inquiry into complaints and the steps taken under Section 15 and 24 of the said Act, the party against whom an order is passed by the Commission may feel aggrieved by that order. There does not seem to be any provision in the proposed Bill to provide for an appeal against such an order. Therefore, a provision enabling an appeal may be inserted in the Clause.

(Para 13)

14. CLAUSE 32

Clause 32 deals with redressal of grievances by the local authority or by State Commission for Protection of Child Rights. In sub clause 2 of Clause 32, it is laid down that the local authority shall decide the matter as early as possible after affording a reasonable opportunity of being heard to the parties concerned. The Committee is of the opinion that the use of the term "as early as possible" is a vague expression. Therefore, a time frame of three months, needs to be specified for

the final decision of the local authority. Similar time frame for giving decision needs to be specified even for the State Commissions for Protection of Child Rights thereby safeguarding the interests of the child.

(Para 14)

15. CLAUSE 33

Clause 33 deals with the constitution of the National Advisory Council to advise the Central Government on implementation of the provisions of the Act in an effective manner. The Committee believes that the National Advisory Council would be able to fulfill its function only when the monitoring of the implementation of the proposed legislation is done for the whole country. Council on similar lines at State levels need to be constituted to ensure monitoring of the enactment of the legislation and reporting the problem areas. The State Advisory Council would then be able to advise the Central Government on removal of the lacanue and pave the way for effective implementation of the legislation. The Committee therefore recommends for constitution of Advisory Councils at the State level first.

(Para 15)

16. CLAUSE 34

Clause 34 lays down the power of the Central Government to issue guidelines and directions to the appropriate Government or local authority for the purposes of implementation of the provisions of this Act. To what extent the guidelines and directions of Central Government would be binding on the State Governments is a moot question. The Committee recommends that in keeping with the constitutional scheme of division of powers between the Centre and States, the words “and directions” appearing in this Clause be deleted.

(Para 16)

**MINUTES
VI
SIXTH MEETING**

The Department-related Parliamentary Standing Committee on Human Resource Development met at 4.30 p.m. on Monday, the 12th January, 2009 in Committee Room ‘A’, Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Janardan Dwivedi — *Chairman*

RAJYA SABHA

2. Shri Shantaram Laxman Naik
3. Dr. K. Keshava Rao
4. Shri N.K. Singh

LOK SABHA

5. Shri Ashok Argal
6. Shri Basudeb Barman
7. Shri Harisinh Chavda
8. Shri Ramswaroop Koli

9. Smt. Nivedita Sambhajirao Mane
10. Prof. Rasa Singh Rawat
11. Shri Ganesh Prasad Singh
12. Dr. Meinya Thokchom
13. Shri K. Virupakshappa
14. Shri Francis K. George
15. Dr. Ram Lakhan Singhn

SECRETARIAT

Smt. Vandana Garg, Joint Secretary
Shri M.K. Khan, Director
Shri J. Sundriyal, Joint Director
Shri Sanjay Singh, Committee Officer

WITNESSES

DEPARTMENT OF SCHOOL EDUCATION & LITERACY

- | | | | |
|----|---------------------|---|-------------------------|
| 1. | Shri A. K. Rath | - | Secretary |
| 2. | Ms. Anita Kaul | - | Joint Secretary |
| 3. | Prof. Ved Prakash | - | Vice Chancellor (NUEPA) |
| 4. | Prof. Krishna Kumar | - | Director (NCERT) |
| 5. | Shri Vikram Sahay | - | Director |
| 6. | Ms. Neelam S. Rao | - | Director |
| 7. | Shri D.K. Gautam | - | Deputy Secretary |
| 8. | Shri R.S. Bhatia | - | Under Secretary |

2. At the outset, the Chairman informed the Members that the 'Right of Children to Free and Compulsory Education Bill, 2008' has been referred to the Committee for examination and report and that Secretary, Department of School Education and Literacy has been invited to present his views on the Bill.

3. The Committee then heard the Secretary and officials of the Department of School Education and Literacy on the said Bill. The Members put forth their queries with regard to certain provisions of the Bill which were replied to by the witnesses.

4. A verbatim record of the meeting was kept.

5. The Committee then adjourned at 6.15 p.m to meet again on 23rd January, 2009.

VII SEVENTH MEETING

The Department-related Parliamentary Standing Committee on Human Resource Development met at 3.30 p.m. on Friday, the 23rd January, 2009 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Janardan Dwivedi — *Chairman*

RAJYA SABHA

2. Shri Shantaram Laxman Naik
3. Dr. K. Keshava Rao
4. Shri N.K. Singh
5. Shri M. Rama Jois
6. Prof. Ram Gopal Yadav

LOK SABHA

7. Shri Ashok Argal
8. Shri Basudeb Barman
9. Shri Harisinh Chavda
10. Shri Ramswaroop Koli
11. Smt. Nivedita Sambhajirao Mane
12. Prof. Rasa Singh Rawat
13. Shri Ganesh Prasad Singh
14. Shri Chengara Surendran
15. Dr. Meinya Thokchom
16. Shri Francis K. George
17. Dr. Ram Lakhani Singh
18. Shri Abu Hasem Khan Choudhury
19. Shri Ravi Prakash Verma

SECRETARIAT

Smt. Vandana Garg, Joint Secretary
Shri M.K. Khan, Director
Shri J. Sundriyal, Joint Director
Shri Sanjay Singh, Committee Officer

2. The Committee considered its 213th draft Report on the Right of Children to Free and Compulsory Education Bill, 2008 and after some discussion, adopted the same with some modifications.
3. ***
4. A verbatim record of the proceedings of the meeting was kept.
5. The Committee then adjourned at 4.50 p.m.

*Relates to other matter