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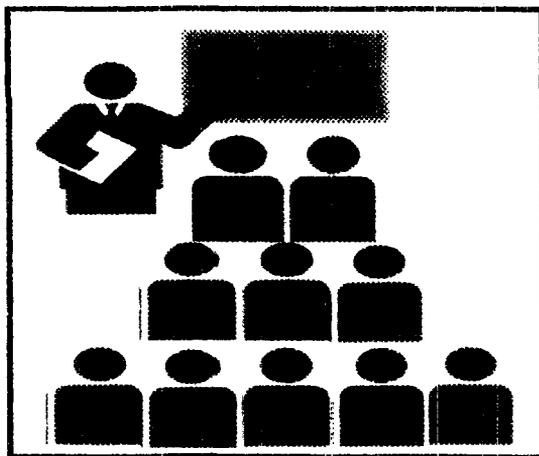
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राष्ट्रीय शैक्षिक योजना और प्रशासन संस्थान
National Institute of Educational Planning
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**REPORT
OF
THE COMMITTEE
OF
STATE EDUCATION MINISTERS
ON
IMPLICATIONS OF THE
PROPOSAL TO MAKE
ELEMENTARY EDUCATION
A FUNDAMENTAL RIGHT**



**GOVERNMENT OF INDIA
MINISTRY OF HUMAN RESOURCE DEVELOPMENT
DEPARTMENT OF EDUCATION
NEW DELHI
15 JANUARY 1997**

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MUHI RAM SAIKIA

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MINISTER OF STATE
MINISTRY OF HUMAN RESOURCE DEVELOPEME
DEPARTMENT OF EDUCATION
GOVERNMENT OF INDIA
NEW DELHI - 110 001

January 14, 1997

Dear Shri Bommai,

I have great pleasure in presenting to you the Report of the Committee of State Education Ministers constituted by you to examine implications of making the right to free and compulsory elementary education a Fundamental Right.

The constitution of the Committee was quite timely as we are at the threshold of launching the IXth Five Year Plan during the course of which the nation is committed to achieve the goal of ensuring Education For All (EFA) and Universalisation of Elementary Education (UEE). It cannot be denied that compulsion is not the only answer to achieve UEE. The Government would have to continue with its approach to motivate parents and children, involve communities and build up public opinion in favour of UEE. To demonstrate the political will and administrative resolve of the country for achieving this task by 2000 AD, the Committee has unanimously endorsed the proposal of the United Front Government to amend the Constitution to make elementary education a Fundamental Right and to take suitable statutory measures to enforce it. We have further recommended inclusion of education upto 14 years as a Fundamental Duty of citizens. The implications of these proposals have been carefully considered by the Committee and are duly reflected in our report. Estimates of additional expenditure required to implement the proposal need to be examined carefully in consultation with experts who may also identify the possible sources of funding. I am confident that these amendments to the Constitution will spur the Government and non-Government sectors to take necessary measures to provide universal access to elementary education and to provide facilities required for universal retention and achievement. Moreover, implementation of the Report will fulfil one of the major commitments made by the United Front Government.

While commending the Report to Government, I would like to place on record my sincere appreciation of the guidance and assistance provided by Shri P.R.Dasgupta, Union Education Secretary, Shri Abhimanyu Singh, Joint Secretary (EE) and Member Secretary of the Committee and Shri Suresh Kumar, Deputy Secretary (Elementary Education). Their able and unstinted support to the Committee helped us in finalising the Report within a short span of about 4 months.

...2/..

MUHI RAM SAIKIA

राज्य मंत्री
मानव संसाधन विकास मंत्रालय
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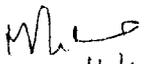
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I would also like to place on record my sincere gratitude for the support extended by the members of the Committee who actively and keenly participated in the deliberations of the Committee.

I hope that in view of the historical importance of the issue under consideration, you would have the Committee's report processed and acted upon expeditiously.

With regards,

Yours sincerely,


(MUHI RAM SAIKIA)

Shri S.R. Bommai,
Union Minister of HRD,
Government of India,
Shastri Bhavan,
New Delhi-110 001.

ACKNOWLEDGEMENTS

The Committee to consider the implications of the proposal to make the right to elementary education a Fundamental Right acknowledges with gratitude, the role played by Shri P.R. Dasgupta, Union Education Secretary, in finalising its report. He made strenuous efforts to assist the Committee. His clarity of thought and persuasive skills were greatly appreciated by all members. The Committee is also grateful to Shri Abhimanyu Singh, Joint Secretary (EE) and Member Secretary of the committee, and Shri Suresh Kumar, Deputy Secretary (EE), who worked hard and sincerely not only in preparing the background material and the report of the Committee but also in providing logistical support and facilities to members.

The Committee would also like to place on record its appreciation of the assistance provided by State Education Secretaries in making deliberations of the Committee more fruitful and business like. They have provided useful inputs in preparation of the report of the Committee.

The Committee would also like to thank Shri O.P. Chaturvedi, Under Secretary (EE) and his staff namely S/Shri A.K. Jain, Assistant; Meena Anand, Assistant; Sanjeev Kapoor, Steno; Sunil Singh Rawat, Steno; V. Lalitha, Steno; Safder Ali Alavi, UDC; N. Varmaji, UDC; and Rajesh Sharma, LDC. The work done by Shri Bhushan Ram Kumar, PS; Shri Puran Chand, PA; and Shri D.S. Rawat, PA, in preparing the background material, minutes of the meetings and the report of the Committee deserve special mention and appreciation. But for their efforts, the Committee would not have been able to finish its task within a short span of 4 months.

**MUHI RAM SAIKIA
CHAIRMAN**

ACRONYMS AND ABBREVIATIONS

DPEP	District Primary Education Programme
EE	Elementary Education
EFA	Education for All
GNP	Gross National Product
GDP	Gross Domestic Product
HRD	Human Resource Development
J & K	Jammu & Kashmir
JRY	Jawahar Rozgar Yojana
Km	Kilo-metre
NFE	Non-formal Education
NGO	Non-Government Organisation
PRIs	Panchayati Raj Institutions
PTA	Parent Teacher Association
p.a.	per annum
SC	Scheduled Caste
ST	Scheduled Tribe
TLC	Total Literacy Campaign
UTs	Union Territories
UEE	Universalisation of Elementary Education
VECs	Village Education Committees

EXECUTIVE SUMMARY

1. The Common Minimum Programme of the United Front Government resolves to make the right to free and compulsory elementary education a Fundamental Right and to enforce it through suitable statutory measures.
2. In view of the wide ranging implications of the proposal, the Department of Education initiated necessary consultations at the political level and with educational experts.
3. The proposal was discussed in a Conference of Chief Ministers on 4-5 July, 1996 and again in a Conference of State Education Ministers on 10 August, 1996. Educational experts discussed the proposal in a meeting with Union Minister for HRD on 16 August, 1996. A unanimous view emerged that a Committee of State Education Ministers should be constituted to consider the financial, administrative, legal and academic implications of the proposal.
4. Accordingly, the Department of Education, Ministry of Human Resource Development constituted a Committee of State Education Ministers under the Chairmanship of Shri Muhi Ram Saikia, Union Minister of State for HRD (Education) vide its order No.F.1-53/92-EE dated 29 August, 1996.
5. The Committee was asked to examine and consider the legal, academic, administrative and financial implications of the proposal to amend the Constitution to make the right to free and compulsory elementary education a Fundamental Right, to suggest suitable statutory measures to enforce it and to suggest guidelines indicating facilities which if not provided would become justiciable.
6. The Committee held three meetings on 16 September, 24 October and 30 November, 1996 in New Delhi and concluded its work in its 4th meeting held in Cochin on 10 January, 1997.
7. During the course of the meetings, the Committee reviewed the present status of free and compulsory education in the country; considered issues

involved in its implementation; and examined various implications of the proposal. The Committee considered an 'Issue Paper' prepared by the Department of Education, Ministry of Human Resource Development; opinion of the Department of Legal Affairs in the Ministry of Law; and recommendations of State Education Secretaries made in their meeting with Union Education Secretary on 18 November, 1996.

8. The recommendations of the Committee are summarised as follows :-

(i) The Constitution of India should be amended to make the right to free elementary education upto 14 years of age a Fundamental Right. Simultaneously, an explicit provision should be made in the Constitution to make it a Fundamental Duty of every citizen who is a parent to provide opportunities for elementary education to all children up to 14 years of age. Consequential amendments to the Directive Principles of State Policy as enunciated in Article 45 of the Constitution should also be made.

(ii) In a diverse federal polity such as ours with wide disparities in provision of school education between and within States and the States being the main providers of elementary education, there is no need to enact a Central legislation making elementary education compulsory. States should either amend their existing legislation or enact fresh legislation to give effect to the proposed Constitutional amendments on the lines of the action taken in regard to implementation of 73rd and 74th Constitutional amendments. The Central Government should issue guidelines providing a broad framework for enactment of fresh legislation on compulsory elementary education. The guidelines should be finalised in consultation with State/UT Governments.

(iii) State legislation should provide for the following :-

- (a) provision of permissive compulsion to enable State Governments and local bodies to enforce the law selectively in a phased manner;
- (b) grounds for exemption from compulsory school attendance;

- (c) imposition of punishment on defaulting parents - quantum of minimum and maximum punishment should be specified;
- (d) establishment of primary schools within a distance 1-1.5 Km. from rural habitations provided that there is a population of 250 in the catchment areas;
- (e) establishment of upper primary schools within a distance of 3 Km. from rural habitations provided that there is a population of 500 in the catchment areas;

State Governments should be entitled to relax the norms in (d) and (e) above in the case of hill, desert, tribal and inaccessible areas so as to ensure that the proposed schools are viable.

- (f) responsibilities which may be delegated to Gram Panchayats and VECs for achieving UEE in their jurisdiction;
- (g) provision for engaging honorary attendance officers; and
- (h) vesting of powers to impose penalties and grant exemptions in the PRIs/VECs; and

(iv) A State-wise approach in regard to free education should be adopted in keeping with the local situation. However, in order to ensure uniformity, free elementary education may include exemption from tuition fee; provision of free textbooks for all primary school children and girls upto upper primary level; and provision of essential stationery to all children in primary classes. In addition, the Mid-day Meals Programme may be continued. State Governments may provide other incentives such as free school uniforms, cash incentives, scholarships, etc. in accordance with their economic capacity and priorities.

(v) The administrative machinery for supervision, inspection, monitoring and evaluation of elementary education should be augmented and strengthened at the Secretariat, Directorate, District and Block levels.

(vi) The academic implications of the proposal which include provision of recurrent teacher training and quality textbooks besides introduction of Minimum Levels of Learning (MLL) should be given due attention.

(vii) Minimum infrastructure and teachers as envisaged under Operation Blackboard should be provided in all primary and upper primary schools preferably during the 9th Five Year Plan. However, such provision of facilities may not be made a statutory obligation for the present. The norms prescribed under OB would not be applicable to alternative schooling and non-formal education programme.

(viii) As in the past, the primary responsibility to promote elementary education should remain with the State Governments, who should consider measures which will enable local bodies in urban and rural areas to raise revenues for improvement of facilities in schools. They should consider the proposal to levy an 'educational cess' in this regard. The Central Government should meet additional requirements keeping in view the past trend of resource transfers and the need to augment resources to implement the proposal. It should provide special financial assistance to States/UTs for schemes specifically designed for promotion of education of girls, SCs and STs. The Central and State Governments should allocate 50% of budgetary allocations for education to Elementary Education and ensure that the funds so allocated are not re-appropriated or diverted to any other sector. They should also streamline the existing system of flow of funds to Elementary Education Programmes.

(ix) The Planning Commission and Ministry of Finance should evolve an appropriate formula in consultation with the State Governments concerned to share additional finances required to implement the proposal. The formula so evolved should provide for transfer of more resources to educationally backward States/Districts/Blocks. Estimates of additional funds required to implement the proposal should be carefully examined in consultation with experts who may also identify the possible sources of financing the additional requirements. The additional expenditure to implement the proposal should be phased out, preferably over a period of 5 years coinciding with the Ninth Five Year Plan.

(x) States should provide adequate space and opportunity to deserving private schools to spread elementary education in remote and inaccessible rural areas. They should also consider suitable regulatory provisions to ensure that the tendency of commercialisation of education is effectively curbed.

(xi) In regard to medium of instruction at primary level, States should continue the existing policy of providing primary education in the regional language and where regional language is other than the mother tongue, in the mother tongue.

(xii) In order to give meaning and effect to the proposal, special efforts should be made to build up public opinion in favour of UEE by social mobilisation and involvement of communities on a much larger scale. To achieve this, a National Elementary Education Mission (NEEM) should be effectively operationalised in IXth Plan; NGOs should be provided larger assistance and support in their efforts to promote UEE; and PRIs should be given greater responsibility in planning, management and implementation of programmes of elementary education.

CHAPTER- I

INTRODUCTION

1. In its endeavour to build a just and humane society, the Common Minimum Programme of the United Front Government resolves to make the right to free and compulsory elementary education a Fundamental Right and to enforce it through suitable statutory measures. In view of the wide ranging implications of the proposal, the Department of Education initiated necessary consultations at the political level and with educational experts. The proposal was discussed in a Conference of Chief Ministers on 4-5 July, 1996 and again in a Conference of State Education Ministers and State Education Secretaries on 9-10 August, 1996. The educational experts discussed the proposal in a Conference chaired by Shri S.R. Bommai, Union Minister for HRD on August 16, 1996. The participants in these conferences widely appreciated the resolve and urged the Government to carefully consider the financial, administrative, legal and academic implications of the proposal. They recommended that a Committee of State Education Ministers should be constituted to consider these implications. Accordingly, Department of Education, Ministry of HRD constituted a Committee chaired by Shri Muhi Ram Saikia Union Minister of State for HRD (Education) in August, 1996.

2. **The composition of the Committee** is given in the attached Government order No.F.1-53/92-EE dated 29 August, 1996 (Annex-1).

3. **The terms of reference of the Committee** are as follows :-

- i) to examine and consider the legal, academic, administrative and financial implications of the proposal to amend the Constitution to make the right to free and compulsory elementary education a fundamental right;
- ii) to suggest suitable statutory measures to enforce this fundamental right; and

- iii) to suggest guidelines indicating facilities, which if not provided, would be justiciable.

Meetings of the Committee

4. The Committee held three meetings on 16 September, 24 October, and 30 November, 1996. in New Delhi and concluded its work in the fourth meeting held in Cochin on 10 January, 1997.

5. In its first meeting, the Committee reviewed the present status of free and compulsory education in the country. The second meeting considered the legal, administrative, financial and academic implications of the proposal on the basis of an 'Issue Paper' prepared by the Department. The Committee raised specific questions on various legal, financial and administrative issues and decided that :-

- (i) the Department of Legal Affairs, Government of India should prepare a note giving their views on various aspects of the proposal;
- (ii) the Department of Education should prepare another note giving detailed financial implications of the proposal after collecting data in this behalf on a standard format from the State Governments; and
- (iii) the above two notes should first be discussed with State Education Secretaries who may meet with Union Education Secretary in the Chair on November 18, 1996.

6. In pursuance of the decision of the Committee, Union Education Secretary held a meeting with State Education Secretaries on 18th November, 1996. State Education Secretaries after considering the opinion of the Department of Legal Affairs (Annex-II), which was circulated in this meeting, gave their specific recommendations. These recommendations were considered by the Committee in its third meeting held on November 30, 1996. After considering these recommendations, the Committee unanimously agreed to specific parameters within which the proposal to make elementary education a Fundamental Right should be operationalised. On the basis of these parameters, the Committee finalised its report in a meeting held on January 10, 1997, in Cochin.

CHAPTER-II

THE STATUS

1. The Committee reviewed the status including the existing Constitutional, legal and policy framework in regard to free and compulsory education in India. The present position is as follows :-

I. CONSTITUTIONAL, LEGAL AND POLICY FRAME-WORK

Constitutional Provision :-

2. Article 45 of the Constitution directs that the State shall endeavour to provide within a period of 10 years from the commencement of the Constitution, free and compulsory education for all children until they complete the age of 14 years.

National Policy on Education (1986)

Reiterating the Constitutional Directive, the National Policy on Education, 1986 as modified in 1992, provides that free and compulsory education of satisfactory quality shall be provided to all children up to the age of 14 years before we enter the 21st century. The Programme of Action, 1992, prepared to give effect to the Policy, outlines various strategies to be pursued for achieving this goal.

Compulsory Education Legislation

4. There is no Central legislation making elementary education compulsory in the country. However, 14 States and 4 Union Territories have passed Acts making primary education compulsory. These are :

States : Assam, Andhra Pradesh, Bihar, Gujarat, Haryana, Jammu & Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Kerala and West Bengal.

UTs : Chandigarh, Delhi, Pondicherry and Andaman & Nicobar Islands.

These legislations have three parts :

- (a) Power vested in the State Government to notify the area in which the Act can be implemented.
- (b) Penalties for not sending children to school.
- (c) Power in a vested authority to grant exemption from the legislation.

Tamil Nadu has recently repealed the earlier Act and enacted a new legislation., i.e. The Tamil Nadu Compulsory Elementary Education Act, 1994. The legislation seeks to extend compulsion to the whole State rather than provide for gradual notification of areas to be covered by compulsory education.

Supreme Court Judgement in Unni Krishnan J. P Vs. Andhra Pradesh, 1993

Supreme Court has, in its judgement in Unni Krishnan, J.P. Vs. Andhra Pradesh, 1993, held as following :-

"The citizens of the country have a fundamental right to education. The said right flows from Article 21 of the Constitution. This right is, however, not an absolute right. Its contents and parameters have to be determined in the light of Articles 45 and 41. In other words, every child/citizen of this country has a right to free education until he completes the age of 14 years. Thereafter his right to education is subject to the limits of economic capacity and development of the State."

II. FREE EDUCATION :-

6. State Governments have abolished tuition fees in Government Schools up to upper primary level. Education in schools run by local bodies and private aided institutions is also mostly free. However, unaided institutions of elementary education do charge tuition and other fees. Other costs of education such as textbooks, stationery, uniforms, school bags, transport, etc are generally met by parents. State Governments provide text books, uniforms, etc. as incentives for children from SC/ST and girls at primary level.

III. COMPULSORY EDUCATION

7. The Compulsory Education legislation as enacted in 14 States and 4 UTs, enumerated in para-4 above, have remained unenforced due to various socio-economic and cultural factors as well as administrative and financial constraints. The Government of India has not enacted any Central legislation in this regard so far it has held the opinion that compulsion contemplated in Article 45 of the Constitution is a compulsion on the State rather than on parents. It has, therefore, been advocating a consensual approach to motivate parents and children. The key elements of this approach have been (i) community involvement; (ii) decentralisation of planning and management of school education to PRIs; (iii) motivation of children to attend schools regularly; (iv) improvement of infrastructure and facilities in schools (v) development of locally relevant curricula; (vi) improvement in quality of textbooks; (vii) teacher training; (viii) child centred learning; and (ix) adoption of minimum levels of learning.

IV. UNIVERSALISATION OF ELEMENTARY EDUCATION (UEE)

8. The thrust of the Central and State Governments in UEE has been on three aspects :-

- i) universal access and enrolment;
- ii) universal retention and children up to 14 years of age; and

- iii) to bring about substantial improvement in the quality of education to enable all children to achieve essential levels of learning.

The results of the combined efforts of the Central and State Governments in this direction have not been insignificant. Educational facilities at school level have increased considerably. The number of primary schools have gone up to 5,90,421 and the number of upper primary schools to 1,71,216 in 1995-96 as against 2,10,000 and 13,000 in 1950-51 respectively. The increase in educational facilities at school level has resulted in massive expansion in the enrolment of students. Gross enrolment ratio at primary level has increased from 42.6 in 1950-51 to 104.5 in 1995-96 with a large proportion of increase being in rural and semi-urban areas. According to the 5th All India Educational Survey, 94.6% of the rural habitations have a primary school within 1 Km. and 85.4% have an upper primary school within a distance of 3 Kms.

9. Notwithstanding the achievements, the Committee observed that the task of UEE is far from being complete. There are severe gender, regional, sectional and caste disparities in UEE. Only two third of children complete primary schooling and only half complete upper primary schooling. Studies have revealed low achievement levels among children in primary schools even in States which are considered educationally advanced. While a large number of eligible children are out of school, a significant proportion of those who join school drop out before completing their studies due to socio-economic and cultural factors as also due to lack of adequate infrastructure, shortage of teachers, non-availability of teaching learning materials and textbooks, a curriculum which is not fully related to local needs and low levels of learning.

10. The Committee felt that the proposal to make the right to free and compulsory elementary education a Fundamental Right can help removing obstacles in achieving UEE if it is operationalised in a framework which is practical and meets the requirements of implementing agencies. This, it felt, requires an indepth study of pros and cons of the proposal.

CHAPTER-III

ISSUES IN IMPLEMENTATION OF THE PROPOSAL

1. The Committee considered pros and cons of the proposal in its first meeting held on 16 September, 1996 and unanimously agreed that implementation of the proposal involves enormous challenge for the Central and State Governments. While considering the issues involved in implementation, the Committee resolved that the Central and State Governments should have to find ways and means to implement the proposal. It felt that in order to give meaning and effect to the proposed Fundamental Right, a detailed and accurate estimation of administrative, academic and financial requirements to fulfil this obligation would have to be made in consultation with the States, Planning Commission and the Ministry of Finance. With this in view, the Committee asked the State/UT Governments to furnish their estimates in regard to the following :-

- (i) establishment of new primary schools within one Km. of each rural habitation; or setting up of NFE Centres for scattered habitations;
- (ii) provision of upper primary schools within 3 Kms. of each rural habitation;
- (iii) additional teachers for new primary and upper primary schools in accordance with the approved teacher pupil ratio;
- (iv) additional teachers for making up existing shortfall of teachers in primary and upper primary schools;
- (v) construction of new class rooms to provide for additional enrolments;
- (vi) provision of teaching learning material including text-books;
- (vii) strengthening of administrative machinery for supervision, inspection, monitoring and evaluation; and

- (viii) enforcement machinery for giving effect to provisions for compulsory education.

2. In addition, estimates of financial requirements for keeping all the children in the age group of 6-14 years in schools for the complete duration of 8 years would also be necessary.

3. Giving his assessment of the issues in implementation of the proposal, Union Law Secretary stated that there would no doubt be administrative and legal difficulties in operationalising proposal but such difficulties are inevitable in implementing social legislations. In this context, he cited the example of The Child Marriage Restraint Act which is only partially implemented despite of its noble objectives. Nevertheless, it has had the desired effect on curbing child marriage in several parts of the country. Union Law Secretary felt that the Constitutional amendment would help in building up societal efforts to promote education.

4. Notwithstanding the difficulties involved in implementation of the proposal, the Committee unanimously recognised that the proposal has following positive aspects :-

- (i) The Constitutional enactment would demonstrate the necessary political will and administrative resolve of the country to achieve universalisation of elementary education and eradication of illiteracy.
- (ii) Such a measure would send the right signals to the international community and donors regarding India's commitment to achieve the goal of Education for All (EFA) by 2000 AD.
- (iii) The legislation would spur the government and non-government sectors to take necessary measures to provide universal access to elementary education and to provide facilities required for universal retention and achievement.
- (iv) The provision for making elementary education a Fundamental Right ought to put required pressure on Central and State Governments to focus on the special needs of under served and unserved population and regions.

- (v) Government's commitment to provide 6% of GNP for education in the Ninth Plan and to earmark 50% of this for primary education should provide the requisite financial back up and support to the Constitutional enactment.
- (vi) Revitalisation of Panchayat Raj institutions in the wake of the 73th Constitutional Amendment provides an opportunity to bring about effective devolution and decentralisation of authority for planning and management of elementary education to give effect to the proposed enactment.
- (vii) The proposal is expected to have a positive impact on eradication of child labour.
- (viii) The spread of elementary education through Constitutional measures would have a good impact on other social indicators like population growth, health and women's development as well as enhancement of productivity of the economy and reduction in unemployment.

5. The Committee observed that these positive effects can be realised only if the various implications of the proposal are duly acknowledged and provided for while considering the proposed Constitutional amendments and statutory measures required to give effect thereto.

CHAPTER-IV

IMPLICATIONS OF THE PROPOSAL

1. Though the Committee felt that implementation of the proposal would provide a boost to efforts for UEE, it expressed serious concern at the possibility of large scale litigation were Elementary Education to become a justiciable right and the massive mobilisation of resources which would be required for provision of necessary infrastructure and facilities to operationalise the proposal. It gave serious thought to multifarious implications involved in the proposal.

I. LEGAL AND ADMINISTRATIVE IMPLICATIONS

PROPOSED AMENDMENTS TO THE CONSTITUTION

2. In the light of Supreme Court's judgement in Unni Krishnan, J.P. Vs. Andhra Pradesh, 1993, it is generally accepted that children of this country have a Fundamental Right to free education until they complete the age of 14 years. According to the Supreme Court, this right flows from Article 21 relating to protection of life and personal liberty. Its content and parameters have to be determined in the light of Article 41, which provides for right to work, to education and to public assistance in certain cases, and Article 45 which provides for free and compulsory education to children up to the age of 14 years. The Apex Court has observed that obligation created by these Articles of the Constitution can be discharged by the State either by establishing institutions of its own, aiding, recognising and/or granting affiliation to provide educational institutions. Where aid is not granted to provide educational institutions, it may not be insisted that private educational institutions shall charge only that fee as is charged for similar courses in Governmental institutions.

3. During deliberations of the Committee, it was agreed that the Constitution may be amended to provide the right to free education up to the age of 14 years to all children as a Fundamental Right. Provision of education beyond this age is subject to the limitations of State's economic capacity and development. However, compulsory

education cannot be a Fundamental Right. Compulsion can be incorporated in the Constitution as a Fundamental Duty of every citizen. Accordingly, Article 51(A) of the Constitution which relates to Fundamental Duties of every citizen may be amended to provide that it shall be the duty of every citizen who is a parent to provide opportunities for education to all children up to 14 years of age.

4. The proposed Fundamental Right would make it obligatory for the State to provide necessary infrastructure and facilities for provision of elementary education in a given time-frame. The citizens would be within their right to challenge lack of provision of educational facilities in courts of law. On the other hand, the State would be within its right to make parents liable for punishment for not sending their children to school without reasonable justification as it would tantamount to violation of a Fundamental Duty.

5. Some members of the Committee felt that keeping in view the enormous financial, administrative and legal constraints, it would be desirable in the first instance to make only the right to primary education (Class I - V), a Fundamental Right. Implementation of such a right should be reviewed after a period of 3 to 5 years and thereafter the Government could consider the proposal to make upper primary education (Classes VI-VIII) a Fundamental Right also. The Committee noted that while this proposal could be considered from a purely practical point of view, it would not be possible at this stage to go back on the commitment made in the Constitution fifty years ago to endeavour to provide free and compulsory education to all children upto 14 years of age within ten years. Moreover, the Supreme Court has also ruled in the Unnikrishnan case in 1993 that children up to the age of 14 years have a Fundamental Right to education. The Committee, therefore, unanimously agreed that the right to free education upto 14 years should be made a Fundamental Right.

6. The Committee also considered the effect of the proposed Constitutional amendment on the existing Constitutional provisions in regard to prohibition of child labour. Article 24 of Part-3 of the Constitution provides that no child below the age of 14 years shall be employed to work in any factory or mine or be engaged in any other hazardous employment. The Central Government has enacted the Child Labour (Prohibition and Regulation) Act, 1986 to give effect to this provision. The Ministry of Labour initiated the National Child Labour Project to tackle the problem of employment of children in hazardous occupations in those districts of the country where it is high.

However, it is argued that efforts for abolition of child labour are constrained by the absence of a parallel provision in the Constitution for making education up to the age of 14 years a Fundamental Right. In this context, the proposed Constitutional amendments would give strength to the provisions of Article 24.

7. The proposed Constitutional amendments would in turn necessitate modifications in Articles 41 and 45 of the Directive Principles of State Policy. State Education Minister, Kerala suggested that secondary education should be included in Article 45 of the Constitution, particularly after elementary education is excluded therefrom and made a part of Chapter-III of the Constitution on Fundamental Rights. The Committee agreed with the view that subsequent to making the right to elementary education a Fundamental Right, greater efforts would be required to promote secondary education to provide adequate places in secondary schools to children who graduate from elementary schools. This, however, has enormous implications. Since the Committee was required to consider the proposal to make the right to elementary education a Fundamental Right, it could not consider these implications. Recognising the significance and logic of the proposal, the Committee suggested that this should be debated in the Central Advisory Board of Education (CABE) before being included in Article 45 in due course.

8. In so far as Article 41 is concerned, the Department of Legal Affairs, Government of India has clarified that consequential amendments would be necessary only in Article 45 and not in Article 41 of the Constitution as it deals with education in general.

PROPOSED STATUTORY MEASURES TO GIVE EFFECT TO CONSTITUTIONAL AMENDMENTS :

9. The Constitutional amendments to make elementary education a Fundamental Right enforceable against the State and a Fundamental Duty of parents would need to be backed by suitable statutory measures for making elementary education compulsory. As stated earlier, there is no Central legislation for making elementary education compulsory. This has invited criticism from some quarters. During recent years, several Members of Parliament have moved Private Members' Bill to make education, more particularly elementary education, free and compulsory in the country. The Central Government has so far maintained that there is no need for a Central

legislation on the subject as it is bound by the provisions of Article 45 of the Constitution. At the same time, several States have enacted legislation making primary education free and compulsory. State Governments have also made education up to upper primary level free by abolishing tuition fees in Government and local body schools.

10. States have taken the initiative to enact free and compulsory education legislations mostly prior to 1976 when education was a State subject. They continued to have the powers to enact legislation on this subject even after Education has become a Concurrent subject. The Committee felt that keeping in view the fact that elementary education remains mainly the responsibility of States, it is not strictly necessary to have a Central legislation. In a diverse federal polity such as ours with wide disparities in provision of school education between and within States, it is debatable whether a national legislation on compulsory education would serve much purpose. State Governments, being the main providers of elementary education, should enact such legislation and be responsible for their proper implementation.

11. Undoubtedly, State Education laws so far have remained unimplemented. It cannot however be denied that the existing State laws on compulsory education were mostly formulated in the early part of the century or in the sixties. It is, therefore, necessary to review the provisions of these Acts in the light of major developments in respect of UEE in this country and abroad, especially in the developing world.

12. The existing State Education laws broadly reflect international trends of the sixties. Within the country there has been absence of consensus and resolve to enforce the provision of such legislations. The reasons most commonly cited for non-implementation of the laws are lack of basic amenities, shortage of teachers, and apprehensions that punishment of parents for not sending their children to school is not likely to be acceptable either socially or politically. At the same time, it cannot be denied that the progress of voluntary elementary education in India during the past 50 years, despite massive quantitative expansion and investment, has been far from satisfactory. It is estimated that nearly 6.3 crore children in the age group of 6-14 years are still out of school in India.

13. International agencies and advocates of compulsory education feel that India is a major exception in regard to enactment and implementation of effective compulsory

education laws. Virtually every country in the world has made elementary education free and compulsory. 85% of developing countries including Asian Tigers such as Japan, Korea, Taiwan and most of the socialist countries have enacted laws making schooling compulsory for an average of about 6-7 years. Though it is difficult to establish a direct co-relation between enactment of compulsory legislation and increase in enrolment of children in all cases, and there are examples of some African countries where compulsion has not worked due to non-availability of sufficient school places and declining incomes, there is sufficient evidence to suggest that compulsory schooling laws do promote continued high levels of enrolment, especially when there are sufficient school places available and net enrolment ratios have moved up towards 90%. Simultaneously, measures to mitigate cost of school attendance are necessary for children of poor families who are constrained to remain out of school due to inability of their families to meet the direct and indirect costs of education. In the Indian context, where girls, tribals and Scheduled Castes are denied access to education due to social, economic and cultural constraints, special incentives for their education would be necessary.

14. The Committee specifically acknowledged the role of the Union Government in operationalising the 73rd and 74th Constitutional amendments in keeping with the principles of our federal polity. It felt that the same underlying principles and procedures should be adopted to give effect to the proposed Constitutional amendments. The Central Government should issue guidelines providing a frame-work for enactment of appropriate compulsory education laws in all States/UTs in a given time-frame.

PROPOSED FEATURES OF FRESH COMPULSORY EDUCATION LAWS TO BE ENACTED BY STATES

15. The Committee considered in detail the proposed features of fresh compulsory education laws, as may be enacted by States.

16. One of the major questions considered by the Committee was whether fresh State compulsory education laws should provide for permissive compulsion which enable State Governments to notify areas in which the Act can be implemented. This entails a gradual expansion of compulsory education laws in a phased manner to areas under the jurisdiction of local authorities who are ready and willing to take up this

challenge. Existing State Legislations, with the exception of Tamil Nadu, have such provisions. If permissive compulsion is to be retained, then States and local authorities who take the initiative of adopting and implementing compulsory education laws ought to be provided with additional funding as an incentive for expansion and improvement of educational facilities.

17. Alternatively, adoption and implementation of compulsory education laws can be made obligatory for those progressive States and local authorities which have achieved net enrolment ratios of boys and girls which are above the National or State average. A proportion of the additional costs required for this purpose should also be provided as an incentive to such States and local authorities.

18. The Committee felt that given the enormous financial and physical requirements to implement the proposal, the process of implementation will have to be made gradual but determined. The members were unanimous in their view that in order to enable the States to implement the proposal in a phased manner, provision of permissive compulsion should be retained in the fresh legislations to be enacted by States.

19. In regard to the question of exemptions from compulsory school attendance, the Committee felt that in accordance with the provisions in most of the existing compulsory education laws, ample provision would have to be made for exemptions from compulsory school attendance on reasonable grounds such as non-availability of school within the prescribed distance, serious illness, urgent domestic necessity or reasonable agricultural needs. While exemptions should seek to cover these contingencies, they should not be so liberal as to defeat the very purpose of the law. The authority for granting such exemptions should be vested with Panchayat Raj Institutions and Village Education Committees.

20. The experience of implementation of compulsory education laws, particularly in the pre-independence era, shows that the laws were implemented more effectively in regions in erstwhile States of Baroda (Gujarat) and Sangali (Maharashtra), primarily because of the involvement of the local community and provisions for appointment of school attendance officers. Experience of other countries in this respect has been similar. In Jammu and Kashmir, the absence of school attendance officers is reported to have contributed to non-implementation of compulsory education laws after 1947. The committee, therefore, felt that compulsory education laws have to be accompanied

by provision for school attendance officers who have authority to visit homes and schools in their jurisdiction to ensure that children below 14 years of age are attending schools regularly and do not absent themselves for non-genuine reasons. The anticipated financial burden of appointing a large number of such officers, the Committee felt, will certainly be a prohibitive factor. It is reasonable to assume that no State would be able to afford appointment of a large number of school attendance officers who are paid from the public exchequer. The Committee, therefore, considered it desirable to propose engagement of honorary school officers who are drawn from public life and include retired government officials, former teachers, ex-servicemen, members of PTAs, TLC volunteers and members of PRIs and VECs. The potential role of newly elected women representatives of PRIs in ensuring attendance of girls in schools should also be tapped. The honorary school attendance officers should work under the jurisdiction of PRIs.

21. One of the major barriers in the effective enforcement of compulsory education laws has been the spectre of large scale punishment by imposition of fines or imprisonment of defaulting parents, particularly those who ostensibly cannot afford to send their children to school. Some members of the Committee apprehended that the defaulting parents would be subject to considerable harassment by bureaucracy, resulting in widespread resentment among the general population against the implementation of compulsory education laws. Experience of other countries with a democratic polity does not appear to bear this out. Nevertheless, the Committee felt that the fresh legislations should ensure that penalties ought to serve as a deterrent and should be enforced only as a last resort, that too in a humane and compassionate manner without losing sight of the objective of the exercise i.e. pressurising and persuading recalcitrant parents to send their children to school. The punishment may vary from a State to State and could possibly include community service (Shramdan, Kar Seva) and suitable disincentives as may be determined by the PRIs

22. Given the apprehensions of State Governments in regard to increase in litigation subsequent to the enactment of the Constitutional amendment, the Committee considered the proposal to establish or revive Nyaya Panchayats, as the case may be, for resolving disputes. It was felt that the powers to impose penalties should be vested with Nyaya Panchayats and revenues earned from fines and penalties imposed on defaulting parents may be deposited in a School Fund to be utilised for the development of the local school in accordance with the decisions taken in this regard

by local panchayats and VECs. The Department of Legal Affairs has suggested that the revival or establishment of Nyaya Panchayats will depend upon the administrative decision of State Governments in regard to making appropriate necessary provisions in the laws dealing with PRIs. The members of the Committee felt that State laws in regard to PRIs though enacted/amended within the broad framework of 73rd and 74th Constitutional amendment vary from State to State. Therefore, instead of Nyaya Panchayats, PRIs as may be existing in a particular State, should be vested with powers to impose penalties.

23. In its review of existing compulsory education laws in the States, the Committee felt that these laws are narrow in their scope and do not provide for comprehensive measures for establishment of sufficient schools, provision of teachers, improvement of amenities, raising of resources, internal governance of schools, role of parent-teacher associations, etc. The fresh legislation should therefore be more comprehensive and cover these and related items as far as possible.

24. The Committee also felt that it should be the statutory duty of the State Governments to make the provision for a primary school within 1-1.5 Km. of rural habitations with a population of 250 and an upper primary school within 3 Km. of rural habitations with a population of 500. Some members of the Committee felt that all States may not be able to enforce such a strict provision, particularly in hill, desert, tribal and inaccessible areas, where habitations are scanty and scattered. They suggested that State Governments should be entitled to relax these norms, in case of such difficult areas so as to ensure that the proposed schools are viable. However, in no case should existing State norms be diluted. Scattered habitations should be provided with facilities for non-formal education and alternative schooling.

25. In keeping with the spirit of the 73rd and 74th Constitutional amendment & the Committee considered the question of decentralisation of management and planning of elementary education. It felt that the fresh State legislations should delegate the responsibility for taking decisions in regard to location and relocation of existing primary and upper primary schools to PRIs at village and block levels respectively on the basis of micro-planning and school mapping exercises. Decisions regarding provision, location and management of NFE centres for out of school children who are unable to attend regular school, should also be delegated to PRIs.

charge only that fee as is charged for similar courses in governmental institutions. The private educational institutions have to and are entitled to charge a higher fee, not exceeding the ceiling fixed in that behalf. The admission of students and the charging of fee in these private educational institutions shall be governed by the scheme evolved herein - set out in para 3 of this judgement."

28. In keeping with the above, the Committee felt that suitable provisions should be made in the State legislation to provide good quality private institutions, encouragement and support for promoting elementary education. Simultaneously, States should take steps to curb commercialisation and exploitation by private institutions in the name of spreading education.

FREE EDUCATION

29. The Committee gave considerable thought to the definition of free education as provision of free education would become justiciable subsequent to the enactment of the Constitutional amendment. In the Indian context, free education has so far been equated with the exemption from tuition fees which are negligible in the case of students in primary and upper primary schools run by Government and local bodies. This leaves the burden of meeting the costs of text-books, exercise books, school bags, stationery, school uniforms and transportation on the parents of children, many of whom are unable to afford these. Several State Governments and local bodies have sought to mitigate these costs by making provision for supply of free textbooks, school uniforms, stationery and scholarships, mainly for children belonging to SC/ST and girls in primary schools. A few States also introduced mid-day meals programmes on their own initiative. According to the 5th All India Educational Survey, about 2.48 lakh schools were providing free uniforms to 110 lakh children and about 202 lakh children were getting free textbooks in 3.3 lakh schools. At the upper primary level, as many as about 103 lakh children were getting free textbooks, 43 lakh were getting free uniforms, 71 lakh were being provided mid-day meals. These incentives were provided mainly by the State Governments. The Central Government has made a major intervention for improving the nutritional status of primary school children throughout the country by introducing the Mid-Day Meal Scheme in 1995-96. The scheme is intended to cover all 11 crore children in Government, local body and Government aided primary schools by 1997-98.

30. Studies have indicated that the delivery of most of the incentives is delayed and often these do not reach the intended beneficiaries. Also the distribution of the incentives is too thinly spread to have adequate impact. In the case of children from poor families and girls, these incentives are often insufficient to offset the opportunity costs of education. The Committee recommends that States may provide an enlarged definition to free elementary education in their respective laws in keeping with the local situation. However, in order to ensure uniformity, free elementary education should mean exemption from tuition fees, provision of free textbooks to all children upto primary level and girls up to upper primary level and provision of essential stationery to all children in primary classes. Provision of free textbooks and stationery to NFE learners would be retained. In addition, the Mid-Day Meals Programme may be continued. Provision of other incentives such as free school uniforms, cash incentives, scholarships, etc, would depend upon the economic capacity and priorities of States. States should also take necessary steps to streamline delivery of incentives and make them more specifically targetted.

STRENGTHENING OF ADMINISTRATIVE MACHINERY

31. The Committee agreed that following the Constitutional amendments and enactment of fresh compulsory education laws, the administrative machinery for supervision, inspection, monitoring and evaluation of elementary education would have to be augmented and strengthened considerably at the Secretariat, Directorate, District and Block levels. It would also be necessary to delegate authority and decentralise functions to local bodies in urban and rural areas in consonance with the spirit of the 73rd & 74th Constitutional amendments and the recommendations of the CAFE Committee on Decentralised Management of Education.

II. ACADEMIC IMPLICATIONS

32. Academic implications of the proposal include provision of training of teachers, provision of textbooks and ensuring of minimum levels of learning in elementary schools. In case the State Governments are to meet requirements of teachers and textbooks for additional enrolments as a result of the implementation of the proposal, suitable arrangements would need to be made for pre and in-service training of teachers and printing and publication of requisite number of standard textbooks. This would inter-alia mean strengthening of State Textbook Corporations/Boards and the

District Institutes of Education & Training. Steps would also need to be taken to motivate teachers as they play a major role in implementing the policies and schemes formulated to achieve a breakthrough in the quantitative and qualitative improvement of elementary education. Minimum levels of learning would have to be extended to all States/UTs up to primary level in the first instance. Supplementary teaching learning materials should also be provided for use by teachers and pupils. The Committee felt that the academic implications impinge upon the qualitative aspects of primary and upper primary education which cannot be ignored while ensuring quantitative expansion. These qualitative aspects should be duly acknowledged in making administrative and financial arrangements to implement the proposal.

III. FINANCIAL IMPLICATIONS

33. State Governments, households and the Central Government are the main providers of educational financing in India. According to the division of powers between the Central and State Governments as envisaged in the Constitution of India, the Central Government was directly responsible only for the Central Universities and similar institutions, standards in higher education and concurrently responsible alongwith the States for vocational and technical training. The Constitution assigned all other responsibilities in respect of Education to the States. In practice, however, emphasis on comprehensive economic planning and five year plans for both Central and State Governments' activities led to larger role for the Central Government than the assigned Constitutional functions. The Constitutional amendment of 1976, which made Education a concurrent subject, has resulted in a larger role for the Centre, especially in funding priority areas such as primary education and adult literacy.

34. The ability of State Governments to finance education depends on their willingness and ability to raise revenues, centrally raised resources transferred to them through the Finance and Planning Commissions, and the priority given to competing demands for expenditure in social sector. Household spending on education reflects the levels of distribution of income, the perceived adequacy of publicly provided services, household expenditures required by the public system and again the priority given to competing demands.

35. The Central Government provides direct expenditure, reflecting the Constitutional division of responsibility. It also allocates tied grants to States at each

level of education for activities which it believes receive insufficient funding. This is effected through the modality of Central and Centrally Sponsored Schemes.

36. In so far as financing of elementary education is concerned, it has been primarily the responsibility of State Governments. An analysis of plan outlay on elementary education during the last three Five Year Plans indicate that the State Governments provided 91 percent of the total expenditure on elementary education in 6th Plan, which came down to 68% in 8th Five Year Plan. The Central share was 9% in 6th Plan, which increased to 32% in 8th Plan. The increase in Central share has been mainly in the form of financial assistance provided under the Centrally Sponsored Schemes such as Operation Blackboard, Non-Formal Education, Teachers Education and Mid-day Meals Programme.

37. The total expenditure on education in the country is estimated to be 3.9% (1993-94) of the Gross Domestic Product. The United Front Government is committed to raise this expenditure to 6% of GDP by the end of 9th Five Year Plan. 50% of the enhanced allocation is proposed to be spent on primary education. This would require massive increase in the Plan Outlay of the Centre and States during the 9th Five Year Plan.

38. Tentative financial estimates to provide infrastructural and other requirements to operationalise the proposal have been furnished by some of the States. A summary of these requirements is attached as Annex-III. The Committee observed that these estimates have been worked out on the assumption that coverage of all out of school children requires additional schools, teachers and facilities. However, available information indicates that existing primary and upper primary schools are in a position to absorb a large number of out of school children through improved efficiency and community mobilisation. Similarly, shortage of teachers in primary and upper primary schools, especially in interior rural areas, could be attributed to deployment of surplus teachers in urban and better developed rural areas. This can be redressed to a large extent by a process of rationalisation in deployment of teachers, thereby obviating the need for recruitment of a number of teachers. The total financial requirements as indicated by 20 States/UTs namely, Andhra Pradesh, Assam, Bihar, Delhi, Haryana, Himachal Pradesh, Gujarat, Lakshadweep, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Orissa, Pondicherry, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, West Bengal to meet requirements of out of school children as on 30.9.1996

are Rs.14,955.56 crore. As these are rough estimates drawn up rapidly for the purposes of the Committee's report, they need to be examined carefully in consultation with the States concerned and experts.

39. According to the available information, nearly 3 crore children in the age group of 6-10 years and 3.3 crore in the age group of 11-14 years, are out of school. The average expenditure per student in class I-VIII in 1995-96 is estimated to be Rs.948/- p.a. In case the proposal to make right to elementary education a fundamental right is operationalised immediately, it would have to be ensured that all these children are provided facilities for formal and non-formal education. In financial terms, it would imply provision of Rs.6000.00 crore p.a. as an additional annual investment in elementary education. In case the estimated number of out of school children is higher as stated by some of the States, the requisite financial investment will go up accordingly. Also, the provision on the basis of the present level of per student expenditure, will mean provision of facilities on the scale and quality as obtaining in the country. There are not only wide variations in the facilities across the States, but there is tremendous scope of improvement in educational facilities, particularly in rural areas. If a factor of 20% is assumed for improvement in school environment and quality of education, the total additional financial requirement will increase to Rs.7200.00 crore p.a. States which have lower student expenditure would need to make massive additional investments to bring these at par with the national average.

40. The financial outlay (both State and Central) on elementary education during the 8th Five Year Plan has been Rs.8936 crore. In order to meet the additional requirement as a result of the proposal, this outlay will have to be increased by Rs.36,000 (Rs.7200 X 5) crore. This is based on the assumption that all additional children enrolled in classes I-VIII will complete their schooling. Given the constraint of resources, the Committee felt that it may not be possible for Central and State Governments to meet this requirement immediately. They may have to phase out the expenditure preferably over a period of 5 years coinciding with the 9th Plan to achieve the national goal of UEE. The annual financial implications of the proposal will be Rs.7200.00 crore (1995-96 prices). The annual increase in the general price index will have to be provided for in addition to this amount. As such the requirement of additional funds in five years would be approximately Rs.40,000 crore. These would have to be provided for in the Central and State Plans.

41. In so far as the sharing of the additional requirement finances is concerned, the Committee decided that these requirements should be posed to the Planning Commission and the Ministry of Finance for evolving an appropriate sharing formula in consultation with the State Governments concerned. The formula so evolved should provide for transfer of more resources to educationally backward States/Districts. The Committee felt that before evolving the formula, estimates for additional financial requirements should be carefully studied in consultation with experts who may also identify sources of financing additional requirements both in Central and State Plans in the next 5 years.

42. Some members of the Committee felt that sharing pattern for additional financial requirement to operationalise the proposal should be decided prior to enforcement of compulsion as the States would be required to put requisite infrastructure in place before the enactment of new legislations. They were, however, informed that international experience of enforcing compulsory education at primary level suggests that the provision of infrastructure, teachers and facilities do not necessarily precede the enforcement of compulsion. The two can proceed simultaneously.

43. However, as in the past, the primary responsibility to promote and expand elementary education would remain with the State Governments. In order to provide their share of funding, the State Governments should consider measures which will enable institutions of local self government to raise revenues. They should consider the proposal to levy 'educational cess' as suggested by some of the States.

44. The Central Government should meet additional requirements keeping in view the past trend of resource transfers and the need to augment resources required to implement the proposal. For this, extension of Operation Blackboard to provide for additional requirements of building infrastructure, teachers, and teaching learning material; expansion and strengthening of the non-formal education programme to cover working children, girls and children in remote school-less habitations; continuation of Mid-day Meals Programme; strengthening of Teacher Education and expansion of DPEP, should be considered. Also, the Central Government should provide financial assistance to State for schemes, especially evolved for promotion of education of girls, and SCs and STs. The Committee felt that the Central and State allocations for Elementary Education Programme should be 50% of the total budgetary allocations for education. The funds allocated for Elementary Education should not re-appropriated

or directed to any other sector and the existing system of flow of funds to Elementary Education Programme should be streamlined.

45. On the question of encouraging private sector in elementary education, the Committee observed that education in India has evolved as a partnership between the public and private sector. According to the available information, the share of private sector in elementary education has been limited to only 3.7%. There is thus a possibility of expanding this partnership. Some States have expressed reservations about the role of private sector in Elementary Education. They believe that private educational institutions generally cater to the affluent classes and charge high fees. Though this may be true to some extent, it cannot be denied that large number of private institutions are providing quality education and sharing the responsibility alongwith the Centre and States to promote UEE. States should consider suitable regulatory provisions to curb the tendency of commercialisation of education. At the same time, it should be desirable to provide adequate space and opportunity to deserving private schools to spread elementary education in remote rural areas.

IV. GUIDELINES IN REGARD TO EDUCATIONAL FACILITIES, WHICH IF NOT PROVIDED MAY BECOME JUSTICIABLE AS A CONSEQUENCE OF THE PROPOSED CONSTITUTIONAL AMENDMENT

46. Provision of educational services at present vary widely across States. While it should be the prerogative of the State Governments to decide the nature and content of the educational facilities which should be provided to ensure quality education to children, the members of the Committee felt that there is a need to define minimum levels of educational services which if not provided would become justiciable as a consequence of the proposed Constitutional amendments. They felt that such a definition would help the States and reduce apprehended litigation to a considerable extent.

47. In this context, the Committee considered provision of educational facilities as envisaged under the scheme of Operation Blackboard. The norms defined in Operation Blackboard, the Committee felt, provide an illustration of minimum educational facilities which the Union Government has over the last 10 years attempted

to provide for primary and upper primary schools. According to these norms, all primary schools should have :-

- (i) at least two reasonably large rooms that are useable in all weather with a verandah alongwith separate toilet facilities for boys and girls. In case of school where enrolment exceeds 100, provision of three rooms should be made;
- (ii) atleast two teachers as far as possible one of them a woman, and the number of teachers should be atleast three in case enrolment exceeds 100; and
- (iii) essential teaching learning material including blackboard, maps, charts, small library, toys and games and some equipment of working experience costing not more than Rs.10,000/- per school.

Funds for additional teachers and essential teaching learning material are provided by the Central Government whereas States are entitled to get 48% of cost of construction of class rooms under Jawahar Rozgar Yojna (JRY) provided they contribute the remaining 52%.

The upper primary schools should have :

- (i) atleast one room for each class and where there is more than one section to a class, for each section;
- (ii) a Headmaster-cum-office Room;
- (iii) necessary toilet facilities;
- (iv) contingency grants of Rs.1000/- per annum;
- (v) Library facilities and essential teaching learning equipment costing not more than Rs.40,000/- per school (Rs.50,000/- in case of schools located in tribal areas); and

(vi) at least one teacher for each class/section.

The Central Government provides one additional teacher and teaching learning equipment to upper primary schools whereas the remaining components are provided by the State Governments.

48. It is understood that the norms as prescribed under Operation Blackboard are not applicable to alternative modes of education and non-formal education programmes as evolved and implemented by the Central and State Governments.

49. The Department of Legal Affairs, Government of India suggested that the Government should before taking a decision to make provision of educational facilities as above obligatory under the law decide whether it would be in a position to provide these facilities. They felt that while it is certain that such matters of detail cannot form part of the Constitution, it is also not advisable to make provision of these educational services a statutory obligation unless the Government is able to fulfil it. The Committee was unanimous in its view that minimum infrastructure and teachers as envisaged in Operation Blackboard should be provided in all primary and upper primary schools in an agreed time-frame. While, such a provision may not be made a statutory obligation for the present, State legislation could provide enabling provisions in this regard.

CHAPTER-V

RECOMMENDATIONS

On the basis of detailed deliberations held in its four meetings, opinion of the Department of Legal Affairs, financial and physical implications posed by some of the States/UTs, recommendations of State Education Secretaries and opinion of the Planning Commission, the Committee unanimously recommends as following :-

I. PROPOSED AMENDMENTS TO THE CONSTITUTION :

- (i) The Constitution of India should be amended to make the right to free elementary education upto 14 years of age, a Fundamental Right. Simultaneously, an explicit provision should be made in the Constitution to make it the Fundamental Duty of every citizen who is a parent to provide opportunities for elementary education to all children up to 14 years of age.
- (ii) Consequential amendments to the Directive Principles of State Policy as enunciated in Article 45 of the Constitution should also be made.

II. STATUTORY MEASURES :

- (i) There is no need to enact a Central legislation making elementary education compulsory.
- (ii) States should either amend their existing legislations or enact fresh legislations to give effect to the proposed Constitutional amendments.
- (iii) The Central Government should issue guidelines providing a broad frame-work for enactment of fresh legislations on compulsory elementary education by States within a specified period which may be prescribed on the lines of 73rd and 74th Constitutional amendments. These guidelines should be formulated in consultation with States/UTs.

- (iv) Fresh State legislation should provide inter-alia for the following :-
- (a) provision of permissive compulsion to enable State Governments and local bodies to enforce the law selectively in a phased manner;
 - (b) grounds for exemption from compulsory school attendance;
 - (c) imposition of punishment on defaulting parents - quantum of minimum and maximum punishment should be specified;
 - (d) establishment of primary schools within a distance of 1-1.5 Km. from rural habitations provided that there is a population of 250 in the catchment areas;
 - (e) establishment of upper primary schools within a distance of 3 Km. from rural habitations provided that there is a population of 500 in the catchment areas;

State Governments should be entitled to relax the norms suitably in (d) and (e) above in the case of hill, desert, tribal areas and inaccessible areas so as to ensure that the proposed schools are viable. However, in no case should existing State norms be diluted.

- (f) responsibility which may be delegated to Gram Panchayats and VECs;
- (g) provision of honorary attendance officers;
- (h) vesting of powers to impose penalties and grant exemptions on the PRIs/VECs; and

III. FREE EDUCATION

- (i) A State-wise approach in regard to free education should be adopted in keeping with the local requirements and constraints. However, in order to ensure uniformity, free elementary education should mean exemption from tuition fee; provision of free textbooks for all primary school children and girls upto upper primary level; and provision of essential stationery to all children in primary classes. In addition, the Mid-day Meals Programme may be continued.
- (ii) State Governments may provide other incentives such as free school uniforms, cash incentives, scholarships, etc in accordance with their economic capacity and priorities. They should also streamline delivery of incentives so as to ensure that the benefit thereof reaches the eligible children.

IV. STRENGTHENING OF ADMINISTRATIVE MACHINERY

The administrative machinery for supervision, inspection, monitoring and evaluation of elementary education should be augmented and strengthened at the Secretariat, Directorate, District and block levels. States should delegate authority and decentralise management of elementary education to local bodies in urban and rural areas in consonance with the spirit of the 73rd & 74th Constitutional amendments.

V. ACADEMIC REQUIREMENTS

The Committee recommends that the academic implications of the proposal which impinge upon qualitative aspects of elementary education should be duly provided for in making financial and administrative provision to implement the proposal. To meet the requirements of pre and in-service training of teachers and provide requisite number of standard text books, State Textbook Boards/Corporations and the District Institutes of Education and Training should be strengthened. Minimum levels of learning should be introduced in all States/UTs upto primary level in the first instance. Supplementary teaching learning materials should also be provided for use by teachers and pupils.

VI. GUIDELINES IN REGARD TO EDUCATIONAL FACILITIES, WHICH IF NOT PROVIDED MAY BECOME JUSTICIABLE AS A CONSEQUENCE OF THE PROPOSED CONSTITUTIONAL AMENDMENT

(i) The Committee unanimously agreed that minimum infrastructure and teachers as envisaged in Operation Blackboard should be provided in all primary and upper primary schools. For primary schools, these should include :

- (a) at least two reasonably large rooms that are useable in all weather with a verandah alongwith separate toilet facilities for boys and girls. In case of school where enrolment exceeds 100, provision of three rooms should be made;
- (b) atleast two teachers as far as possible one of them a woman, and the number of teachers should be atleast three in case enrolment exceeds 100; and
- (c) essential teaching learning material including blackboard, charts, a small library, toys and games and some equipment of working experience costing not more than Rs.10,000/- per school.

In the case of upper primary schools, provision as per following should be made :

- (a) at least one room for each class and where there is more than one section to a class, for each section;
- (b) a Headmaster-cum-office Room;
- (c) necessary toilet facilities;
- (d) contingency grants of Rs.1000/- per annum;

- (e) Library facilities and essential teaching learning equipment costing not more than Rs.40,000/- per school (Rs.50,000/- in case of schools located in tribal areas).
- (f) at least one teacher for each class/section.

The sharing of financial liability in regard to provision of facilities as above between the Central and State Governments should be continued on existing pattern. While provision of facilities should not be made a statutory obligation for the present, State legislation should make enabling provisions in this regard so that these facilities are provided in an agreed time-frame.

- (ii) The norms prescribed under Operation Blackboard would not, however, be applicable to alternative schooling facilities and non-formal education programmes as may be evolved and implemented by the Central and State/UT Governments.

VII. SHARING OF EXPENDITURE ON ELEMENTARY EDUCATION

- (i) As in the past, the primary responsibility to promote elementary education should remain with the State Governments.
- (ii) State Governments should consider measures which will enable local bodies in urban and rural areas to raise revenues for improvement of facilities in schools. They should consider the proposal to levy an 'educational cess' in this regard.
- (iii) The Central Government should meet additional funding requirements keeping in view the past trend of resource transfers. For this, extension of Operation Blackboard to provide for additional requirements of classrooms; teachers and teaching learning materials; expansion and strengthening of NFE; extension of Mid-day Meal programme to all States; strengthening of Teacher Education; and expansion of DPEP should be considered.

- (iv) The Central Government should provide additional financial assistance to States/UTs for schemes specifically designed for promotion of education of girls, SCs and STs.
- (v) The Central and State Governments should allocate 50% of budgetary allocations for education to elementary education and ensure that the funds so allocated are not re-appropriated or diverted to any other sector. They should also streamline the existing system for flow of funds to elementary education programmes.
- (vi) The Central and State Governments should phase out additional expenditure to implement the proposal preferably over a period of 5 years to coincide with the Ninth Five Year Plan.
- (vii) The Planning Commission and Ministry of Finance should evolve an appropriate formula to share the requirements of additional finances which are tentatively estimated to be Rs.40,000 crore, in consultation with the State Governments concerned. The formula so evolved should provide for transfer of more resources to educationally backward States/Districts/Blocks.
- (viii) Before evolving the formula, the Department of Education, Ministry of Human Resource Development should have the estimates carefully studied in consultation with experts, who may also identify the possible sources for financing the additional requirements, both in Central and State Plans during the next five years.
- (ix) States should provide adequate space and opportunity to deserving private schools to spread elementary education in remote and inaccessible rural areas. They should also consider suitable regulatory provisions to ensure that the tendency for commercialisation of education is effectively curbed.

VIII. MEDIUM OF INSTRUCTION :

In regard to medium of instructions at primary level, States should continue the existing policy of providing primary education in the regional language and where regional language is other than the mother tongue, in mother tongue. Article 350(A) of the Constitution which stipulates that adequate facilities should be provided for provision of primary education in mother tongue to linguistic minorities, should be followed in letter and spirit.

IX. SOCIAL MOBILISATION FOR OPERATIONALISING THE PROPOSAL

The Committee felt that in order to give meaning and effect to the proposal, special efforts would be required to build up public opinion in favour of UEE, mobilising social support and involving communities in pursuit of UEE on a much larger scale. To achieve this, it recommends the following steps :-

- (i) A National Elementary Education Mission should be effectively operationalised in 9th Plan to monitor and supervise programmes of elementary education, assist State Governments in area specific programmes aimed at promotion of equality and equity in UEE and to launch a National Media and Advocacy Campaign for UEE;
- (ii) NGOs should receive larger assistance and support in their efforts for promotion of UEE especially in the rural interiors; and
- (iii) PRIs should be given greater responsibility in planning, management and implementation of programmes of elementary education.

In regard to (ii) and (iii) above, specific areas and activities should be identified so as to make the role of PRIs and NGOs more focussed and purposeful.

Commending the report to the Government, the Committee agrees with the view that compulsion is not the only answer to achieve UEE. The

Government would have to continue with its approach to motivate parents and children, involve communities and build up public opinion in favour of UEE. However, to demonstrate political will and administrative resolve of the country for achieving this task by 2000 AD, it is considered essential that the Constitution be amended and suitable statutory measures taken to operationalise the Constitutional mandate.

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G-2942

No. F. 1-53/92-EE
Government of India
Ministry of Human Resource Development
Department of Education

New Delhi,
Dated the 29th August, 1996.

O R D E R

The Common Minimum Programme of the United Front proposes to make free and compulsory education for children upto 14 years a Fundamental Right for achieving universalisation of elementary education by the turn of the century. This proposal would give the entire nation the necessary resolve to achieve this goal and help in harnessing the resources required for this purpose. The pros and cons of the proposal were deliberated upon in the Conference of State Education Ministers on 10th August, 1996. While recognising the significance of the proposed Constitutional Amendment, the Conference felt that widespread consultations at the political level were necessary to carefully consider the legal, financial, administrative and academic implications of the matter. Accordingly, it has been decided to set up a Committee of Ministers to examine the various (legal, financial, administrative and academic) implications of this proposal. The composition of the Committee would be as follows:-

1. Shri Muhi Ram Saikia, Minister of State for Human Resource Development, Government of India
- Chairman.
2. Shri Jayaprakash Narayan Yadav, Education Minister, Bihar
3. Shri Kanti Biswas, Minister-in-charge, School

p.2/

Education, West Bengal

4. Hon'ble Prof. K. Anbazhagan, Education Minister, Tamil Nadu
5. Shri P.J. Joseph, Education Minister, Kerala
6. Shri H.G. Govinda Gowda, Minister for Primary and Secondary Education, Karnataka
7. Shri Sudhir Joshi, Minister for School Education, Maharashtra
8. Shri Mukesh Naik, Minister for School Education, Madhya Pradesh
9. Shri Ram Bilas Sharma, Education Minister, Haryana
10. Shri Gulab Chand Kataria, Education Minister, Rajasthan
11. Shri Jai-Dev Jena, Minister for School & Mass Education, Orissa.
12. Ksh. Irabot Singh, Education Minister, Manipur
13. Shri B. Durga Prasada Rao, Minister for Primary & Secondary Education, Andhra Pradesh
14. Smt. Chitra Naik, Member, Planning Commission.
15. * Shri A. Mohandas Moses, Advisor, Jammu & Kashmir
16. Shri Abhimanyu Singh, Joint Secretary (BE),

Special Invitees

17. Law Secretary or his nominee not below the rank of Joint Secretary
18. Dr. R.V. Vaidhyanatha Ayyar, Additional Secretary.
19. Shri R.S. Pandey, Joint Secretary (DPEP).
20. Shri S. Satyamoorthy, Financial Adviser, MHRD

2. The terms of reference of the Committee are as follows:-

- i) to examine and consider the legal, academic, administrative and financial implications of the proposal to amend the Constitution to make the right to free and compulsory education a fundamental right;
- ii) to suggest suitable statutory measures to enforce this fundamental right;
- iii) to suggest guidelines indicating facilities, which if not provided, would be justiciable.

3. ** The Chairman of the Committee will have powers to coopt members and to set up sub-committees to assist it in its task;

4. The Committee is expected to submit its report within a period of two months from the date of its first meeting;

5. EE Bureau would provide necessary secretarial assistance for the Committee's work.

6. The non-official members coopted members or members of sub-committees will be entitled to travel and daily allowance as per Government of India rules.


(ATUL BAGAI)
DEPUTY SECRETARY (EE)
Tel. 3387781

Copy for information & action to:-

1. Members of the Committee.
2. Education Secretaries of All States & Union Territories.
3. Directors of Education of all States & Union Territories.
4. I.F.D./E-I/PPS to ES
5. Education Secretary, Government of India.

* Since a popular Government has come into power in Jammu & Kashmir, Shri Mohandas Moses, Adviser was replaced by Shri Abdul Qayoom, Education Minister, Government of J & K.

** The Chairman of the Committee coopted Shri N.C. Parashar, Minister of Education, Government of Himachal Pradesh as a member.

**OPINION OF DEPARTMENT OF LEGAL AFFAIRS, GOVERNMENT OF INDIA
IN REGARD TO LEGAL IMPLICATIONS OF THE PROPOSAL TO MAKE
RIGHT TO FREE AND COMPULSORY ELEMENTARY EDUCATION A
FUNDAMENTAL RIGHT**

The Department of Legal Affairs, Government of India was requested to give its considered views on the proposed amendments to the Constitution and statutory measures to give effect to the Constitutional amendments. Specific questions as raised by the Members of the Committee of State Education Ministers during its meeting held on October 24, 1996, were posed to them. These questions were

- i) Whether a Central Legislation on compulsory elementary education should be enacted or the States should enact fresh legislation as a follow up to the Constitutional amendments ?
- ii) Whether the grounds for exemption from compulsory school attendance as suggested above should be provided in the State legislation ?
- iii) Will there be any difficulty in State Governments appointing Honorary School Attendance Officers as suggested, in case a mandatory provision for appointment of School Attendance Officers is made in the law ?
- iv) Whether punishments such as community services or suitable disincentives proposed to be determined by the Gram Panchayats/VECs can be provided in the State legislation ?
- v) What should be the framework to revive Nyaya Panchayats to consider justiciable issues in regard to primary education ?
- vi) Will it be appropriate/advisable to provide for establishment of a primary school within 1 Km. of all rural habitations and an upper primary school within 3 Km. of all rural habitations in the State legislation ?
- vii) Will the State Governments be required to amend legislation relating to PRIs to delegate the responsibilities to such institutions in regard to the following :-
 - a) micro-planning;

- b) location and re-location of existing primary and upper primary schools;
 - c) provision, location and management of NFE centres for out of school children;
 - d) annual household and family surveys for identification of out of school children in the age group 6-14;
 - e) maintenance and publication of lists of out of school children at regular intervals;
 - f) display of village school map in public places and in school for sharing information in regard to households, communities and castes with out of school boys and girls;
 - g) establishment of a school fund through donations and levy of education cess; and
 - h) enforcing school attendance and dealing with defaulting parents through punitive and persuasive measures.
- viii) Should a definition of free education be provided in the State legislation ?
- ix) What should be the regulatory mechanism to curb the tendency of commercialisation of education and the possibility of private educational institutions claiming parity with the institutions run by Government and local bodies ?
- x) Should the proposed Constitutional amendment define the justiciable educational services ?
- xi) Whether the justiciable educational services should be defined in the State legislation ?

The Department of Legal Affairs has stated that there may not be any legal objection to incorporating the right to free education to all children up to the age of 14 years in Part III of the Constitution relating to Fundamental Rights. However, the existing Article 21 applies to all persons and contains the right to life and personal liberty in very wide and general terms. The right to free and compulsory education is likely to be given to the children up to the age of 14 years who are citizens of the country and not to all persons. Therefore, the proposed new provisions will have to be put suitably in Part III of the Constitution, but it can be decided only at the time of drafting the provision.

In regard to amendment of Article 51A to provide that it shall be the duty of every citizen, who is a parent, to provide opportunities for education to his children up to 14 years of age, the Department of Legal Affairs has no objection.

As a result of the amendments proposed in Article 21 and Article 51A of the Constitution, the Department of Legal Affairs has confirmed that the consequential amendment in Article 45 of Chapter IV of the Constitution relating to Directive Principles of State Policy would be necessary. However, Article 41 would not need any amendment since its application is general.

In regard to enactment of a Central or State legislation on compulsory education as a follow up to the Constitutional amendments and proposed grounds for exemptions from compulsory school attendance, the Department of Legal Affairs has said that these issues require a policy decision at appropriate level and suggested that it may be considered whether grounds for exemption should be specifically enumerated in the legislation or discretionary power be given to some authority to grant exemption on reasonable grounds.

In regard to the proposal to empower village panchayats to impose penalties such as community services or suitable incentives and revival of nyaya panchayats, the Department of Legal Affairs has said that concerned administrative Ministry may be consulted in the matter.

Regarding obligatory provisions for educational services, which if not provided would become justiciable, it is felt that a policy decision need to be taken whether the Government would be in a position to provide these facilities if the provision thereof is made mandatory under the law. While it is certain that such matters of details cannot form part of the Constitution, it is not considered advisable to make provision of these educational services statutory obligation unless the Government is able to fulfil it.

On the question of delegation of powers to PRIs relating to micro-planning, location of schools, enforcing school attendance, establishment of school fund, etc., the Department of Legal Affairs has suggested examination of relevant enactment of the States.

In regard to the definition of free education, the Department of Legal Affairs has stated that it can be considered at the time of drafting of the legislation.

ANNEXURE-III

**FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT
TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT
STATES**

SNO.	Item	Andhra Pradesh	Bihar
1.	Number of out of school Children as on September 30, 1996	45,78,052	42,00,000
2.	Number of Primary School (i)Pry.Sch. and Non-formal Education (ii)NFE Ctrs. centres required to be established to provide education facilities to all such children within one KM of each rural habitations	12,918	30,000 50,000
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	15,519	7,000
4.	Number of additional (i)Pry.Trs. teachers for new primary and upper primary schools required in keeping with the norms approved under OB	64,590 31,038	2,98,000 21,000
5.	Funds required to construct (i)Pry.tra school buildings for new primary school as per estimates given under item 2 above.(Rs.in crores)	710.49	600.00 288.00
6.	Funds required for (i)U.P.Sch constructed of upper primary school building (ii)repair as per estimates given under item 3 above (Rs.in crores)	341.42	120.00 54.00
7.	Funds required for (i)Pry Sch teachers salaries as per requirement indicate under item 1 above (Rs.in crores)	248.03 271.52	1284.00

	Andhra Pradesh	Bihar
8. Funds required for provision of teaching learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & 3 above	89.23	313.22
9. Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation (Rs.in crores)	4.96	16.15
10. Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs.in crores)	534.85	1155.00
11. Total Financial requirements (Rs.in crores)	2200.50	3830.37

Note

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
- ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
- iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.

FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT

STATES

SNO.	Item	Delhi	Haryana
1.	Number of out of school Children as on September 30, 1996	1,15,000	6,54,000
2.	Number of Primary School and Non-formal Education centres required to be established to provide education facilities to all such children within one KM of each rural habitations	(i) Pry. Sch. 100 (ii) NPE Ctrs. --	600
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	15 Annually	2,000
4.	Number of additional teachers for new primary and upper primary schools required in keeping with the norms approved under OB	(i) Pry. Trs. 80 (ii) U. Pry. Trs. --	2700 10,000
5.	Funds required to construct school buildings for new primary school as per estimates given under item 2 above. (Rs. in crores)	(i) Pry. tra -- (ii) addl. class rooms	66.00
6.	Funds required for constructed of upper primary school building as per estimates given under item 3 above (Rs. in crores)	(i) U.P. Sch Bldgs --- (ii) repair	100.00
7.	Funds required for teachers salaries as per requirement indicate under item 1 above (Rs. in crores)	1.82	22.35

	Delhi	Haryana
8. Funds required for provision of teaching learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & 3 above	0.13	9.87
9. Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation (Rs.in crores)	--	1.36
10. Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs.in crores)	---	54.80
11. Total Financial requirements (Rs.in crores)	1.95	254.38 *

Note

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
- ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
- iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.

* State Government has given an additional requirements of Rs. 67.73 crores to provide for the existing shortfalls in class-rooms, teachers and teaching learning materials.

**FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT
TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT
STATES**

SNO.	Item	Himachal Pd.	Gujarat
1.	Number of out of school Children as on September 30, 1996	4,20,000	2,82,000
2.	Number of Primary School and Non-formal Education centres required to be established to provide education facilities to all such children within one KM of each rural habitations	(i)Pry.Sch. 2,100 (ii)NFE Ctrs. --	200
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	1,100	1,000
4.	Number of additional teachers for new primary and upper primary schools required in keeping with the norms approved under OB	(i)Pry.Trs. 6,500 (ii)U.Pry.Trs. 1,500	400 2,000
5.	Funds required to construct school buildings for new primary school as per estimates given under item 2 above. (Rs.in crores)	(i)Pry.tra 61.33 (ii)addl. class rooms	4.00
6.	Funds required for constructed of upper primary school building as per estimates given under item 3 above (Rs.in crores)	(i)U.P.Sch Bldgs 14.95 (ii)repair	10.00
7.	Funds required for teachers salaries as per requirement indicate under item 1 above (Rs.in crores).	53.82	11.52

	Himachal Pd.	Gujarat
8. Funds required for provision of teaching learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & 3 above	23.57	6.00
9. Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation (Rs.in crores)	0.95	0.17
10. Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs.in crores)	35.28	12.69
11. Total Financial requirements (Rs.in crores)	189.90 *	44.38

Note

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
- ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
- iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.

* State Government has given an additional requirement of Rs.47.90 cores for items other than those listed in the proforma.

**FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT
TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT
STATES**

SNO.	Item	Lakshadweep	Madhya Pd.
1.	Number of out of school Children as on September 30, 1996	---	---
2.	Number of Primary School (i)Pry.Sch. and Non-formal Education centres required to be established to provide education facilities to all such children within one KM of each rural habitations	2	16,561
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	--	17,388
4.	Number of additional (i)Pry.Trs. teachers for new primary and upper primary schools required in keeping with the norms approved under OB	17 45	33,122 69,552
5.	Funds required to construct school buildings for new primary school as per estimates given under item 2 above.(Rs.in crores)	0.27	5.00 555.00
6.	Funds required for constructed of upper primary school building as per estimates given under item 3 above (Rs.in crores)	---	
7.	Funds required for teachers salaries as per requirement indicate under item 1 above (Rs.in crores)	0.40	37.26 (P) 179.10(U.P.S.)

Funds required for provision of teaching learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & 3 above

1.00

Amount included
cost estimates given
at item no.7

Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation
(Rs.in crores)

--

8.04

Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs.in crores)

Total Financial requirements
(Rs.in crores)

1.67

784.40

ote

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
- ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
- iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.

**FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT
TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT
STATES**

SNO.	Item	Maharashtra	Manipur
1.	Number of out of school Children as on September 30, 1996	14,57,146	85,000
2.	Number of Primary School (i)Pry.Sch. and Non-formal Education centres required to be established to provide education facilities to all such children within one KM of each rural habitations	11,442 1,000	235 175
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	500	256
4.	Number of additional (i)Pry.Trs. teachers for new primary and upper primary schools required in keeping with the norms approved under CB	22,884 1,500	470 768
5.	Funds required to construct (i)Pry.tra school buildings for new primary school as per estimates given under item 2 above. (Rs.in crores)	286.05	2.12
6.	Funds required for (i)U.P.Sch constructed of upper primary school building as per estimates given under item 3 above (Rs.in crores)	18.75	3.45
7.	Funds required for teachers salaries as per requirement indicate under item 1 above (Rs.in crores)	97.53	26.00

	Maharashtra	Manipur
8. Funds required for provision of teaching learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & 3 above	23.79	0.35
9. Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation (Rs.in crores)	27.25	8.36
10. Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs.in crores)	398.75	11.00
11. Total Financial requirements (Rs.in crores)	852.12*	51.28**

Note

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
 - ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
 - iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.
- * State Government has given a total financial requirement of Rs. 2125.45 Crore which includes additional funds required to meet recurring and non-recurring costs on many items other than those indicated in the proforma.
- **Government of Manipur has indicated an additional requirement of Rs.46.36 crore to meet the existing shortfalls in classrooms and teachers.

**FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT
TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT
STATES**

SNO.	Item	Meghalaya	Orissa
1.	Number of out of school Children as on September 30,1996		51,57,000
2.	Number of Primary School and Non-formal Education centres required to be established to provide education facilities to all such children within one KM of each rural habitations	(i)Pry.Sch. 2 (ii)NFE Ctrs.	4,500 14036
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	---	11,000
4.	Number of additional teachers for new primary and upper primary schools required in keeping with the norms approved under OB	(i)Pry.Trs. 614 (ii)U.Pry.Trs. 600	13,500 22,000
5.	Funds required to construct school buildings for new primary school as per estimates given under item 2 above.(Rs.in crores)	(i)Pry.tra 3.07 (ii)addl. class rooms 2.50	90.00
6.	Funds required for constructed of upper primary school building as per estimates given under item 3 above (Rs.in crores)	(i)U.P.Sch Bldgs (ii)repair	310.00
7.	Funds required for teachers salaries as per requirement indicate under item 1 above (Rs.in crores)	(i)Pry Sch 0.55 (ii)U.P.S. 0.54	181.40

	Meghalaya	Orissa
8. Funds required for (i)Pry Sch. provision of teaching (ii)U.P.S. learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & 3 above	1.98	66.00
9. Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation (Rs.in crores)	--	5.00
10. Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs.in crores)	1.23	10.00
11. Total Financial requirements (Rs.in crores)	9.87 *	662.40

Note

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
- ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
- iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.

* Govt. of Meghalaya has indicated an additional requirement of Rs.65 lacs to meet the existing shortfalls in teachers and contingency fund.

**FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT
TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT
STATES**

SNO.	Item	Pondicherry	Rajasthan
1.	Number of out of school Children as on September 30,1996	1,66,501	--
2.	Number of Primary School (i.)Pry.Sch. and Non-formal Education centres required to be established to provide education facilities to all such children within one KM of each rural habitations (i.i)NFE Ctrs.	--	17,000
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	27	9,000
4.	Number of additional (i)Pry .Trs. teachers for new primary and upper primary schools required in keeping with the norms approved under OB (ii)U.IPry.Trs.	-- 84	---
5.	Funds required to construct school buildings for new primary school as per estimates given under item 2 above.(Rs.in crores) (i)Pry.tra (ii)addl. class rooms	-- --	---
6.	Funds required for constructed of upper primary school building as per estimates given under item 3 above (Rs.in crores) (i)U.P.Sch IBldgs (ii)repair	0.71 --	
7.	Funds required for teachers salaries as per requirement indicate under item 1 above (Rs.in crores)	0.49	

	Pondicherry	Rajasthan
8. Funds required for (i)Pry Sch. provision of teaching learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & 3 above	0.08	---
9. Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation (Rs.in crores)	0.04	---
10. Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs.in crores)	1.49	
11. Total Financial requirements (Rs.in crores)	2.81	---

Note

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
- ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
- iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.

**FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT
TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT
STATES**

SNO.	Item	Tamil Nadu	Tripura
1.	Number of out of school Children as on September 30, 1996	444	1,87,490
2.	Number of Primary School and Non-formal Education centres required to be established to provide education facilities to all such children within one KM of each rural habitations	279	1060 600
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	105	883
4.	Number of additional teachers for new primary and upper primary schools required in keeping with the norms approved under OB	558 315	3180 7064
5.	Funds required to construct school buildings for new primary school as per estimates given under item 2 above. (Rs. in crores)	(i)Pry.Sch. (ii)addl. class rooms	128.25
6.	Funds required for constructed of upper primary school building as per estimates given under item 3 above (Rs. in crores)	(i)U.P.Sch Bldgs (ii)repair	15.48 19.22 (for deficiencies NFE units)
7.	Funds required for teachers salaries as per requirement indicate under item 1 above (Rs. in crores)		38.68 13.14 (for deficiencies NFE units)
			36.61

		Tamil Nadu	Tripura
8.	Funds required for (i)Pry Sch. provision of teaching learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & 3 above	21.03	5.50 2.20 (deficiency schemes)
9.	Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation (Rs.in crores)	3.00 (per annum) Recurring	15.48 Non-recurring 6.15
10.	Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs.in crores)		28.30
11.	Total Financial requirements (Rs.in crores)	3.00 (per annum) Recurring	164.76 165.28*

Note

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
- ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
- iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.

* State Govt. has indicated an additional requirement of Rs.11.00 crore for providing furniture in existing Primary and Upper Primary Schools.

**FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT
TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT
STATES**

SNO.	Item	Uttar Pradesh	West Bengal
1.	Number of out of school Children as on September 30, 1996	66,91,000	46,3,200
2.	Number of Primary School and Non-formal Education centres required to be established to provide education facilities to all such children within one KM of each rural habitations (i)Pry.Sch. (ii)NFE Ctrs.	21,000	7,240
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	14400	18,973
4.	Number of additional teachers for new primary and upper primary schools required in keeping with the norms approved under OB (i)Pry.Trs. (ii)U.Pry.Trs.	45000 72000	28,960 1,15,038
5.	Funds required to construct school buildings for new primary school as per estimates given under item 2 above. (Rs.in crores) (i)Pry.tra (ii)addl. class rooms	315.00	144.80
6.	Funds required for constructed of upper primary school building as per estimates given under item 3 above (Rs.in crores) (i)U.P.Sch Bldgs (ii)repair	432.00	439.46
7.	Funds required for teachers salaries as per requirement indicate under item 1 above (Rs.in crores)	507.00	567.42

	Uttar Pradesh	West Bengal
8. Funds required for (i)Pry Sch. provision of teaching learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & 3 above	642.90	4.75
9. Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation (Rs.in crores)	48.98	3.38
10. Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs.in crores)	1700.96	9.83
11. Total Financial requirements (Rs.in crores)	3646.84	1169.64

Note:

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
- ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
- iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.

**FINANCIAL AND PHYSICAL IMPLICATIONS OF THE PROPOSAL TO MAKE RIGHT
TO FREE AND COMPULSORY ELEMENTARY EDUCATION A FUNDAMENTAL RIGHT
STATES**

SNO.	Item	Assam	Karnataka
1.	Number of out of school Children as on September 30, 1996	12,03,081	11,41,000
2.	Number of Primary School (i)Pry.Sch. and Non-formal Education centres required to be established to provide education facilities to all such children within one KM of each rural habitations (ii)NFE Ctrs.	7,826 5,000	2,716
3.	Number of upper primary Schools required to be opened/upgraded to ensure upper primary schools within 3 Kms. of each rural habitations with over 300 population	2,000	9,757 (for habitations within 1.5 Km.)
4.	Number of additional (i)Pry.Trs. teachers for new primary and upper primary schools required in keeping with the norms approved under OB (ii)U.Pry.Trs.	15,652 10,000	5,432 29,271
5.	Funds required to construct (i)Pry.tra school buildings for new primary school as per estimates given under item 2 above.(Rs.in crores) (ii)addl. class rooms	176.00	43.46
6.	Funds required for (i)U.P.Sch constructed of upper primary school building as per estimates given under item 3 above (Rs.in crores) (ii)repair	35.00	234.17
7.	Funds required for teachers salaries as per requirement indicate under item 1 above (Rs.in crores)	89.66	104.11

	Assam	Karnataka
8. Funds required for provision of teaching learning material including textbooks in primary and upper primary schools, teacher training and minimum levels of learning as per estimates given under item 2 & above	83.26	51.50
9. Funds required for strengthening of administrative machinery for supervision, inspection monitoring and evaluation (Rs. in crores)	0.96	0.50 (per annum)
10. Funds required for provision and extension of incentives such as free textbooks, free school uniforms to all children and attendance scholarship to children belonging to SC/ST categories & Girls (Rs. in crores)	92.90	9.41
11. Total Financial requirements (Rs. in crores)	477.86	445.15
GRAND TOTAL	14,955.56	

Note

- i) It is suggested that for calculating requirement of school rooms, teachers, and teaching learning material, norms as prescribed under Operation Blackboard may be applied.
- ii) Financial requirements to meet the existing shortfall in classrooms, teachers and teaching learning equipment, if any, should be indicated separately.
- iii) Financial requirement for incentives should be separated for incentives which are proposed to be given to all children and incentives which are required to be given to children belonging to SC/ST categories and girls.

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