Second Annual Report of the Status of Children with Disabilities under the Right to Education Act

Play, Learn & Grow Together...
SECOND ANNUAL REPORT ON THE STATUS OF CHILDREN WITH DISABILITIES UNDER THE RIGHT TO EDUCATION ACT

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Chapter I

INTRODUCTION

(We resolve to bring out a report every year at least for the first five years to track the implementation of the RTE Act)

Estimates for the number of children (0–14 years) living with disabilities in the world range between 93 million and 150 million. Many children and adults with disabilities have historically been excluded from mainstream education opportunities. In India, the situation began to change only when legislation started to require including children with disabilities in educational systems. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) recognizes the right of all children with disabilities both to be included in the general education systems and to receive the individual support they require. Systemic change to remove barriers and provide reasonable accommodation and support services is required to ensure that children with disabilities are not excluded from mainstream educational opportunities.

Census 2001 reports that 2.19 crore (2.13%) of the total population of the country are persons living with disability, and that 1.67% of the total population within the age-group 0-19 years (46,38,26,702) are disabled. Of all persons living with disability, 35.9% are children and young adults in the 0-19 age-group.

Two years of the RTE Act, the Act that details how the fundamental right to education will be implemented in our country. Has the commitment for the education of the child with disabilities been strengthened in these two years in any way?

Right to education act being in force from April 2010, the focus is on advocating both at the policy level and community level for the resourcefulness of schools for an inclusive environment so as to accommodate all children, specifically children with disabilities. As the system becomes more child-friendly and inclusive many more children with disabilities will be able to get an education along with the other marginalized children. As more opportunities arise for the child, many children with disabilities who are seen as severely disabled will become less challenged.

However, the level at which schools are functioning at the moment, especially after the implementation of Right to Education Act, much change is required to include children with different impairments in a classroom. In India it seems that we have not explored even the basics of inclusive practices. We have to advocate for systemic change as well as work with schools and individual children to break barriers to inclusion. We have not been able to create the demand for education for the child with disability as we have for
the girl child for instance. There have been no mass campaigns, no Ladli schemes no national outcry for this group of children. There are no formal systems of early childhood rehabilitation and habilitation strategies that can support the child living in poverty to get to the school system. There are also children who do have high support needs and multiple impairments. At the moment the system may not be ready for them. But then we must advocate for schools and boards of education that will enable the child to get an equitable education. Early childhood intervention in terms of support services, strengthening of parents, pre-school education are very important for children with disabilities as they lay the foundation for the later stages of inclusion.

What kind of inclusion has happened and where is the exclusion? This report focuses on the changes that have happened with regard to children with disabilities and their right to education. As we know that barriers and discrimination of children with disabilities still exists at different levels, this report would focus mainly on the discrimination that exists at policy and structural level and at the ground level. We would focus on three major areas:

- Looking at law and policy and the kind of spaces has been created for children with disabilities
- Status of implementation of the RTE Act for children with disabilities in the last two years
- Recognizing the indivisibility of all rights we look briefly at what kinds of inclusion and exclusion we see for the child with disabilities in all provisioning for children.

To get a national status, we have selected 7 states namely; Delhi, Haryana, Rajasthan, Orissa, West Bengal, Uttarakhand and Tamil Nadu and the selection is based on the availability of data from organizations working on inclusive education in these states. Two data bases are analysed in this report mainly; DISE and SSA. We looked carefully once again at the report of the Parliamentary Standing committee, the amendments and the debates in the Parliament.

**Discrimination**

The whole report works through a lense of discrimination for children with disabilities due to their disability or any other factors like class, caste, gender or any other. There has been a growing and global commitment to the promotion of children’s rights as India ratified the UN Convention on the Rights of the Child. At policy and programme levels there has been more encouraging activity, making use of the Convention to inform strategies and services. Even when there is a genuine commitment to children’s rights, there is a poor understanding of how discrimination against children happens.
This report will explore what forms this discrimination can take, the mechanisms through which it affects children, and its implication on the child. Discrimination both direct and indirect can act at the level of the individual, but can also be institutional. Institutional discrimination occurs when the structures or operating policies of organisations result in certain sections of the community being disadvantaged. This can apply to any group disadvantaged by stigma and discrimination, including children with disabilities. More often a child becomes more vulnerable when they experience disadvantage or harm which leads to discrimination on the basis of caste, class, gender or disability. Children with disabilities are not properly represented in funding for research and development, resulting in an inadequate evidence base for planning of policies and programmes.

Indirect discrimination always compounds direct discrimination, which leads to experiencing multiple/double discrimination. For example, a child may be disabled, belong to a minority community, be living in poverty, and have a single parent. Such a child will be victim to layers of discrimination, all of which will affect his or her circumstances. This report is an attempt to start bringing out the intersectionalities that exists within different marginalized groups of children and children with disabilities.
Chapter II

STATUS OF EDUCATION OF CHILDREN WITH DISABILITIES AFTER THE IMPLEMENTATION OF THE RTE ACT

In India a survey estimated the share of disabled children not enrolled in school at more than five times the national rate, even in the more prosperous states. In Karnataka, the best performing major state, almost one quarter of children with disabilities were out of school, and in poorer such states as Madhya Pradesh and Assam, more than half. While the best-performing districts in India had high enrolment rates for children without disabilities – close to or above 90%, school attendance rates of children with disabilities never exceeded 74% in urban areas or 66% in rural. (Ref: World Disability Report 2011, WHO) This chapter focuses mainly on the status of implementation of the Act for children with disabilities in the last two years.

Identification and Enrolment of Children with Disabilities in SSA

The issue of identification of children with disabilities has been of main focus in SSA and reports note a steady increase in their numbers. Interestingly, while the SSA has a category titled “Special Focus Groups Under SSA”, and includes CWSN, girls, SC and ST children, urban deprived children, children in difficult circumstances (street children, migrant children, etc.) it does not acknowledge the presence of intersectionalities between these groupings and how these might be addressed. The data of SSA on identification and enrollment of children with special needs for the year 2010-11 is given below in the table.

<table>
<thead>
<tr>
<th>Total CSWN identified</th>
<th>3042053 (1.5%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CWSN enrolled in schools</td>
<td>2595673 (85.35%)</td>
</tr>
<tr>
<td>CWSN enrolled in EGS/AIE Centres</td>
<td>51565</td>
</tr>
<tr>
<td>CWSN provided Home based education</td>
<td>138133</td>
</tr>
<tr>
<td>Total coverage of CWSN</td>
<td>2780151</td>
</tr>
</tbody>
</table>

Source: SSA 2009-2011
The trends established in identification and enrollment of children with disabilities have not shown any significant changes in the last two years. Even after the implementation of the RTE Act the status quo remains.

SSA (2007) makes a distinction between formal and functional assessment, and states that these should be “done by a competent team comprising of doctors, eye specialist, ENT specialist, resource teachers and general teachers”. Here the complete absence of the voices of parents and the child is noteworthy. Such a belief in the ‘expert’ for children with disabilities is further supported by the existing model of disability which is highly medical oriented. Even after UNCRPD, our country has not really explored the socio economic dimensions of disability starting from identification which has and will remain a block in mainstreaming children. Also the current overly medicalised view of the disability takes the focus away from the learning needs of the child. The emphasis is largely on efforts directed at fixing child related factors through the provision of aids and appliances and provision of special educators.

The enrollment rates for children with disabilities show a very marginal increase even after the implementation of a revolutionary Act like the RTE. In a country like India, an increase of approximately 15000 children in a year, gives us the picture that these children have not become the priority in our policies and programmes.
Enrollment Rates across Social Groups

Social groups especially the disadvantaged groups have been given priority in our country. Our system has made huge efforts for their enrollment. Large schemes and political priority have eventually led into positive changes in the education of children belonging to these groups. Even though SSA recognizes children with disabilities as one among the vulnerable groups, the systemic efforts made for other groups are not seen for these children.

The enrollment rates for different social groups according to the DISE information is given in the following table

<table>
<thead>
<tr>
<th>Social Category</th>
<th>% Population Share (Census 2001)</th>
<th>% Enrolment Share (DISE 2009-10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>SC</td>
<td>16 %</td>
<td>20 %</td>
</tr>
<tr>
<td>ST</td>
<td>8 %</td>
<td>11 %</td>
</tr>
<tr>
<td>Muslim</td>
<td>13 %</td>
<td>13 %</td>
</tr>
<tr>
<td>Children with disabilities</td>
<td>2.13%</td>
<td>0.26% (2010-11)</td>
</tr>
</tbody>
</table>

Source: DISE Analytical data 2009-2010

This data for social groups gives a clear picture on the priority given for children with disabilities. Reaching out to only 0.26% of the total population which is 12% of the total disability population according to the census figure does not show a huge jump in the enrollment of children with disabilities. This information shows a huge negative deficit even in comparison to the census figure of disability which have been widely contested in our country. We expect that the 2011 census report will show a different figure.

Another important aspect of this analysis is the danger of double discrimination. In our country, we know that discrimination exists in different forms with respect to social groups like SC, ST and Muslims. Children with disability being a cross cutting area, and the data showing that many of the children are out of school, it can be easily anticipated that a child with disability who belongs to a SC/ST/Muslim community will face the burden of double marginalization. Unfortunately our policies have not even started to recognize these intersectionalities and discussions are yet to begin on this.
Enrollment Rates across Different Disabilities

There is a glaring difference in the type of disability of children enrolled after the enactment of RTE Act in the country. A decrease of 10% reported in the category of disability in moving and 13% in the visually impaired. An increase of 15% reported in hearing impairment and marginal increase in speech impairment and mental disability.

Explanation for the above data is not given as it is a DISE figure. Traditionally, the categories of moving and seeing are the highest groups who are in school. As per the data, if the enrollment rates have decreased for these groups, then we assume that the system is not ready to accommodate these children and they are pushed out. At the same time the huge increase in the number of children with hearing impairment also reminds us that the system needs to really change to accommodate them.

Enrollment Rates in Home Based Education

Home based education has been running in our country as a programme from last 10 years as part of the Inclusive education programme of SSA. The 2010 statistics of SSA shows that out of the total children with disabilities identified under SSA, 7.22% are enrolled in home based education.
### Home based education

<table>
<thead>
<tr>
<th>State</th>
<th>Enrollment in Home based education</th>
<th>Percentage of total identified CWSN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assam</td>
<td>19597</td>
<td>20</td>
</tr>
<tr>
<td>Delhi</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Haryana</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Orissa</td>
<td>2777</td>
<td>2.25</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>4249</td>
<td>1.7</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>27459</td>
<td>21</td>
</tr>
<tr>
<td>Uttarakhand</td>
<td>1552</td>
<td>7</td>
</tr>
<tr>
<td>West Bengal</td>
<td>24786</td>
<td>10</td>
</tr>
<tr>
<td>India</td>
<td>80420</td>
<td>7.22</td>
</tr>
</tbody>
</table>

Source: SSA 2010

SSA has been running this programme with the objective of inclusion of children with disabilities and mainstreaming them. "Home-based education aims at school preparedness and preparation for life. Alternate educational settings provide opportunities for learning of social skills, vocational skills and implementation of life skills." (New pathways to inclusion, SSA)

There has been no record maintained on the number of children who have been mainstreamed after home based education. The data only gives the number of children enrolled in home based education. Given the context of the new amendments on RTE Act which has included home based education as a right it is important now to monitor the quality of home based education in our country.

### Gender Differences in the Enrollment of Children with Disabilities

The gender gap in enrollment continues to be the widest among all children with disabilities. In comparison to the gender parity index for all children which is 0.94, children with disabilities are very low (0.76). There is a minimal increase in 2010-11. The GPI for visually impaired children enrolled in schools according to the AICB* study also shows that GPI is 0.77.
The table gives the GPI for children with disabilities as per the 2011 information of the DISE

<table>
<thead>
<tr>
<th>State</th>
<th>Boys</th>
<th>Girls</th>
<th>GPI*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assam</td>
<td>31699</td>
<td>23654</td>
<td>0.75</td>
</tr>
<tr>
<td>Delhi</td>
<td>6325</td>
<td>4873</td>
<td>0.77</td>
</tr>
<tr>
<td>Haryana</td>
<td>3988</td>
<td>2633</td>
<td>0.66</td>
</tr>
<tr>
<td>Orissa</td>
<td>39973</td>
<td>32928</td>
<td>0.82</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>45444</td>
<td>31803</td>
<td>0.70</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>45599</td>
<td>34110</td>
<td>0.75</td>
</tr>
<tr>
<td>Uttarakhand</td>
<td>2657</td>
<td>2164</td>
<td>0.81</td>
</tr>
<tr>
<td>West Bengal</td>
<td>55235</td>
<td>43979</td>
<td>0.80</td>
</tr>
<tr>
<td>India</td>
<td>621881</td>
<td>471104</td>
<td>0.76</td>
</tr>
</tbody>
</table>

Source: DISE data 2010-11
*Gender Parity Index

Retention of Children with Disabilities

It is very difficult to get information on the retention rate for children with disabilities as the dropout rates are not maintained as on now. We have done analysis of the retention rates in three levels looking at the enrollment of children in primary, secondary and senior secondary level.
Following the graph the table gives the percentage of drop outs derived. This derivation is based on the number of children enrolled at different stages only. We acknowledge that there are many other factors that are variants for deriving dropout rates. However, since we do not have any data this method are used.

<table>
<thead>
<tr>
<th>Class</th>
<th>All children</th>
<th>Children with disabilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class V</td>
<td>57.7%</td>
<td>58.67%</td>
</tr>
<tr>
<td>Class VIII</td>
<td>50.6%</td>
<td>82.78%</td>
</tr>
<tr>
<td>Class X</td>
<td>42.3%</td>
<td>70.74%</td>
</tr>
</tbody>
</table>

Source: SES Report, MHRD, 2007-08

The dropout rates for all children shows an average of 50% at all three primary, secondary and senior secondary levels. But for children with disabilities even though at primary level the rate is more or less similar to all children, there is a high rate of drop outs at the secondary level and senior secondary level of 82.78% and 70.74% respectively.

There are two important aspects linked to this information. Firstly, from 2000 onwards when SSA began the inclusive education programme, the dropout rates for children with disabilities have not been maintained. Is this child important enough for our policy makers and programme implementing agencies is a big question here? Or is it that the dropout rate is too high for our country to reflect and acknowledge it?
Secondly, the actual definition for a drop out child with disability needs to be looked at. Our experiences in working with children and many other organizations who shared their experiences have shown that even though children with disabilities are enrolled and their names are maintained in the school register, they are physically not present in the school many times. The reasons are very interesting.

These are the voices of teachers and school authorities which statistically maintain the number of children as enrolled, but the children are physically not present in school. These are unseen and unverifiable ways of discriminating which cannot be proven with evidence. They are indirect ways of pushing the child out of school.

**Out of School Children**

Census 2001 estimated that 3.2 crore children in the 6-14 age are out of school. This represented 28.2% of the population in the 6-14 age groups. An independent national sample survey conducted in 2005 estimated the number of out of school children at 1.3 crore. A second independent national sample survey conducted in 2009 acknowledged the steady decline in the number of out of school children, and reported 81 lakh children out of school. The number of out of school children with disabilities is a cause for concern. Of the total children, 34.12% (988,359) were found to be out-of-school in the IMRB 2009 survey. There has been an all round reduction in the number and percentage of out of school children which has not impacted the out of school disabled children.

The proportion of out of school disabled children in 2005 was 34.19 which remained at 34.12 percent in 2009. Among all children with mental disability, 48% are out of school and among children with speech disabilities, 37% are out of school. Neither the school system nor other institutional mechanism are equipped or geared to address the challenging needs of mentally disabled children who are most disadvantaged both socially and educationally in the system. The gender gap has also not reduced and
continues to be widest amongst all socially disadvantaged groups. The details of reduction in out of school children by social category from 2005 to 2009 are given below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage out of school children of disadvantaged groups</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Children with disability</td>
</tr>
<tr>
<td>2005</td>
<td>34.19%</td>
</tr>
<tr>
<td>2009</td>
<td>34.12%</td>
</tr>
</tbody>
</table>

Source: SRI-IMRB study 2009

Denial of Admission

Denial of admission is a common experience for children with disabilities, but we are seeing changes in this trend. Schools are not openly denying admission to most of the children with disabilities after the RTE.

The kind of denial has changed to a more considerate approach towards the child and family from the part of authorities. Children are denied admission on the fact that school does not have the capacity or resource to them. Schools are therefore not ready to take the responsibility for this child. Parents will not leave their children in a place where nobody is responsible for their child. Children with high support needs and intellectual disabilities continue to be denied admission openly.
Availability of Neighbourhood Schools

Neighbourhood schools are very important for children with disabilities as the physical barriers to access remain a huge challenge. Unless and until these neighbourhood schools are resourceful with attitude and other educational facilities, even neighbourhood schools may not cater to the needs of these children. The physical and social access to the neighbourhood schools still remains a challenge for children with disabilities.

Transportation

Physical access starts with having a neighbourhood school for any child. For many children with disabilities, even having a neighbourhood school will not solve the problem. Children require transport facilities to reach school and this was recognised much before the RTE Act. In 1995 when the PWD Act came into force children with disabilities have been entitled to transport facilities. Even though RTE Act provisions for transportation of children with disabilities in the rules, transport is not provided in most of the states. In Delhi for example, even though there are series of orders and regulations to provide transport to children with disabilities, these provisions have not been made and many children remain at home.

Barrier free access

The RTE Act mentions barrier free access in its schedule but does not define what it is. SSA, in its framework details the definition of barrier free but restricts to ramps and rails in their reporting. This is not acceptable. It is important to monitor and report the status of barrier free according to the detailed guidelines.

Orders passed in Delhi

- Classes of disabled children having mobility problem should be held on ground floor. NO. DE 40(20)/ Admn. Cell /IEDC/Pro-D.C./2001/45476746 Dated : 5.9.2001

- Ramps and modified toilets should be construction on the ground floor of the existing Govt. Schools wherever required after obtaining the permission of competent authority. The expenditure on these items may be incurred out of Rs. 1,20,000/- sanctioned to the principals after completing all codal formalities. School Welfare committee should be involved to carry out this work. Meanwhile, disabled children shall use the toilet (Western style) in school office rooms. No. DE40(20) Admn. Cell/ IEDC /Pro. D.C./01/8700-10200: Dated: 18/02/2002.

- In a PIL filed by the Social jurist in the Delhi high court by Advocate Ashok Aggarwal v/s Directorate of Education and others, the Hon’ble Chief Justice, Delhi High Court on his order dated 2nd September, 2003 had directed that the children with disabilities be provided with necessary facilities to have barrier free environment. (CWP 4400/2002.5329/1997 and 3507/2000)
Barrier free access is restricted to ramps and rails in the SSA reporting. There is a clear disparity between the data of DISE and SSA which is detailed in the table below:

<table>
<thead>
<tr>
<th>States</th>
<th>DISE (percentage of schools with ramps)</th>
<th>SSA (percentage of barrier free schools)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delhi</td>
<td>63.39</td>
<td>100</td>
</tr>
<tr>
<td>Haryana</td>
<td>58.86</td>
<td>63.55</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>55.24</td>
<td>78.45</td>
</tr>
<tr>
<td>West Bengal</td>
<td>49.18</td>
<td>70.69</td>
</tr>
<tr>
<td>Orissa</td>
<td>38.14</td>
<td>71.76</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>58.81</td>
<td>73.63</td>
</tr>
</tbody>
</table>

Barrier free access is not limited to children with disabilities. All children require these kinds of accommodations which need to be addressed. This may range from having boundary wall, accessible toilets, toilet for girls and boys with water and proper sanitation, safe and accessible drinking water facilities, access to mid day meal scheme, proper infrastructure in the classrooms and school for all children and other accommodations. Here it is important to specify and monitor the definition of barrier free for any child.

Even though the schedule on RTE has mentioned barrier free, no rules have interpreted it. It is time to sit down and decide on what it means and work towards it. RTE indicates norms for all schools. These need to be revised if all schools have to be inclusive, to indicate the mandatory requirements of schools to be accessible and educationally appropriate for all forms of disabled children.(Source: Proposals for amendment to the Right to Education Act, Harsh Mander, 2012)
Children are still facing social stigma within communities and huge discrimination within schools. We need to ensure that children with disabilities and their families are not discriminated and are included in the education system.

**Status of Special Schools**

The RTE has taken a stand of converting the non formal and alternate into the formal. This has come after a long period of critical opposition from the education sector to such non formal systems. This is extremely important for special schools in India, many of which have been running as non formal education centres. The situation of these schools that have been running under grants of the Ministry of Social Justice and Empowerment is very ambiguous. It remains to be seen whether they will come under the ambit of this law or whether they will remain as they are. The one year of RTE has not clarified this issue and the new draft of the persons with disabilities Act has as yet not addressed the issue. The RTE framework is silent on this issue.
It is interesting to note here that the **SSA framework** does address the situation of Ashram schools that have been run by the Tribal Welfare Department. Section 3.8.2.7 points out that: "with the notification of the RTE Act, ‘Ashram’ schools would also come under its purview and have to follow the prescribed norms and standards."

The chapter on education of children with special needs talks about building a synergy with special schools and these schools having to turn into resource centres to support inclusion in the general school. However, it must be pointed out here that there is no coherent policy in our country vis a vis special schools. These schools are run largely by non government organizations, are often single impairment schools and are unevenly spread throughout the country.

It is not even clear whether some of the government run special schools will come under the RTE. Apart from these the RTE Act has referred to Persons with Disabilities Act for the education of children with disabilities. This would mean that special school will remain an option for children with disabilities.

Parents of Snehil, a 12 year old boy with cerebral palsy call our organisation. The Special school he is attending charges Rs 2500 per month now, wants to hike the fee to Rs 3500. Admission fee to this school is Rs 6000. School bus service has been stopped all of a sudden. The school runs in a hired building with no elevators. This boy’s class is on the 2\textsuperscript{nd} floor.

Who will monitor the special schools? Who will look after this boy’s right to education?

Since the enactment of the RTE there has been no circular or notification from the Ministry of Social Justice and Empowerment about the status of these schools or a policy regarding their relationship with mainstream schools. There is a lack of clarity about how the RTE is going to impact the special schools run by the MSJE. How is it going to converge with the provisions of the Persons with Disabilities Act that it refers to?

The hope that these schools would now be regulated and that all education of children with disabilities will become a part of the Ministry of Human Resource Development that deals with education is fading in the absence of any such move on the part of the government even in the second year.

The distribution of special schools is mainly concentrated in cities and very few exist in the rural areas. Eighty one percent of the total disabled population lives in villages in our country and the special schools run by Government and Non government organizations are largely skewed in urban areas. We believe that majority of the children will remain
out of school until the Government takes necessary steps to include these children in the schools.

**Teachers**

The new Right of Persons with Disabilities Bill defines special educators to ‘include teachers, trainers, resource persons trained to address the general and particular needs of children with disabilities’. If every school is inclusive, and every teacher mandated and trained to work with disabled children, all teachers will need to be trained with basic skills of special teachers.

![Number of Resource Teachers](chart)

The resource teachers and IE volunteers specified by SSA are appointed on contractual basis. There is no clear cut definition of roles for these teachers and they are appointed to work with many schools at a time. If these teachers are meant to provide extra support to the teachers and children in schools, then visit by them once in a week to school can be justified. But if they are the only professionals who will look at the education of children with disabilities, then it is discrimination on the part of the system by providing their services on a weekly basis.
A brief analysis of data received from 75 schools of the Department of Education, Delhi as reply to RTI questions:
- Number of special educators appointed is 15
- Number of resource teachers is 50
- Number of working days of special educators and resource teachers is at an average of once in a week in a school.

High Court of Delhi order dated 16/9/2009 on the complaint number W.P. (C) 6771/2008 directs the school authorities that each school shall have at least two special teachers and further that necessary teaching aids and reading materials are provided. This shall be done within six months.

As compliance, the recent report in The Times of India dated 12th December 2011 says nearly two years after the Delhi High Court’s order to appoint special educators in the schools, the Municipal Corporation of Delhi is yet to start the recruitment process.
(Source: Report on the Jansunvai on Inclusive Education in South Delhi, December, 2011)

From our experiences, we have seen that the school authorities’ perception is such that children with disabilities need to come to school only on those days when the resource teacher visits the school. All children with disabilities are segregated from other children and they are taught in a separate class room when the resource teacher visits the school.

In a recent workshop on the RTE organized by AARTH ASTHA on 24th February, 2012, representatives of six states shared similar experiences. Under the given circumstances, are we talking about inclusion or exclusion in RTE?
According to the All India Confederation of the Blind (AICB) study* of 149 schools, there are 116 special teachers and these teachers are mostly itinerant, who visit the schools from time to time.

- It was observed that a significant number of these teachers were not trained in education for the blind.
- The schools did not have a regular system of logging the hours spent with the respondents.
- Even where some limited information was available, it did not match with the real time spent, as per the discussions with the respondents and their parents/guardians.

*The study was to ascertain, through carefully selected/developed test material, the extent of learning’s accruing to visually impaired students studying in classes 4 and 5 in government schools under SSA, which would enable them to offset/overcome the limiting effects of their visual loss.

School Management Committee and Parental Support

The recent amendments of the RTE Act which have included children with disabilities in the disadvantaged groups have opened the way to include parents of children with disabilities in the School Management Committees (SMC). The School Management
Committee (SMC) may include parents of children with disabilities, especially where number of such children is high to enable them to share concerns of their children with disabilities. This initiative will enable parents of such children to participate in the activities related to management of the school and enable them to share relevant concerns and ensure implementation of disability friendly activities in the school. The SMC must ensure accessible location of the school and safety and security of all children and special attention to be given to adolescent girls with disabilities as they are more vulnerable to abuse and harassment with suitable provisions in the School Development Plan. This will also help in building awareness for other parents of Children with disabilities to bring their children to school.

Peers, siblings and community members need to be sensitized on how to support children with disabilities. Strong advocacy and awareness programmes should form a part of strategy to educate every child with special needs. Inclusive education resource teachers may assist in mobilizing community volunteers for spreading awareness. Development of IEC material to generate awareness about the inclusive approach of RTE would be an integral part of the programme implementation.

The SMCs are important bodies with functions to develop the school development plans and to monitor the implementation of different aspects of the act including the important ones like maintenance of norms and standards and enrollment and continued attendance of all children from the neighborhood in the school.

However, unless States in their rules, elaborate on how they are going to monitor and ensure the participation of SMCs in and completion of elementary education of children with disabilities, it is unlikely to happen.

Pre-school Education

Chapter III (18) of Right To Education Act of 2009, mentions about providing *early childhood care and education for all children until they complete the age of six years*…….ICDS till date remained India’s response to the challenge of providing early childhood care and education on one hand and breaking the vicious cycle of malnutrition, morbidity, reduced learning capacity and mortality, on the other. Designed in 1975, both the relevant objectives of ICDS as well as the comprehensive package of six services offering care to the young child remain extremely relevant. However, evaluations in the past have thrown up a number of gaps in the delivery of ICDS, and this is more pronounced on the context of Children with Disability. Children with Disability are not participating in the ICDS; there is a failure in the programme design of ICDS to include children with disabilities in its ambit. Integration of a child with disability into ICDS starts
with disability survey by the Anganwadi worker, in her area. Till date, this survey has largely not been carried out. The issue remains despite finding mention in the reports of the Supreme Court Commissioners on the Right to Food

"Certain categories of children such as disabled children or migrant children do not figure in the design of the ICDS programme. These groups obviously need special provisions and there is no mention of this in any guidelines. There hasn’t even been a disability survey conducted by most anganwadi centres". (Seventh report of the Supreme Court Commissioners on the Right to Food, 2007)

"The exclusion of people with disabilities from these schemes and development programmes is manifold. They are still rare in pre-school anganwadis, in schools and work sites. This raises a number of questions on the effective implementation of these schemes, their sufficient financial allocation, awareness of their existence and more importantly whether there has been inclusive participation of disabled persons in their design and formulation. (Eighth report of the Supreme Court Commissioners on the Right to Food, 2008)

Anganwadi Centres in India is being seen as first point of mainstreaming of child to unfold his/ her overall potential for further integration of child to realize the objectives of Right to Education which is at presently missing in the context of disabled child.

Recently the National Advisory Council (NAC) submitted its June 2011 recommendations for a profound and strengthened ICDS. For Children with Disabilities it says, “Early screening and detection of CWSN to identify those requiring special attention for disabilities must be regularly undertaken”.

To increase reach and coverage of ICDS it further says, “Special efforts to be made to ensure fair inclusion and non discrimination of children with disabilities”. It is yet to be seen how far these recommendations are realized at the ground level for children with disability.

Grievance Redressal

Grievance redress is the last link in a whole set of interventions that are important for ensuring quality and equity in education. We start with ensuring non discrimination go on to monitoring it and different aspects of the Act and finally we come to redress of issues or complaints. What does this mean for a vulnerable group such as the child with disabilities? First we need to understand the different hues of discrimination that can happen for this child both direct and indirect.
The UN Convention on the Rights of Persons with disabilities also outlines what the contours of discrimination for children and persons with disabilities. Very clearly, it recognizes that this discrimination is not only direct but also indirect. The lack of providing reasonable accommodation to the child is to be clearly seen as discrimination.

**We have to understand what are we redressing?**

We have to consciously listen to the voices of children and parents study and document what happens to the child with disabilities in schools today. We suggest that Public hearing (Jan sunvai) organized by NCPCR & SCPCR should mandate certain percentage of the cases/issues of children with disabilities and other excluded groups. People with disabilities or disability experts should be a part of all grievance redress mechanisms.

For sets of children who are vulnerable, who do not have a familiarity with the system, there has to be a proactive reaching out and understanding. The grievance redress mechanisms in RTE (NCPCR & SCPCR) should proactively look out for the grievances
of children with disabilities rather than waiting for complaints to be registered. We should not be surprised if there are very few complaints.

It is important that the NCPCR and the SCPCRs build capacities as how to work with the child with disabilities. The long isolation of children and persons with disabilities from governance structures meant for all has led to a lack of knowledge, understanding and engagement with disability issues.

A lack of capacity to redress issues
One of the biggest issues that face authorities trying to redress complaints by children with disabilities is the lack of capacity within the system to provide support.

For example, our experience in Delhi shows that there are no specialized teachers available, even if the DCPCR orders it!

Accessible and Confidential Mechanisms of Redress
Grievance redress mechanism should be accessible for children with disabilities and their families (We wonder how many authorities understand sign language or read Braille and how many offices of authorities provide physical access!)

The major areas to monitor are enrollment rate of children with disabilities (different types of disabilities), tracking the dropout rates of children with disabilities (as of today dropout rate for children with disabilities is not recorded), flexible curriculum which can include all diverse groups of children, barrier free access (beyond ramps and rails), discrimination of children with disabilities within the education system, corporal punishment (guideline of NCPCR)
Budget

With the notification of the RTE Act, the Central Government also provisioned to spend 65% of the total budget to implement the Act. With regard to children with disabilities, SSA norms states provision of Rs. 3000/- per child, per year for children with special needs. The following table gives the analysis of the budget share of Central Government for children with disabilities.

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount to be allocated (3000*no. of disabled children identified)</th>
<th>Amount to be allocated - Central share# (Rs.1950*no. of disabled children identified)</th>
<th>Actual allocation</th>
<th>% of allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>79112.28</td>
<td>51422.98200</td>
<td>22848.55</td>
<td>44.43</td>
</tr>
<tr>
<td>2008-09</td>
<td>87445.59</td>
<td>56839.63350</td>
<td>24574.13</td>
<td>43.23</td>
</tr>
<tr>
<td>2009-10</td>
<td>91261.59</td>
<td>59320.03350</td>
<td>28309.65</td>
<td>47.72</td>
</tr>
</tbody>
</table>

#this is assuming that if the Centre is spending 65 % of the total allocation

Source: Meenakshi & Pooja, CBGA

The analysis of the budget allocation shows that from 2007 to 2010, the Central Government allocated an average of only 45% of the required budget for children with disabilities.

A huge jump in budget allocation is reported for IE in SSA in comparison to 2009-2010 and 2010-2011. The budget for 2010-11 is 75308.2 lakhs, when compared to the 28309.65 lakhs of 2009-10. With regard to expenditure only 79.28% of the total allocated budget for IE under SSA was spent in the year 2009-2010.
Allocation and expenditure on IE of SSA

<table>
<thead>
<tr>
<th>Year</th>
<th>Allocation</th>
<th>Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06</td>
<td>18720.4</td>
<td>12042.81</td>
</tr>
<tr>
<td>2006-07</td>
<td>23068.7</td>
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<td>22848.53</td>
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<td>2008-09</td>
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<td>20095.32</td>
</tr>
<tr>
<td>2009-10</td>
<td>28309.65</td>
<td>22445.57</td>
</tr>
</tbody>
</table>

Source: Working group report XIIth plan, SSA, MHRD
Chapter III

RECENT AMENDMENTS TO THE RTE ACT

On May 9th 2012, the Lok Sabha passed the amendments to the RTE Act 2009. A significant part of these amendments relate to the child with disabilities. In 2009 when the RTE Act was passed, disability activists had demanded amendments. The Prime Minister and the Minister Shri Kapil Sibal had acceded to those demands and promised amendments.

In 2010, an amendment Bill was passed in the Rajya Sabha and it was available in the public domain since then. However, when the Bill was presented in the Rajya Sabha and then the Lok Sabha, there were additions that were not there in the original 2010 bill.

These amendments resulted in

- A definition of the child with disabilities under the RTE Act.
- A specific mention of children with disabilities under the disadvantaged groups.
- An addition of the National Trust disabilities under the Act
- An option of home based education for children with severe and multiple disabilities.

A Definition of the Child with Disabilities under the Act

'(ee) "child with disability" includes,—

(A) a child with “disability” as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

(B) a child, being a person with disability as defined in clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;

(C) a child with “severe disability” as defined in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

The recent amendments set out to define the child with disability. The two major laws with regard to children and persons with disabilities are quoted in the amendment. These are the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full

The definition of “child with disabilities” interestingly also specifies a third category i.e. child with severe disability. Although this category of children has been specified in the National Trust Act, this is the first time it has been used under definition of child with disabilities.

In our last report we had said “it is still unclear why the MHRD in its amendments seeks to define the child with severe disability. When the amendments are finally placed before Parliament it would be important for disability and education activists to look closely at the proposals once again.”

It is now clear that the definition of children with severe disability was put in the bill so that so that the alternative of home based education could be proposed for these children.

The Standing Committee Recommendation on Definition of the Child

The Parliamentary Standing Committee on Human Resource Development reviewed the 2010 amendments. They also discussed the definition of the child with disabilities. They agreed that the definition of the child with disabilities should include children coming under both the Persons with Disabilities Act (1995) and the National Trust Act for the Welfare of Persons with Autism, Cerebral Palsy, Mental Disability and Multiple Disabilities. The Chairperson of the National Trust for persons With Autism, cerebral Palsy, Mental Retardation and Multiple Disabilities who deposed before the Standing Committee suggested that the UNCRPD definition of disability be used in the Act.

Although the Committee did not agree to the UNCRPD based definition of disability, they were clear that children coming under the two Acts need to be clearly specified in the law rather than the rules, giving strength to the commitment to education for the all children recognized as disabled in our country.

What is more significant is that they were willing to widen the definition of disability to include ‘dyslexia’ and any other type of disability, and recommended that “necessary modifications in the definition of “child with disability” may accordingly, be made.”

In his speech in the Lok Sabha the Minister, Shri Kapil Sibal clarified that dyslexia and other conditions could not be included in the Act as yet. They were not part of conditions that have been named as disability in our country. He pointed out that at present all the
disability Acts were being amended. Once this is done and dyslexia included in the new
disability Act, it would automatically get included in the RTE Act. In short he laid the
responsibility of this inclusion on the new disability Act.

Inclusion as a Named Category under the Disadvantaged Groups

Even though the RTE Act did not specifically name children with disabilities in the
disadvantaged groups, strong advocacy by the disability sector led to a commitment By
the MHRD Minister Shri Kapil Sibal that amendment would be introduced.

The 2010 amendment bill reasoned

1. “to include children with disabilities in the definition of “child belonging to
disadvantaged group” with a view to ensuring that their specific needs are given
precedence in the elementary education system in the country, and enable them,
over time, to participate as full and equal members of the community in which they
live”

Two years after the Act has been passed, this amendment too was passed.

2. In the principal Act, in section 2,—(a) in clause (d), after the word "means", the words
"a child with disability or "shall be inserted

The Implications of this Amendment

Apart from the now well known fact that children with disabilities constitute the largest
group of out of school children, it is also true that children with disabilities are largely
invisible when we think of all children.

Of the six states that this report is focussing on we find that only Delhi and Rajasthan
have specifically passed orders to include children with disabilities under the
disadvantaged groups. Delhi had passed its order even before the RTE Act, and
Rajasthan mentions only one set of children with disabilities in its rules.

Our understanding is that although a large number of States have passed their rules in
the last year, hardly any have passed orders to include children with disabilities in the
disadvantaged groups. That is why it was most important that there be a clear inclusion
of children with disabilities under the disadvantaged groups.

With the clear inclusion of children with disabilities now in the category of the
disadvantaged groups;
a) Legally all the clauses of the Act, particularly the strong non discrimination clauses would apply to the child with disabilities.

b) Children with disabilities will now come under the 25% category that private schools must admit.

c) Parents of children with disabilities will now have to be included in all school management committees (SMCs). This can have a positive impact on the way school development plans are made.

If applied in their true spirit, these are real and important gains for the education of the child with disabilities in the general school system.

A Word of Caution

However, as the earlier sections of our report show, the inclusion of this child with disabilities has not received the thrust it deserves. This has happened despite the fact that there is a separate initiative titled “inclusive education” that deals with the inclusion of children with disabilities.

At present, our education system has identified only a fraction of children with disabilities in our country. It is also true that countrywide there is very little understanding of how to identify the child with disabilities. These situations are likely to remain as barriers unless proactive steps are taken.

The other big issue that we will face is that with the specific mention of children with disabilities in the disadvantaged groups, many more children are likely to enter the school system. In the next few years, we are likely to see a growing demand for the education of the child with disabilities.

While we are aware, that schools are just getting ready, it is also true that our rehabilitation services are hardly reaching children and persons with disabilities. There needs to be a strong focus on the preparation of these systems, so that children with disabilities can get the required support to come into the system and participate in education. How the systems of education and habilitation and rehabilitation grow and converge will need to be monitored closely in the coming years.

The Right to Free and Compulsory Education

Chapter 2 of the Act is titled “The Right to Free and Compulsory Education”. This chapter details the right to free and compulsory education in a neighbourhood school till the completion of free and compulsory education.
Section 3(2) in the chapter specifically talks about the right of the child with disabilities in education. It says

“Provided that a child suffering from disability, as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1996, shall have the right to pursue free and compulsory elementary education in accordance with the provisions of Chapter V of the said Act.”

Children with disabilities are the only group of children, whose rights have been cross referenced in such a way in the RTE Act. While the framers of the law and MHRD have argued that this cross referencing enhances the rights of the child with disabilities in education, there are some of us from the disability field who feel that it is actually excluding the child with disabilities.

Standing Committee Recommendations

The Committee also found that “Section 2 of chapter 3 of the Act makes a provision which can be interpreted as excluding the child with disabilities from the Act.” Rather than retaining this clause there the committee felt it would be better to modify sub-section (1) of section 3 in the following manner:

“Every child of the age of six to fourteen years, including a child belonging to a disadvantaged group shall have the right to free and compulsory education in a neighbourhood school till completion of elementary education”.

The Amendments

The amendments read as follows;

3. In section 3 of the principal Act,—
   (a) for sub-section (1), the following sub-section shall be substituted, namely:—(1) Every child of the age of six to fourteen years, including a child referred to in clause (d) or clause (e) of section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.

   (b) in sub-section (2), the proviso shall be omitted;

   (c) after sub-section (2), the following sub-section shall be inserted, namely:—

---

1 RTE Act, Chapter 3, section 2
“(3) A child with disability referred to in sub-clause (A) of clause (ee) of section 2 shall, without prejudice to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and a child referred to in sub-clauses (B) and (C) of clause (ee) of section 2, have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995:

Provided that a child with “multiple disabilities” referred to in clause (h) and a child with “severe disability” referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 May also have the right to opt for home-based education.”.

The Implications of Cross Referencing with the PWD Act

Our understanding is that the spirit of the PWD Act is contrary to the spirit of the RTE. Following this argument it would be important to understand what the PWD Act of 1995 says in terms of the right to education of the child with disabilities.

Chapter 5 (sec 26) of the PWD Act 1995

Promises “free education in an appropriate environment till he (child with disabilities) attains the age of 18”

It “endeavors to promote the integration of children with disabilities in the normal schools.”

It promotes “the setting up of government schools in the government and the private sector for those in need of special education in such a manner that children with disabilities in any part of the country have access to these schools”

Clearly this part of the chapter goes against the very spirit of the RTE that outlines free and compulsory education. This chapter does not talk about compulsory education at all.

Its first lines “appropriate environment” leaves the space open for a wide interpretation in terms of educational provisioning for the child. This as we will see later, was interpreted to mean home based education.
A Focus on Non Formal Education

While the RTE Act moves towards a formalising of education, a setting of standards, the chapter 5 of the PWD Act leaves the door wide open to non formal education. Known to be weak in its delineation of rights, it does not mention any standards.

Section 27 of chapter 5 urges the government to make schemes for non formal education,

- Conduct part time classes in respect of children with disabilities who having completed education up to the fifth could not continue their studies on a whole time basis.(27a)
- Imparting non formal education by utilising the available manpower in rural areas after giving them suitable orientation (27c)
- Imparting education through open schools or open universities (27d)
- Conducting classes and discussions through interactive, electronic and other media (27e)

It is very clear that in 1995 there was an attempt to reach out to children with disabilities in whatever way possible. There was no strong commitment here to neighbourhood school system. In 2009 when the RTE was framed, it seems once again our imagination did not go further than this for the child with disabilities.

Enabling Clauses of PWD Act 1995 Echoed in the Model Rules of the RTE Act

Many of the enabling clauses of chapter 5 of the PWD Act could have easily come into the RTE. Some can easily be inferred from the clauses of the RTE.

It promises

‘Providing every child with a disability free of cost special books and equipment needed for his education” (27f)

It talks about curriculum adaptation and gives specific reference to the adaptations required by children with vision impairment and hearing impairment and suitable modifications in examinations for students with blindness and low vision. It specifically
talks about providing amanuensis to blind students and to students with low vision. (30, 31)

It talks about having schemes which provide transport, remove architectural barriers access, grievance redress mechanisms, scholarships etc. (sec 30)

**Model Rules of the RTE**

Some of these provisions, such as the promise of transport and the provision of free textbooks etc have been put into the Model Rules of the RTE rather than the Act.

(7) In respect of children with disabilities which prevent them from accessing the school the State Government/Local Authority will endeavour to make appropriate and safe transportation arrangements for them to attend school and complete elementary education.

* Duties of State Government and Local Authority for the purposes of Sections 8 and 9

5. (1) A child attending a school of the State Government or local authority referred to in sub-clause (i) of clause (n) of section 2, a child attending a school referred to in sub-clause (ii) of clause (n) of section 2 in pursuance of clause (b) of sub section (1) of section 12, and a child attending a school referred to in sub-clause (iii) and (iv) of clause (n) of section 2 in pursuance of clause (c) of sub section (1) of section 12 shall be entitled to free text books, writing materials and uniforms.

* Provided that a child with disabilities shall also be provided free special learning and support material.

**From 1995 to 2009: A Lot Has Changed**

However, from 1995 to 2009 when the RTE Act came into being, much water has flown under the bridge. India signed and ratified the United Nations Convention on the Rights of Persons with Disabilities in 2007. This Convention mandates equal rights and inclusion. As a result of this ratification, the Ministry of Social Justice and Empowerment resolved to amend the PWD Act of 1995. However, the disability sector urged the Ministry not to just amend the Act but to rewrite the Act. This was because the UNCRPD reflects a deep paradigm shift in the way in which disability is seen and perceived. This paradigm shift could not have been adequately reflected by just amending. The law had to be re-written.
With the Convention in place the provisions of chapter 5 of the PWD Act need to be strengthened and widened and it was inappropriate for us to just copy and paste a chapter that is now outdated; a law that is in the process of being rewritten not even amended!

On the Question of Special Schools

The Parliamentary Standing Committee on Human Resource Development also made specific queries about the efficacy of the PWD Act. The answers it got were not very encouraging.

4.4 On a specific query with regard to level of implementation of provision of free education to children with disabilities under Chapter V of the Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1995, the Committee was informed that impact of the Act has not been very satisfactory so far. One of the major problems noticed during the last fifteen years since the Act coming into force was that education of children with disabilities has been implemented through special schools. Due to such schools not being affiliated to any Board, there was no uniformity of curriculum, assessment, evaluation, standards of school structure, their functioning etc. Children of such schools do not get a School Leaving Certificate and are not really prepared for employment or any aspect of adult life. Very few children may have got the relevant education. It was also emphasized that education of all children, including children with disabilities should be governed by one Act.

Why then was it so important for the framers of the law to cross reference in this way? Is this cross referencing really adding to the rights of the child with disabilities?

The RTE Act and now amendments make no mention of the special school. The Act does not recognise the special school as a category of schools. Chapter 5 of the PWD Act 1995 talks about promoting special schools. Special schools are governed under the Ministry of Social Justice and Empowerment and continue to be so governed after the passing of the RTE Act. While the MSJE is the nodal Ministry for disability it has been unable to set standards for special schools all these years.

Our understanding is that it is divisions between Ministries and governance issues that have strongly influenced the framing of the RTE Act, the rights of all children with disabilities.

What the cross referencing is doing is that it is leaving the door open for a whole range of educational settings for the child with disabilities. This is exactly what we see is now happening under the RTE Act in the way of amendments.
Home Based Education

One of the most bitterly contested amendments to the RTE Act was the amendment which gives children with severe and multiple disabilities the right to opt for home based education. There are strong divisions within the disability sector. While the Rajya Sabha, passed the amendments without much protest, members of the Lok Sabha were more vociferous in their opposition to this particular amendment. Although it was passed, this strong opposition must be recorded.

The Amendment

“Provided that a child with multiple disabilities referred to in clause (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 and a child with severe disability referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 may also have the right to opt for home-based education”.

Representatives from the disability sector met the Secretary, Education to share the concerns on home based in March 2012. A letter was written to Mr. Kapil Sibal on the same. Despite these efforts, the amendments were tabled in Rajya Sabha and passed. Soon after this organizations working with children with disabilities met and send out letters to Ministers opposing the amendment. Letters were sent out to all Members of the Parliament and members of the sector met Parliamentary standing committee member and raised the concern. Individually all MPs were reached out and sensitised on the need for deleting the clause on home based education. The amendments were tabled in Loksabha and some of the major political parties like BJP, BSP, CPI (M) and some members of the INC opposed and raised their concerns about including home based education in the RTE Act. Mr. Kapil Sibal promised to appoint a committee to make guidelines for education of children with disabilities under the RTE Act in his answer to the Parliament.
What is Home Based Education?

The practice of home based education was initiated by the Sarva Shiksha Abhiyan (SSA) as a “pathway to Inclusion”. The SSA “adopted a zero rejection policy for all children’. In order to fulfill this zero rejection policy it follows a “multi- option model for children with disabilities.

“This means that no child having special needs should be deprived of the right to education and taught in an environment, which is best, suited to his/her learning needs. These include special schools, EGS, AIE or even home-based education.”

“Generally home-based education is defined as the education of children with severe intellectual/physical disabilities, who can be educated in the combination of home-based and alternate educational settings to enable them to achieve independent living skills. Home-based education aims at school preparedness and preparation for life. Alternate educational settings provide opportunities for learning of social skills, vocational skills and implementation of life skills.” (Source: Discovering New Paths to inclusion; A documentation of Home based practices for CWSN in SSA July 2006)
While it has meant many things home based education as it has been practiced in India, has never meant a child getting educational inputs five days a week along with all the other entitlements that children in schools have. For example, in most instances the child in home based education has not had the privilege of the legal entitlement of the midday meal. The midday has been hailed by all as ensuring increased enrollment, retention and food security of children in our country. Neither are most children in home based education privileged to have a qualified teacher visit them.

How is Home Based Education Different from Home Schooling?

As the debate on home based education raged, many confused it with another way of educating children which is home schooling. Home schooling is when parents decide that their child will learn best at home and take a proactive decision to teach their child at home. They may follow a curriculum which is standardised and the child may give exams with other children. In home schooling, the child would work at home under the supervision of parents. Normally, parents of children who opt for home schooling make sure that the child has the opportunity to move from one level of the system to another. Normally, people who choose to keep their children home have the resources to ensure that their child gets quality education and is exposed to a whole range of experiences. As far as we are aware, there is no formal system in our country that allows a child to do home schooling. Apart from the system of open school, our understanding is that our government is pushing in another direction. It expects, all children to be in schools. The RTE Act pushes us in that direction.

Home based education for children with severe and multiple disabilities is now a system that the government must put into place in its education system. This system is used by the majority of people in our country. But it is used only by people in our country who require free education. It is not used by the middle classes or the rich and affluent.

Parents Choice

Many have argued that a parent’s choice must be respected. If a parent wants home based education for their child who are we to object?

The issue of parent’s choice is a complex one. There are many underlying factors that may weigh down a choice this way or that. When families insist that their little children must work to that the family can eat… how do we understand that choice?

Although the law does give a choice to the parent; to choice to opt for home based education, this choice has little meaning. Parents with few resources have an unequal relationship with the system. Parents with children with severe and multiple disabilities
are particularly vulnerable because society and community at large do not see the point of the child going to school. Families will not have very little support if they want to insist that their child goes to school. As has been happening, they will be pushed out of the system even more. A strong guarantee for school education could have changed this direction. Unfortunately, that is not to be!

Reena came with her son Vivek to Astha a year back. Vivek is ten years old and has cerebral palsy. All four limbs are affected and Vivek cannot sit or stand by himself. Vivek is bright and inquisitive. At Astha we realised that with a few supports Vivek could learn and should be in school. Vivek’s mother is adamant that he will not go to school. He will lie at home the whole day alone, but she will not send him to the government school. Why we ask her? The RTE gives all children the right to go to school?

Because, she says, they will never be able to look after my child. My child is not safe in the school. I and my child are humiliated in the school. I live in a slum area and i cannot get my child to school and back every-day without transport. Tell me that all this will change and i will send my child to school!

On the face of it, Reena is exercising her option for home based education for her son. Why did she need to do that? We must ask ourselves that question!

Kavita is 8 years old. She has condition that will progressively deteriorate. Earlier, she would run but now she finds it difficult to balance when she stands. Kavita has been to school before but dropped out because the teachers did not know what to do with her. Kavita’s mother wants a good quality of life for her child. Kavita wants to be with her friends in school. The RTE strengthened the mother’s resolve to once again go for admission to the school. When the mother went with the staff members of an NGO, the school reluctantly said a yes to enrolling Kavita. But the next day when she went to the school the teachers said to her

“Why do you want your child to come here? What will she do? You know that she will do nothing! Do you want money? We will give you all the money that comes for these children. We will put her name on the register but don’t send her to school!

These are real children (names changed) and these are real happenings. This is the kind of push back that parents face in a place like Delhi. It is difficult for them to then gather strength to fight the system or exercise a choice. The Honourable Minister for Human Resource Development, Shri Kapil Sibal spoke on the floor of the Parliament and defended home based education. He said
Second Annual Report of the Status of Children with Disabilities under the Right to Education Act

“One apprehension, like many other colleagues have pointed out, is regarding the home study, the option of home study. I know the hon. Minister has already clarified that the option of home study lies with the parents. But, Madam, I want to speak from my personal experience as I worked with children with disabilities. I worked in a special school and we have tried for years to integrate these children into regular mainstream schools. I must say that with the vision of dedicated teachers and educationists, we were very successful. We were very successful with some hand-holding, with some counselling and coercing to get these children admitted in our neighborhood mainstream schools and the results were fantastic. We saw these children flourished in every way. When we asked those children, ‘Do you want to come back to your special school?’ All of them said, ‘No Madam, we do not want to come back; we are really happy here.’ This is what the achievement of integrated education is.

Sir, I believe that home education will be detrimental. When we give an option to parents or to a teacher, we are actually giving them an option to keep the child back home. When we say that these children need special educators, how will these special educators come to your home, come with the right intervention? It is only the affluent families, who may be able to afford this. But, when we look at children with disabilities in the villages or amongst the poor, the home study will not work. In fact, the children will be locked up into their homes as what was happening earlier. We will be going to square one. So, my request is that let us remove the option and come up with solutions and ways as to how we can achieve this integration. (Priya Dutt during the debate in the Lok Sabha)"

The question of choice is not valid in the face of this reasoning. This reasoning is to do with infrastructure, the availability of personnel and resource deployment. It does not really give the parent a choice.

**Children with Severe and Multiple Disabilities**

Children and persons with disabilities must have a disability certificate if they are to be
officially seen as disabled in our country. They need the certificate to avail of any entitlements. A person having 40% or more disability as judged by a panel of doctors in a government hospital is officially a person with disability. A child is seen to have severe disability if she has 80% or more disability.

Getting a disability certificate is one of the biggest issues that have exercised the disability community for years. Wrong certification, bribery and corruption, bureaucratic hurdles, difficulty in getting all documents required are just some of the issues in this area. Even though the 11th Plan promised that all children and persons with disabilities will get their certificates the official statistics show that only a miniscule number of children and persons have this certificate. Seventy four percent of persons with disabilities do not have their disability certificate as per data provided by the MSJE to the Working Group on the 11th Plan.

How then will our educators decide who is severely disabled?

While this is an implementation issue, the larger issue is a philosophical one. The UN Convention on the Rights of Persons with disabilities that India ratified does not use the term “severe” disability.

This convention, which is regarded as path-breaking because it is was drafted with the active involvement of persons with disabilities, makes a conscious choice to abstain from using terms such as mild, moderate, severe disability. These terms are commonly used to classify people within the sector.

The reason for this is the big shift in thinking about children and persons with disabilities. The Convention sees disability as part of human diversity and as equal members of society. It underscores the fact that disability is not just a medical issue.

People become disabled because of the all the social, cultural, economic, political and other factors that prevent them from participating fully in society. In such an understanding, a girl child with disability or a dalit child from a very poor home would be far more disabled than a boy with the same impairment and many more opportunities!

Laws in India are changing to incorporate this understanding. How is it that the RTE did not take cognizance of this big change?
Watering Down of the Fundamental Right

Sir, I oppose this amendment and would like to point out that providing home-based education as an option to school education for children with multiple and severe disabilities is an extremely retrogressive step which will have huge negative repercussions on the rights of children in education. It is watering down of the fundamental right to education that every child has in our country and goes against the very spirit of the RTE Act which is formalizing education and building standards for quality. (PK BIJU during the debate in the Lok sabha)

One of our major objections to home based education is that it is a watering down of the fundamental right to education. We call it a watering down because of the way in which it has been and will continue to be provided for in our country, without standards, without qualified personnel.

In a meeting with members of the disability sector on the 1st May 2012, the Minister offered to set up a committee that would make guidelines for home based education. He did not offer to add a schedule to the law putting down standards so that any contravention could be legally challenged.

We believe that it and that every effort must be made to bring all children out to the school, particularly in the 6 to 14 age group. Special and sustained effort need to be made for the most vulnerable child and facilities and schools designed for their needs. Giving the option of home based education gives the system a reason not to change!

Fostering Social Isolation

Home based education is likely to foster, great social isolation, exclusion from community and peers, devalue the child. It is likely to exclude the child from many other entitlements and also to expose the child to a lack of protection that social isolation brings. The quality of life of any child will be seriously compromised if we isolate them in the home. This will now need to be monitored.

Many of us who have worked with children with very high support needs have run small centres and special schools. Many of these centres and schools have been non-formal in nature. While this should not continue, such centres have proved that children with very
high support needs can come out of their homes and develop their abilities and be a part of society.

What Could Have Happened?

Home based habilitation strategies for children, support and information to parents, affirmative action for the very young child with disabilities are extremely invaluable strategies. The strategy of home based education can be used as an excellent strategy for building abilities for the child and the family at an early age. This was one of the suggestions of the Parliamentary Standing Committee.

Home based education strategies could have been recast as special training for the child with disabilities under the RTE. This was one of the recommendations of the Anil Bordia Committee that was set up to see how the SSA could be aligned to the RTE. This committee also discussed how SSA provisioning for the child with disabilities could be aligned with the RTE. Since home based education is an implementing strategy of the SSA this too was discussed in the committee.

Anil Bordia Committee Recommendations

The range of options for education of children with disabilities like open school, non-formal and alternative schooling, special schools and home-based education should be reviewed in the context of RTE Act, which entitles all children to elementary education in regular schools that meet the norms and standards specified in the Schedule to the Act.

The existing non formal and alternate schooling (including home based education) options for children with disabilities can be recast as ‘special training’. This means that (a) all children with special needs who are not enrolled in schools or have dropped out, will first be enrolled in a neighbourhood school in an age appropriate grade, (b) they will be entitled to ‘special training’ through regular teachers or teachers specifically appointed for the purpose.

The SSA Framework

The SSA framework was designed on the basis of the Anil Bordia committee report, which is the implementing framework of the RTE at the moment devotes many sections to equity concerns and is a very forward looking document. The thrust of this document for children with disabilities is the inclusive school. Nowhere in this document is there
any mention of home based education as an option for children with disabilities. What the document does say is as follows

“Thus school preparedness of children with special needs must be ensured by providing ‘special training’ as envisaged by the RTE Act. This training may be residential, non residential or even home based as per their specific requirements. The existing non formal and alternate schooling (including home based education) options for children with disabilities should be recast as special training. This means that (a) all children with special needs, who are not enrolled in schools or have dropped out, will first be enrolled in neighbourhood schools (b) they will be entitled to special training through regular teachers or teachers specifically appointed for that purpose (c) and then mainstreamed in general schools along with their peers in age appropriate classrooms.” (Sec 3.12.11)

Some Questions

The big question now is how the option of home based education is going to interact with other parts of the law? How will the clause on corporal punishment apply to this child? How will the NCPCR protect the rights of this child? How will this child access all the entitlements for children including the midday meal? This we will discover as time goes on.
Chapter IV

VOICES AND CONCLUSION

Discrimination exists across all disadvantaged groups and this is the reason why RTE Act has recognized these disadvantaged groups with special provisions within the Act. The Act also has assigned duties and responsibilities for teachers and authorities not to discriminate any child on the basis of gender, age or income. The discrimination faced by children with disabilities is multi faceted. All barriers that exist within the education system are discriminatory for these children. Apart from these we have experiences of many children and families who have faced discrimination which remains unseen.

A brief analysis of enrollment figures, the gender parity index, dropout rates and number of out of school children indicates that the required thrust for the education of children with disabilities has not happened.

For disabled kids like us, all sports and games are separate. It would be better if we were all together ...
Sunita on separate activities for disabled students

Speaking about sports/games activities, is it facilitated for all kids?

For us it is separate, for other kids its separate. For disabled kids (like us), it is separate.

What do you think about that? Is it okay to have such separation?

No, disabled children are still children. It is not okay. It doesn't look or feel right that our program is kept separate from the other children. It would be better if we were all together. It's also very awkward when we're asked why we were not with the other children. It hurts.

Of course it does, because children are children, right?

Yes.

In what other functions/activities are you separated?

Drawing competitions, games, etc. They always separate the disabled children. It's really difficult when my classmates ask about it, and I have to explain why I am being separated.

Saira is 13 years old and has been going to school for the last four years. She is now in class three. Saira looks at her textbooks but cannot read a single word.

Saira come from a family where both her brother and sister are visually impaired. Saira too, has progressive vision impairment. She is slowly losing her vision.

The school has no idea about her condition. Even when the resource teacher comes she does not realize Saira has difficulty in seeing. Saira herself is quiet and withdrawn.

Saira’s mother is a single mother and the family is very poor.

My daughter is not learning anything in this government school. Can you please make the arrangements for her to go to a special school with hostel? There she will learn. Here it is a waste of time.

While a special school, or living in a hostel is not the best thing for Saira, many children like her will drop out, seek special schools because our system is just not ready. Families will continue to feel that the answer is in sending their child to a hostel.
Asif, young boy was going to local Municipal school in West Bengal. There was a fighting in class. Asif got injured. He looses his hearing capability. He cannot follow lessons anymore. Teachers/Parents decided Asif cannot go to school anymore.

Whose responsibility is to inform illiterate parents of Asif about RTE Act or PwD Act about disabled children? It can be states here that there are free school for deaf students run by Government in West Bengal. How will Asif’s parents know that such service exists? Who will take responsibility of disseminating information to common people?

**Pavan's mother speaking about his schooling**

Tell us about his schooling?

It's non-existent. He gets nothing out of school. His books and bags go with him to school, and return home the same way - untouched. I have put him in private tuition now.

Have you spoken to his school or teacher about this?

I did. The teacher says her job is to write things on the blackboard. Whether he chooses to take notes is out of her control. I have tried begging and pleading with her, but she insists she cannot spend or devote any special time to him.

Are there any special teachers that come to his school to help?

No, nothing. We have begged the teachers to please spend 1-2 extra minutes with him to ensure he is able to take notes okay, but nothing happens. The teacher instead wanted me to sign paperwork stating he should go back one level because his brain does not work properly. We had to go to the Principal’s office, and were pressured to sign this paperwork. I said no, I will not sign it.

So for the whole year Pavan did not do work or have help getting his work done?

No. And the teacher said she also gets other children to do his work...

The teacher comes in, takes a seat in the corner, and pays no attention to the children, whether they argue, fight, or kill one another, she doesn't care.

Is he okay at the private tuition?

He writes upside down, and some letters look off, but otherwise yes. The tutors there tell me not to worry. They say he is an intelligent boy, and that one day he will surprise everyone with his intelligence. They tell me not to worry. They are very good teachers.
Little Anita, walks around the slums of Govindpuri all day. She has three other brothers and sisters who also stay at home. Anita’s mother is a single mother who has to go to work to put food on the table. Anita went to school for a few months and then dropped out because she was excluded in the classroom. No effort was made to include her and help her understand her lessons.

**Q:** Do you want to go back to school?

**Ans:** Yes, nods Anita.

**Q:** Why don’t you go?

**Ans:** My uniform is being washed and pressed, and then I will go.

**Q:** What did you like in school?

**Ans:** My friends.

**Q:** Who are your friends?

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The attitude that prevails towards children with disabilities is still discriminatory.

These are some of the snapshots of interviews of children and parents of children with disabilities who are now going to school.
Some snapshots from the experiences of different states on status of education of children with disabilities

100 SSA covered schools in three districts were tracked in Orissa. Some important findings are:

- 356 children with disability in 100 schools
- 55% Schools have plan in place – there is no disability specific plan
- Teaching materials are prepared in some of the Schools (35%) but not used by the children and no specific teaching aids for the use of CWDs
- 70% of Schools are extending support in getting disability certificate
- All these 100 Schools have ramps but the gradient is not appropriate and no other accessible features are there
- There are BRTs appointed (3 in each Block)
- 32 children out of 157 are dropped out in the year
- 42 children are out of School (13-18 age group)
- 227 children have disability certificate
- 18 children getting escort allowance
- 53 children moved to secondary classes.
- 86 children take part in extra curricular activities in School as reported by teachers.
- 47 children have admitted in proper age and been given special training.

Source: Aaina, Orissa
Analysis of annual Reports of Paschim Banga Sarva Siksha Mission of the year 2009-10 and 2010-11

- Reports consist 208 pages for the first year and 224 pages for second year.
- In the first one 3 pages are devoted to disabled children whereas in the second one 8 pages.
- It is obvious that these children are not in priority list of SSM as well.

Statistics from SSM, West Bengal

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<tr>
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- Personal enquiry to Disability commissioner’s office says they do not have any data but quote SSM’s ones in their reports.
• Personal enquiry to SSM office also does not give further information. They say the report gives all details and if we want we can visit district offices to collect more details.

• Number of drop-outs etc after enrollment or any other area is not available to us.

Source: Sruti Disability Rights Centre, West Bengal

**Progress of Inclusive education in SSA, 2010 -11 & 2011 – 12 in Rajasthan**

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<tr>
<th>Categories</th>
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<td>CWSN Covered through HBE</td>
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<td>Aids &amp; Appliances</td>
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<tr>
<td>Special Toilets</td>
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Major issues

- Identification procedures to be strengthened. CWSN in SSA: 1.34% of the total child population. Census and NSSO surveys: 2.1%-1.8%.
- Encourage States to plan for a comprehensive set of interventions for CWSN
- Emphasis on training teachers on classroom practices and teaching methods, with an inclusive approach.
- Overcrowding more than 50 – 60 children per class
- Lack of equipment for assessment of learning disabilities
- Poor channeling of sensitisation programs
- Long waiting list for admission

Source: Umang, Jaipur
ACTION POINTS

Chapter I of the RTE Act

- Children with disabilities should be included in the Disadvantaged groups by notification of the State Rules.
- Definition of schools should include special schools with prescribed norms and standards.

Chapter II of the RTE Act

- The clause for age appropriate admission and special training should clearly spell out the guidelines on the criteria, selection of children & the period of training specifically for children with disabilities.
- States should monitor if any child with disabilities are denied admission in school.

Chapter III of the RTE Act

- It is important to record all children with disabilities enrolled in the school, along with nonenrolled/dropout/out of school children and this information should be publicly displayed in each school.
- There should be clarity on the status of special schools with regard to the RTE Act. This should be spelt out in policy documents.
- The provision for free special teaching learning and support material for child with disabilities needs to be specified more in term of materials for education, habilitation and rehabilitation.
- The provision of special teaching learning materials and support materials for children with disabilities needs to be monitored.
• The schools must have the required number of textbooks in accessible formats like Braille or in enlarged print etc.

• What is of equal importance in providing access to books and devices is the need for ensuring meticulous planning and care in their distribution. The students must be provided material which they actually need and can make use of.

• The provision for safe and appropriate transport of children with disabilities to school should be made as a strong commitment by all States. Rather than the usage of the term “endeavour” which is stated in model rules, the state departments need to issue notification to provide transport.

• Strong commitment to be made on Pre-school Centres which shall be links with ICDS centres and education system and inclusion of children with disabilities.

Chapter IV of the RTE Act

• The State government, local authority and schools shall provide mechanisms to collect evidence and report incidence of child being subjected to caste, class, religion, gender abuse or on the basis of disability in the school.

• Safety and security measures for children with disabilities and other children in schools needs to be stated and monitored.

• Proper training and guidance for the School Management Committees (SMCs) as they are responsible for the identification, enrolment and education of children with disabilities.

• Ensure representation of parents of children with disabilities in the SMCs.

• School development plans should include barrier free access and the interpretation of barrier free should be expanded beyond ramps and rails. For example, the buildings of SSA schools where visually impaired children study, may be made more blind-friendly. No major alteration is required in the architectural design or the structure of the existing buildings. All that is needed is to undertake such simple steps as placing beep signals at the entrances, putting signages in Braille and bold print and installing tactile textures at the top and bottom of staircases and various entrance and exit points.
• Rules must specify the role of special educator in the section on teachers.

Chapter V of the RTE Act

• All states need to issue notifications on aligning inclusive education programme with the RTE Act.

Chapter VI of the RTE Act

• In all implementing and monitoring authorities like State advisory council, Academic authority and SCPCR, the state should ensure that experts from disability sector are included.
• There should be convergence between Commissioner for person with disabilities and the SCPCR in terms of issues related to children with disabilities.
• Convergence of different ministries is required to ensure effective implementation of the Act.


“It should, and will be our objective to make mainstream education not just available but accessible, affordable and appropriate for students with disabilities. I also believe that if we make our schools accessible to children with disabilities, we will also be improving the quality of education for all children.”
For information on Disability,
Call ABILINE at 1800116800 or 011-26466250
Email ABILINE at aarth.helpline@gmail.com
...from anywhere in India!

You can also visit or post to ABILINE and AARTH-ASTHA
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