

# **Enforcing the Fundamental Right to Education**

## **A Tripartite Consultation**

*6<sup>th</sup> September 2002, Chennai.*

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**Enforcing the Fundamental Right to Education**  
***A Tripartite Consultation for Advocating Final Amendments***  
***to Tamil Nadu Compulsory Elementary Education Act (1994)***  
***and Rules (1997), The Tamil Nadu Education Rules and***  
***Related Government Orders and Schemes***  
***6<sup>th</sup> September 2002, Chennai***

**A Working Paper**

**Important Reforms / Amendments that are being  
Advocated for Making Right to Free, Quality,  
Equitable Education a Reality in Tamil Nadu**

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## **1. Introduction**

The President of India has given his assent to the Constitution (93<sup>rd</sup> Amendment) Bill, 2001 making the right to education a fundamental right. The Bill was earlier passed by Parliament during the budget session. As a result, this new law makes the right to free and compulsory education from six to 14 years of age a fundamental right. The Act does not guarantee as a fundamental right free, quality, early childhood care, joyful learning and development services for all children 0-6 years.

Very recently the Union Minister for Human Resource Development, Dr. Murli Manohar Joshi has said that the rate of literacy had crossed 66 per cent and that for the first time an allotment of 4.1 per cent of the GDP for school education was made. He further added that if the private sector investment was added on, the total spent on school education was around seven per cent of the GDP!

In Tamil Nadu despite the enactment of the Tamil Nadu Compulsory Elementary Education Act (1994) and Rules (1997), The Directorate of School Education has accepted that only 85% of the children of school age have been enrolled. Out of 85% enrolment of all school going age children in Tamil Nadu 15% are said to dropout by Std V. Further 36% dropout by middle school 58% by the time reach they reach Std X and an astonishing 82.7 dropout at the higher secondary level.

Central to achievement of school education is the right of all children 0-6 to early childhood care, development and services. Government must review the working of ICDS programme and it should be developed into a comprehensive childcare, learning and development programme implemented universally all over the state. Quality standards must be laid down. Efforts should be made to link these early childhood institutions to the primary schools.

On 7<sup>th</sup> February 2002, Campaign against Child Labour - Tamil Nadu organised a State-level Consultation for Reviewing and Enforcing the Tamil Nadu Compulsory Education Act (1994) and Rules (1997) and recent policy decisions of the Government on school education. At this meeting decisions were taken regarding follow-up actions to ensure that all children are guaranteed education upto Std XII.

Human Rights Advocacy and Research Foundation and Centre for Child Rights and Development (CCRD) is taking the initiative to follow-up with the decisions to ensure that jointly with other Networks and Campaigns, Trade Unions, Teachers Associations, Voluntary Organisations, Education Department Officials, Political Parties, etc. within a 2 year period we can atleast ensure that children entering the school system shall be guaranteed free, equitable and quality education upto Std XII and ensuring early childhood care, joyful learning and development for all children upto 6 years. We work for zero dropouts and improving the quality of education.

## **2. Some Information on the Status of Children in Schools**

The goal of universal eight year schooling (at the least) to all children in the country is nowhere near fulfillment even today despite the Supreme Court order making Right to Education as a Fundamental Right and guaranteeing education for all children upto 14 years. The number of children in India, in 1994 was 34.5 crore, about 38 percent of the total population. Out of these, about 13 percent or nearly 13.7 crore are below the age of five. The enrollment of students at the start of the primary stage, at least on paper, is close to 100 percent. But 34 percent of them, dropout in the primary stage itself; in case of female children the percentage of dropouts is much higher. According to the Ministry of Human Resource Development estimates, there are above 6.5 crore children in the age group of 6-14 who are out of schools. In the opinion of some other experts, this figure may be an underestimate and the true figure could be above 9 crores.

Committee of the State Education Ministers (also known as Saikia Committee Report) was constituted in 1996 to examine the implications of the proposal to make elementary education a fundamental right under the Constitution. The Committee submitted its report in January 1997. It estimated that nearly three crore children in the age group 6–10 years and 3.3 crores in the age group of 11–14 years are out of school. The drop out rates of children is higher in case of children in rural areas. Also, the percentage of dropouts is higher in case of girls, both in the urban and rural parts. There is evidence to show that those children from the Scheduled Castes and Scheduled Tribes as well as children from Backward Classes have poor rates of enrolment, retention and attainment in comparison to children from upper caste families.

Out of 22 crore children in 6 – 14 age group – 11 crores are not in school. 7 crores of children are below six year. The Tapas Majumdar Committee Report in estimating the cost for education for all children Grade I to Grade VIII said that only an additional 137 thousand crore rupees would be necessary to achieve this. It further stated that this was less than 1% of GDP i.e. 0.78% of GDP level of today. The Tapaas Majumdar Committee Report has based its costing on the number of children out of school and the cost of education the Government incurs per child. The report highlights the need of 1,40,000 crores of rupees and it is only 0.785 of GDP and hence a very achievable target. This Committee consisted of 60% IAS officers, 15% professors and 25% economists. The expenditure on elementary education as a percentage of total expenditure on education (including higher) is slightly under 50%.

The expenditure on education (elementary + higher) is currently in the region of 3% of GDP. Many political parties have expressed that the total expenditure on education (elementary + higher) should be above 6% of GDP.

- **Tamil Nadu**

In Tamil Nadu, especially since independence though the literacy rate has increased decade after decade, in absolute terms the number of non-literate increased from 23.8 millions in 1951 to 25.3 millions in 1991 (Tamil Nadu - An Economic Appraisal, Government of Tamil Nadu) though there are 30,619 primary schools and 5,503 middle schools in the State (1996 -97). However the number of primary schools had only marginally increased by 2% from 30004 in 1991-92 to 30619 in 1996-97.

***The following statement (2001) from the Directorate of Elementary Education after 54 years of Independence and 52 years of the Indian Constitution and the post Independence Judicial System is revealing about the status of elementary education in Tamil Nadu.***

“We are unable to enroll all the children who have attained the school age (6-11). The Children enrolled dropout before they complete Std. V and those who have completed the Primary level do not have the minimum skill presented.”

“Besides poverty, illiteracy, social and economic evils and lack of Social economic awareness on the part of parents, the schools have been reduced to a place where children are forced to spend a few hours in order to learn lessons from prescribed books in language, maths, social science and Science which does not provide them the Joyful life that they crave and which is their entitlement. At the stroke of the last bell Children rush out in joy as if released from a prison. The stumbling blocks to the achievement of universalization of Primary Education has been the lack of motivation on the part of a Majority of teachers and hence they don't provide pleasurable activities in the Campus. The teachers depend excessively on the rote learning method which neither interests the children nor kindle their imagination. So the pedagogic methods distance the slow learners from the teacher passing way for alienation from the school.”

“In Tamil Nadu nearly 85% of the children of the school age have been enrolled. Out of this 15% of them drop out before reaching standard V. Among those who complete the primary level only 20% get the 663 skills prescribed. The goal “Education for All” could not be fulfilled inspite of welfare schemes such as free Midday meals, Uniforms, Textbooks, Scholarships and free education.”

- **Joyful Learning Schools / Model Schools**

“In Tamil Nadu there are 31047 primary schools and 5703 middle schools. For very long these schools have been functioning in a routine manner. In order to provide quality education through pleasurable activities in the campus some of these schools have been selected and placed under the direct supervision of the officers of the department of Elementary Education right from the Assistant Educational Officer to the Director. These schools termed as “Model Schools” have been transformed into “Child Centered Activity Based Learning Centers” with full-fledged infra-structural facilities and teachers. The standard thus set by these schools will be followed by the remaining schools in the Districts.

“There are about 838 Model Schools throughout the State and the activities of these schools are regularly monitored and counseling is done. Schools function as self-sufficient centers in all aspects and impart quality education. These schools remain a good example for providing standard education by monitoring the teachers to enhance their professional commitment. The teachers were given training in the “joyful learning” programme.

“All the curricular and co-curricular activities that start from the prayer in the morning till the close of the day brings in satisfaction to one and all children attend the school in uniforms with tie on all days. Teachers also come in uniform. Teachers enjoy job. The mass media and the public have been attracted by these model schools and it is a welcome change in the era of Universalisation of Primary Education. The table below gives details to prove that 68149 teachers have been trained in joyful learning pedagogy”.

### ● ***Information from the Directorate of Non-Formal and Adult Education***

The Directorate of Non-formal and Adult Education of Tamil Nadu claims that there are 35 lakhs children between the age group 6-14 who are out of schools. As per the directorate’s information in the first phase 700 Special NFE centres targeting child labourers was implemented for a period of 3 years till December 1998 in four districts of Tamil Nadu namely Chennai, Vellore, Virudhunagar and Tuticorin benefiting 17,500 child labourers. In the second phase 700 centres were run in the same area from January 2000 benefiting 17,982 children. On 31.03.2000 this scheme was stopped as per the advice of the Central Government.

### ***The following were the reasons given by the directorate for the closure of this special NFE centres;***

1. Poor / insufficient involvement of local community PRIs
2. Very low investments
3. Insufficient decentralisation of administrative and financial powers.
4. Delay in release of funds at all levels.
5. Both Non-formal Education and Elementary Education have the target group of children of 6-14 age; Non-formal education and elementary education are complementary and supplementary to each other. Hence programme-implementing structures must involve perfect co-ordination at all levels – village, block, district and state levels.
6. The notion that NFE is inferior, second – rate and second grade both quantitatively and qualitatively.
7. Insufficient flexibility – NFE needs to recognise that different children groups have different educational needs and hence should modify itself accordingly. Efforts to evolve different models of NFE programmes for different age groups.
8. Absence of child – wise planning.
9. Lack of provision for light refreshments (varieties of grams, snacks and tea) for learner’s atleast at NFE centres.
10. Less coverage of children – covers less than 10% of out of school children.
11. Poor completion rates for primary level by children studying in NFE centres – very low transition rates into the formal system.
12. Absence of linkages for entry at different level into formal schools.
13. Lack of success with girls – Attendance at Girls centres and the No. of women functionaries in the programme has been noticeably low.

14. Training of instructors insufficient.
15. Absence of recognition / reward / incentives for field functionaries for god work done.
16. Poor co-ordination of the work of the V.A.s with State Governments.

● ***Some Facts Regarding Quality Results of School Education - (According to the Evaluation done by the Education Department)***

- ⇒ The average rate of success in SSLC exams remains 70% for the past 3 years.
- ⇒ Even though the number of boys writing the exams is higher than girls the percentage of success is high among girls.
- ⇒ Out of all Students from 5,428 schools who wrote the SSLC Exam last year. 29% boys failed. Specifically in five government schools not even a single boy had passed. These schools are in Madurai, Namakkal, Pudukottai, Thiruvallur and Chegalpattu.
- ⇒ As per Government data (March 2001) from among 2,303 government schools, more than 81% students have passed. Out of this 458 schools have received 100% success. Except the districts of Nilgiris (67.9%) and Kanyakumari (78.8%), from Erode District to Tirunelveli, (the Western Districts) students have registered more than 80% success.
- ⇒ Thiruvallur, Tiruvannamalai and Villupuram Districts have got a success rate below 50%.
- ⇒ In the +2 Exams not even a single student from 9 schools has passed.
- ⇒ In Anglo-Indian and Matriculation schools, in 1999 the success rate of results was 97%. In 2000 it increased to 98%. However there has been a 5% decline in 2001.
- ⇒ A school requires all basic amenities and infrastructure. Most of the Matriculation and Anglo Indian Schools have class rooms, laboratories, adequate number of teachers and special capacity building programmes for teaching, play grounds, auditorium, availability of part time teachers, who can teach extra curricular activities etc.,
- ⇒ Due to some of the above said reasons the success rate is high in private schools than government run schools. We have government schools with no basic amenities, villages without government schools, inadequate teachers no transport facility, etc.
- ⇒ From among all Matriculation schools 62,588 students wrote the Xth Exams in 1999. In 2000, the number had risen to 70,858 and 76,960 in 2001. Out of this 92% have passed the exams. Even in these schools 8% of students have failed.

● ***Droup-Out Rate in Schools***

In the year 2000 – 2001 while 40-46 lakh children enrolled at the primary schools, the enrollment in middle, high school and higher secondary schools remained at 13.94 lakhs, 1.40 lakhs, 1.29 lakhs respectively. While dropout rate in 1999–2000 was 14.41 at the primary level it increased to 35.43, 57.92 and 82.27 in Middle,

High School and Higher Secondary level respectively. Again in 2000-2001 there was no improvement. It remained at 14.40 at primary level and 35.59, 57.89 and 82.30 at middle, high school and higher secondary levels respectively.

This data reveals that the Government of Tamil Nadu and the Department of Education has taken no special effort to stop the increasing dropout rates in the primary, middle, high school and higher secondary level despite Constitution obligations and the Supreme Court Order in J.P. Unnikrishnan vs State have been violated.

### **3. Making Education a Fundamental Right: The 93<sup>rd</sup> Constitutional Amendment Bill**

93<sup>rd</sup> Amendment Bill passed by the Parliament is not in the best interests of children and inadequate and defeats the rights gained by the child rights movement through the Supreme Court Judgements in JP Unnikrishnan vs State of Andhra Pradesh. This court made law guaranteed right to education for all children upto 14 years (including children 0-6 years for early childhood care, services and joyful learning). The 93<sup>rd</sup> Amendment reduces this right of children for free and compulsory education to only those in the age group of 6-14 years.

The United Nations Convention on the Rights of the Child, which India has ratified defines a child as a person below the age of 18 years. Further, in several countries the period of compulsory school education has led to the revision of the school going age from a mere 8 years to 10 to 13 years and in some countries upto 18 years taking cognisance of the fact that in today's technologically and scientifically advanced era 10 years of general education is very necessary for a adolescent to choose between different opportunities and take decisions that would provide better economic opportunities. Considering these developments the 93<sup>rd</sup> Constitutional Amendment Bill falls short of even ensuring 10 years of school education. 10 years of school education would provide opportunity for the child coming from the families of first generation learners a "certificate" that would serve like a passport to pursue necessary vocational training or higher education.

We believe that the historical 93<sup>rd</sup> Constitution Amendment Bill should set legal standards which would guarantee each and every child irrespective of his / her socio-economic, cultural background and geographical, demographically positioning the opportunity to successfully complete atleast 10 years of schooling. The ultimate goal of this 93<sup>rd</sup> Constitution Amendment should be liberating millions of children from child labour and guaranteeing the conditions to ensure all children a childhood to cherish which is a long overdue in Independent India.

- ***Why the 93<sup>rd</sup> Amendment Passed by Parliament does not Guarantee Right to Education. It continues the same discriminatory and inequitable education system that will not eradicate child labour.***

- ⇒ It only guarantees compulsory education – compulsion is on poor parents, first generation parents to send their children to school or face penalties.
- ⇒ While right to education is guaranteed, right to schooling has not been ensured for it is left to the State to choose the manner in which education is imparted. Hence, the poor and socially deprived sections may just be provided casual education in the form of non-formal education, open school, etc. Right to Education even for the poorest must mean right to formal schooling.
- ⇒ It is totally silent on quality education. Unless we have a right to free, equitable, quality education compulsory education by itself will only continue the caste / class divides and perpetrates rich education for the rich and poor education for the poor.

- ⇒ Further the 93<sup>rd</sup> has no specific provision that include private schools. The 83<sup>rd</sup> Amendment excluded private schools. However this claim is fallacious as no school is really private. Governments have recognised private schools as instruments of state including giving orders for infrastructure provisions. All Private schools are publicly subsidised. Teachers training are subsidised, land is subsidised – they are tax exempt, donations are exempt. Hence, all schools, government aided or private must come within the ambit of the 93<sup>rd</sup> Constitutional Amendment. Only this will allow the poorest child to meaningfully have access to quality education to free of cost.
- ⇒ It is silent on the right of children to early childhood care, services and joyful learning that the State is responsible for.
- ⇒ It does not have a separate provision to ensure that all employers are prohibited from employing children in any form of employment upto 18 years of age. Employers violating this law should be fined atleast Rs.1 lakh together with a two year of term of sentence.
- ⇒ Instead of placing the onus of responsibility on educational officials to ensure these rights the 93<sup>rd</sup> Amendment places the responsibility on parents with a punishment clause for non-compliance.

Even after 54 years of Independence we have 50% to 60% of children in the school going age not in schools not because of parental unwillingness to enroll and send their children to schools but mainly because the officials of the school education department and teachers have miserably failed to discharge their duties in ensuring quality education. The 93<sup>rd</sup> Amendment does not take cognisance of this vital fact but instead shifts its focus on parental duties as if parents are the ones (specifically the marginalised) who deny the education for their own children. All parents are primarily concerned about their children gaining free, quality education as a means to a future.

- ⇒ It does not specify the time period by when it will come into force.
- ⇒ It allows the State Government the discretion to implement this law without setting any standards for free, quality, equitable, education for all children including early childhood care, services and joyful learning.
- ⇒ Specially challenged children (children with disabilities) who constitute 10% of the total child population in the country – receive no specific commitment or no enabling clause through the 93<sup>rd</sup> Amendment.

● ***The Constitution (Ninety-Third) Amendment Act, 2002 An Act - Further to Amend the Constitution of India***

Be it enacted by Parliament in the fifty second year of the Republic of India as follows:

1. (1) *This Act may be called the Constitution (Ninety-third Amendment) Act 2001.*

- (2) It shall come into force on such date as the Central Government may by notification in the official Gazette appoint.
2. After Article 21 of the Constitution the following article shall be inserted namely:
- “21 A. The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State, by law, determine”.
3. For Article 45 of the Constitution the following shall be substituted: “45. The State shall endeavor to provide early childhood care and education for all children till they complete the age of six years”.
4. In the Article 51 A of the Constitution, after clause (j) the following clause shall be added namely:
- (k) who is a parent or guardian to provide opportunities for education to his child or as the case may be, ward between the age of six to fourteen years”.

● ***The Alternative Constitution 93<sup>rd</sup> Amendment Bill Proposed by the Campaign Against Child Labour - (CACL):***

- I. This act shall come into force with immediate effect from the date of President's Assent, and the Central Government shall so notify immediately;
- II. Article 21 A (Constitutional Amendment)
- (1) The State shall ensure provision of free, equitable, and quality education in state recognised formal school system for all children until they complete the age of 18 years, including early childhood care, education and related services;
  - (2) For ensuring provision as in 21(A) (1), it shall be a compulsion on the State, and shall be applicable to state run, aided and unaided educational institutions;
  - (3) The State shall, upon coming into force of this amendment, allocate all resources that are necessary to achieve this right from the consolidated fund of the Union and the States;
  - (4) In fulfillment of this right, the State shall provide the manner in which children from the scheduled castes & scheduled tribes and children with special needs and disabilities are enabled to exercise and enjoy this right;
  - (5) All employers are prohibited from employment of children below 18 years, violation shall mean a fine of Rs. 1 lakh together with a 2 year term of sentence.
  - (6) The State shall assign accountability to designated officers for guaranteeing this right.

#### **4. Reforms in School System**

1. There is a direct link between dropout of children and child labour. Children do not just dropout. All children believe in the need for rich education. Some children are pulled out by their parents to work due to poverty. They are also pushed out of schools owing to poor quality of education. As a first step the recommendations of the High Powered Committee on Reducing the Burden of Children appointed by

the Government of Tamil Nadu and the Prof.Yashpal Committee Report must be implemented.

2. No child should be made to work in any capacity till the completion of 18 years. For this, total enrollment, retention and zero drop out from schools upto Std XII must be achieved. A meaningful and skill oriented syllabus needs to be framed for all children (rich and poor) alike until they reach standard X.
3. There should be only a single system of education under Tamil Nadu State Board from Std. I to X, similar to the plus 2 system. CBSE Board, Matriculation Board, Anglo - Indian Board should be abolished. All Kendriya Vidyalaya's and Navodaya Schools should also be brought within the Tamil Nadu State Board.
4. Caste, class and gender discrimination throughout the school system should be stopped. Positive affirmation (or reservation) in school education for SC/ ST / BC must be strengthened.
5. The language of learning, instruction in all schools must be in Tamil upto Std.VIII atleast.
6. Enrollment and retention of girl children should be of highest priority - special campaigns need to be implemented for this purpose. Steps need to be taken to halt the rapidly declining child sex ratio caused due to Infanticide and feticide.
7. All actions of neglect, discrimination, abuse and violence in any form on children by teachers / management or instigated by them should be completely prohibited with stringent punishment for violation.
8. The state must fund all education atleast upto STD XII. All private schools should be prohibited from collection of donations or fees. Government can collect an education tax on families whose incomes are above a particular level. By implication we are saying that every child rich or poor in the neighbourhood of the school must have access and a right to any government or private school.
9. The system of examination must be replaced by a more scientific system of evaluation that is not discriminatory which has concept based questioning, group discussions and project work related to social life. This system should be integrated even in the std X and XII. Board exams.
10. Permitting mushroom growth of private schools and thus promoting a dual system of education should be stopped. Similarly allowing teachers' training institutions to the private sector should be abolished.
11. All teachers in Private or Government Schools, including schools run by local bodies should not be permitted to conduct or take tuitions. All private tuition centres that hire teachers should be prohibited.
12. Atleast 8% of GNP should be allocated to education—50% of this should be allocated for school education. The Tamil Nadu State Plan share for Education should be atleast 8%; 60% of this should be for school education.

## **5. The Tamil Nadu Compulsory Elementary Education Act, 1994.**

In the 1960s, most states fashioned their own laws on the model of The Delhi Education Act, 1960. Today 14 states and four Union Territories have laws on compulsory primary education. As in the content of most of our laws, the colonial

hangover is perceptible. The provisions of the Acts are similar to the provincial laws enacted during the British period. Some statutes such as the Karnataka Education Act, 1983 and the Tamil Nadu Elementary Education Act, 1994, repealed their earlier laws but little changed in the actual provisions of the new enactment's.

Age and years of compulsory education differ from state to state. In certain statutes, only the age is specified, while in others the years of compulsory schooling alone are specified; in yet others both are specified. The relevant provisions of some state laws are furnished in the table given alongside.

The age of compulsory schooling begins at six; pre-school education is not even touched upon. Various research studies have shown that if a child has received pre-primary education, the chance of her/him dropping out at the initial stage is substantially reduced and the likelihood of completing education is improved. On the other hand, the laws assume that children are prepared to receive formal education and come from families conversant with education patterns. However, non-enrollment in school is most severe among first generation learners who do not have access to pre-school education. In fact, the induction of children in so-called 'tradition-based skill occupations' occurs when the child is in the pre-school age group. By overlooking pre-primary education the law has ignored a crucial factor leading to stagnation in primary schools.

The age limit for compulsory education is not uniform across state legislations. Although Article 45 of the Constitution includes children upto 14 years of age, these standards are diluted in some states. These standards also dilute the Supreme Court directive in J.P. Unnikrishnan vs State of Andhra Pradesh which guarantee a fundamental right to education for all children 0 to 14 years.

The age limit up to which education is compulsory does not coincide with the years of schooling specified. For example, in Karnataka, although the age of compulsory schooling is upto 14 years the number of years of compulsory schooling is only four. On an average, a child enters standard I by six years of age and completes standard IV by the age of nine. Even if the years from nine to 14 were included to account for stagnation and the late entry of children to school, this does not foresee continued compulsory education for children after they complete nine years of age.

The Tamil Nadu Compulsory Elementary Education Act, 1994 (Tamil Nadu Act 33 of 1995) and its rules provides compulsory elementary education only upto Std V for every child of school age or until the child attains the age of 14. According to Section 5 (1) of the said Act, attendance at an elementary school for a child of school age shall not be compulsory if there is no elementary school within such distance, as may be notified by the Government, from the residence of such child. When the bill relating to the said Act was reserved by the Governor for the consideration of the President and forwarded to the Government of India for obtaining the assent of the President thereto, the Government of India suggested that the said sub-section (1) of section 5 of the said Act should be omitted so that it is mandatory for the State Government to provide schools within one kilometre radius of every habitation. This Act also provides for penalty against parents for not sending their children to school. Thereafter the Government of Tamil Nadu carried out this amendment.

Despite this enactment being a step forward in the cause of education for all children it suffers from very serious inadequacies. Due to this, child rights and human rights organisations teachers associations and womens organisation have been demanding

for amendments to this law to guarantee. Entitlements for children for completing organisation school education upto Std XII.

- ***Some Amendments to the Tamil Nadu Compulsory Education Act (1994) which are urgently necessary:***

- a) The Tamil Nadu Compulsory Elementary Education Act must be amended to read as Tamil Nadu Compulsory, Free, Quality, Equitable School Education Act for all children upto 18 years.

he Act must be amended to provide Compulsory, Quality, Equitable, Free Education upto Std XII rather than the present Std. V.

ree, quality / equitable education as a right is to be incorporated and operationalised in this law and its rules.

distinct provision is required to guarantee, free quality, equitable early child hood care, services and joyful learning.

he provision relating to obligation and consequent punishment of parents for not sending their children to school must be deleted. Parents must continuously be motivated and government should provide incentives for parents to send their children to school.

new section needs to be introduced to prohibit employers, engaging children upto 18 years and a provision for consequent punishment for them to be inserted in this law.

new section should be added for enforcement of obligations for the education department officials to ensure free, quality equitable education. A compulsion clause (obligatory duties) should be cast on these officials and consequent failure must have stringent punishment.

o ensure quality education a new chapter in this Act on standards of quality education to be enforced should be incorporated. This cannot be negotiable.

he panchayats / municipalities should be empowered to manage monitor and promote educational institutions under this law. By implication, funds and government staff of the Department of Education, Social Welfare, ICDS Programme and Noon Meals Scheme, etc. should be transferred to local bodies.

ule (4) and (5) of G.O.M.S. No. 241 under the Tamil Nadu Compulsory Elementary Education Act regarding school age, (which now reads as elementary education means upto class V or 14 years of age) must be suitably amended to mean education as upto Std. XII and 18 years of age and above.

## **6. The Tamil Nadu Education Rules**

***One of the major obstacle to the enforcement of quality, free, equitable education is the Tamil Nadu Education Rules, many of which are***

***archaic and against the rights and best interests of children. These include for instance:***

**Rule 17: *Proportion of teachers to pupils:***

“There should be a teacher for every Standard and for every section of a Standard in addition to the Headmaster (exclusive of Pandits, Munshis, Writing Masters, Drawing Masters, Physical Training Instructors and Sewing Mistress):”

***Amendment:***

“Provided that the work allotted to each such class teacher does not fall considerably short of a minimum of 17 hours work per week. The District Educational Officers and the Inspectresses of Girls’ Schools shall relax this rule and condone the deficiency in the minimum hours of work per week, viz., 17 hours prescribed for class teacher, after examining the merits of each case. It will also be open to the Director to permit a reduction in the number of class teachers on an examination of each case on its own merits, when the hours of work per class teacher fall short of the prescribed minimum by more than two hours”. (G.O.Ms.No.880, Education, dated 11<sup>th</sup> May 1976).

In schools containing no class above the Eight Standard, however, the Headmaster shall be treated for the purposes of this rule as one of the Class Masters, but if the strength of the school justifies it, the management may employ a clerk or one extra teacher who shall be of the secondary Grade in consultation with the District Educational Officer.

**Rule 18:**

“No additional pupil shall, without the sanction of the District Educational Officer, be admitted to a class when there are already 40 pupils upon the rolls in the class unless class is thereupon divided into sections. No section of class should have more than 40 pupils upon the rolls.”

“The powers regarding sanction of excess admissions in secondary schools have been delegated to the District Educational Officer in the case of Boy’s High Schools and Inspectresses of Girls’ Schools in the case of girl’s schools. (Government Memo No. 121178/E3/65-2, Education, dated 7<sup>th</sup> March 1996).”

***The reality is that there are still hundreds of primary schools that are single teacher or two teacher schools. In several schools this has now increased to 50 students per classroom which was earlier 40 students. In several schools, classes with 100 and more students have not been bifurcated till date.***

**Rule 27 (a) : *Contagious and Infectious Diseases:***

“No pupil shall be permitted to attend school who is found to be suffering from venereal disease or leprosy in contagious form or from small-pox or from any other serious contagious or infectious disease”.

***Leprosy is no more contagious—small pox is curable. Venereal diseases even if it exists among a couple of students among school students, are medically treatable and cannot be used as a stigma. This rule is absurd and against children’s rights and must be deleted.”***

**Rule 33 : *Admission and withdrawal of pupils :***

***“Application for admission and T.C. to be signed by father only, if alive or by guardian authorised by father. Mother has no right on her own. This provision***

***has affected good number of students from broken homes or in cases where desertion by the husband has left the children in a miserable situation. Children are put to endless harassment and humiliation in the presence of all in the school. Recently the Supreme Court has directed that the mother is as good a guardian as the father. Hence this rule becomes obsolete. This rule is against interests of girls."***

***Further Rule 33 states the following:***

"Boys above 12 years of age shall not be admitted into girl's schools. Boys who are reading in girls schools shall be required to withdraw from those schools on their reaching the age of 12 or at the end of the school-year immediately following their twelfth birthday at the opinion of the parents or guardian. But in no case shall boys be permitted to study in the upper standards of any girl's school."

"Girls may be admitted into boy's schools in areas and in town where there are no girl's schools. But the management shall first make adequate arrangements for the necessary conveniences and wherever there is an appreciable enrolment of girls, the management shall appoint where possible women teachers. In areas and towns where there are girls' high schools with sufficient facilities, it shall be open to the management's in consultation with the District Educational Officer and the Inspectress of Girls' Schools to restrict admission of girls into boys' schools with a view to—"

- (i) avoid rivalry between the two sets of institutions.
- (ii) avoid co-education in the high school stages, i.e., from Standards IX to X.
- (iii) prevent as far as possible the admission of grown – up girls in boys' schools; and
- (iv) secure the girls, the fullest advantage to be derived from their being educated in schools with special facilities for physical education and extramural activities.

**Rule 41:**

"When a proper application for a transfer certificate is received at the end of a term, or in the interval between two terms, or in first five working days of a term, the headmaster shall forthwith issue the certificate, provided that his claims for special fees admissible under rule 38 have been satisfied".

**Rule 42:**

"When proper application is received at any other time and when good and sufficient reasons are shown, the headmaster shall issue the certificate provided that his claims for fees admissible under rule 38 have been satisfied. If good and sufficient reasons are not shown, the headmaster may refuse to grant the transfer certificate."

***Transfer Certificate Issuance time frame curtails right to get T.C. whenever a student wants. Also whenever a student wants to get a T.C. he should be able to do so as a right.***

**Rule 45:**

"When a pupil is dismissed or expelled under rules 48 and 49, the headmaster shall not grant transfer certificate until the expiration of the period for which the Director has debarred the pupil from admission into a recognised school. After that period has expired the transfer certificate shall be granted subject to the above rules; but in such cases the headmaster shall endorse it with the words "dismissed for false representation" or "expelled for misconduct" as the case may be."

***Endorsement in Transfer Certificate will affect the life of a student permanently. T.C. is issued with the endorsement period of suspension or punishment. This amounts to double punishment.***

**Rule 48:**

“If a pupil is found to have obtained admission by means of false certificate or false representation of any kind, the headmaster of the school shall summarily dismiss the pupil with forfeiture of whatever fees the pupil may have paid.”

**Rule 49:**

“In the event of a pupil dismissed under rule 48, or being formally expelled on account of grave misconduct the headmaster shall record his reason for his dismissal or expulsion and report the fact at once to the parent or guardian of the pupil and, within seven days, to the District Educational officer in the case of boy’s schools and Inspectress of Girls Schools in the case of girl’s schools. A pupil thus dismissed or expelled from one school shall not be admitted into any recognised school within a period to be determined by the Chief Educational Officer if the pupil is in a secondary school for boys and by the Director of School Education if the pupil is in a secondary school for girls on the recommendation of the Inspecting Officer concerned.”

***This rule states that there is no admission for a student expelled from one school seeking admission into another. This means that it will leave several students out of school and push them into the employment market especially the worst forms of child labour including being trafficked as bonded labourers. Personal prejudices of a teacher or H.M. can lead to an expulsion (these details for expulsion are also stated in the T.C) consequently, a life-long denial of education for a student. No time limit prescribed for a period of expulsion.***

**Rule 50: Discipline**

The rules of discipline shall include the following:

- (a) Every pupil shall wear a clean and respectable dress.,
- (b) No pupil shall be allowed to sit in the class with his shoes on, unless they are shoes of an English pattern and unless socks are worn also.
- (c) Every pupil shall salute the teachers on the occasion of his first meeting them for the day within the school premises.
- (d) On the teacher entering his class – room the pupils shall rise and remain standing till they are desired to sit or till the teacher takes his seat.
- (e) No pupil shall be allowed to leave the classroom without the permission of his teacher, or until the class is dismissed.

***Conduct and disciplinary rules are in violation of several laws and represent colonial legacy.***

**Rule 51: Punishments**

“Corporal punishment shall not be inflicted in school except in a case of moral delinquency such as deliberate lying, obscenity of word or act or flagrant insubordination and then it shall be limited to six cuts on the hand and be administered only by or under the supervision of the headmaster. Corporal punishment should never be inflicted in any recognised school on boys of Standard X. The headmaster shall record in a register (Appendix 16) every case in which corporal punishment has been inflicted, specifying the name, class and age of pupil, the date, the nature of the offence and the amount of punishment. Gross cases of immorality

and insubordination shall be punished by expulsion subject to the conditions specified in rule 49.”

***Corporal punishment is in violation of the Constitution and the UNCRC and must be totally prohibited with disciplinary action against teachers/ headmasters indulging in corporal punishment as it amounts to torture.***

**Rule 64: Teacher’s Certificates - Schools for defective children:**

“The Headmaster should ordinarily hold trained Teacher’s Certificate of the Collegiate or the Secondary Grade and also the Government certificate of competency to teach defective children and the assistant teachers teaching ordinary subjects the trained teachers’ certificate of the higher elementary grade and the certificates of competency in question. The qualifications for teachers of special subjects will be the same as those prescribed for corresponding teachers in secondary schools (Vide rule 13) “

It will be open to the Director of School Education to relax the qualification in suitable cases.

***The term defective children is discriminatory and must be amended to read as children’s with disabilities or children physically and mentally challenged. The qualification for teachers or headmasters must include special training and skills acquired for interacting and promoting growth and learning for these children. This rule must be accordingly amended.***

## **Disciplinary Regulations:**

### **Rule 93:**

“No student, who has been convicted in a Court of Law for disloyal activities or who has been detained under the Defence of India Rules or the Restriction and Detention Ordinance, 1944, shall be admitted or re-admitted into a school without the previous sanction of the Director of School Education.”

### **Rule 94:**

“Students of schools and colleges should abstain from active participation in party or communal politics.”

### **Rule 95:**

“Headmasters, principals, or other constituted school, college or hostel authorities may frame and issue from time to time disciplinary rules of a permanent or temporary character regulating the conduct within the school, college or hostel precincts of students on the rolls.”

### **Rule 96:**

“Headmasters, Principals, or other constituted school, college or hostel authorities may frame and issue from time to time disciplinary rules or a permanent or temporary character regulating the conduct outside the school or college or hostel precincts of students on the rolls so far as such rules seem necessary to maintain the credit, usefulness and reputation of the school college or hostel.”

### **Rule 97:**

“Headmasters, principals or other constituted school, college or hostel authorities shall have full power to inflict the following punishments in the interest of the students or the institutions concerned:- Fines, loss of attendance, loss of term certificates, suspension and expulsion.”

## **7. Some Important Policy Decisions and Programmes of the Government of Tamil Nadu**

- ***Sarva Shiksha Abiyan (SSA) - Rs. 2937, Crore Package for Primary Education***

The State Government has formulated a Rs.2,937 crore scheme to provide primary education to all children in the next 10 years. The scheme aims at enrolling all children, who have attained the minimum eligible age, in schools by 2003. It also aims at ensuring their continuation in schools till 2010, such that they study at least till Class Eight. The government will start 452 primary schools and 197 middle schools with all basic amenities under this scheme and 1101 secondary grade teachers and 3060 graduate teachers will be appointed. For the current financial year, the government has sanctioned Rs.80 crore. The outlay will be hiked to Rs.299.53 crore for the next financial year.

About 61 per cent of the fund earmarked for the scheme will be spent to training programmes for teachers, to enhance their capabilities. Such training centres will be set up in 35 panchayat union headquarters at a cost of Rs.7 lakh each. New buildings will be constructed for 110 schools. Additional buildings will be constructed for 491 schools and toilets will be provided in 2510 schools.

The government will provide Rs.1200 each to 40,000 handicapped children to buy equipments for their studies. Teachers will be provided Rs.500 each for buying teaching aids. The scheme also envisages providing training to parents in the 29,000 schools, to create an awareness. Eight parents from each school will be given a two-day training for Rs.2 crore.

During the ninth Five-Year Plan, the Centre will bear 85 per cent of the expenditure and during the tenth Five-Year Plan the Centre will bear 75 per cent of the expenditure. Later, both the Centre and State Governments will share it equally.

The Central Government directed the Tamil Nadu Government to implement this SSA scheme in 22 districts from this academic year onwards. The important objectives of SSA are the following:

1. Enrollment of all school age children before 2003
2. The enrolled children should complete 5 years of schooling by the year 2007.
3. The children of 11 to 14 years, should complete 8 years of schooling by the year 2010.
4. To give quality education.

The central government allotted 3.18 crores to prepare the Elementary Education plan proposal. A committee consisting of 20 members is formed in each district to prepare the SSA plan proposal. The committee is headed by the Principals of DIET's, respective District Elementary Educational Officer's as Secretary, along with other members.

The expenditure of SSA Scheme will be shared by the central government and state government in the ratio of 85:15 during the 9<sup>th</sup> five-year plan period, 75:25 during the 10<sup>th</sup> five-year plan period, 50:50 in the remaining period. In the total amount allotted to SSA scheme, 61% amount is allotted for training to teachers and students 33% is allotted to fulfill the basic infrastructure needs of the schools like building, toilet, drinking water, etc.) Remaining 5% is allotted for administrative expenditure.

Fax machines are provided to 22 District Elementary Education Officer for better and faster communication. To store and consolidate information, statistics & details, computer machines are provided to eleven (11) District Elementary Educational Officer's officer. Permission solicited from government to set Xerox machines for the 22 districts. 'District Plan' for the period of 10 years from 22 districts is prepared.

### ● ***District Primary Education Programme***

Many programme are implemented in Tamil Nadu with the objective of imparting quality primary education. District Primary Education Programme – DPEP – is one such programme implemented in selected districts to achieve the goal of universal primary education for All. The DPEP is functioning in 7 districts, out of 29 districts in Tamil Nadu. The SSA scheme will be introduced in the remaining 22 districts as a peoples movement.

To provide access to schooling in the schoolless habitations, schools have been opened in seven DPEP districts. During the years 1998 – 1999 to 2000 – 2001,

406 schools have been opened with one teacher each in the first year and another Headmaster in the second year. The expenditure on the appointment of teachers and Headmasters in these newly opened schools is met by DPEP. During the year 2001 – 2002 another 70 habitations have been identified for opening of new schools and schools have to be opened with one teacher for every school.

The average dropout rate which was 17.39% in the quinquennium beginning 194-95 has markedly come down to 13.13% in the next overlapping quinquennium beginning 1995-96. The Completion Rate of 58.47% has markedly increased by 3.85% during the period cited. The Repetition Rate in a consistent manner has decreased to 24.20% from 27.88% during the same reference period.

The average achievement cohort is more than 40% in all the subjects except English in the districts of Dharmapuri, Pudukkottai, Perambalur and Ramanathapuram. SC / ST girls – To enhance the achievement levels of SC / ST girls special coaching classes are conducted in schools having a strength of more than 15 girls in Stds., III, IV & V put together.

In 2245 centres as many as 51851 pupils are benefiting from the intervention. Out of school, migrant and working children–House hold survey has been completed in all the seven DPEP districts and efforts are being taken to enroll these children either in formal schools or ALS centers. On an experimental basis, bridge courses short term camps and residential EGS centres will be organized at the rate of one per each district under each intervention.

*To improve the infrastructure facilities of the schools additional classrooms are constructed in the needy schools. In the Phase I Districts all the 913 civil works planned have been completed. All the nine civil works undertaken with the community participation have been completed.*

In the Phase II Districts out of 441 civil works planned 437 works have been completed. One building for DTERT and additional buildings for two DIETs was planned. The additional civil work allotted for the DIET at Pudukkottai has been completed. With Rs. 50 lakhs allotted for innovative methods of construction following cost effective technology in seven DPEP Districts 16 works have been planned. Out of 40 classroom buildings planned with community involvement, 38 works have been completed. Out of 1547 Drinking Water facilities planned for Phase I districts, 1222 have been completed and 325 are under progress. Likewise in Phase I DPEP districts out of 1479 Toilet Facilities planned, 1193 have been completed and 286 are in progress.

With the enhanced grants available for civil works, 423 works have been planned for Phase I and 89 works for Phase II. Out of this 61 works in Phase I and 10 works in Phase II will be constructed by the community. 189 works have been completed so far. A sum of Rs. 2365 lakhs in Phase I and Rs. 806 lakhs for Phase II is available for civil works for the year 2001 – 2002.

- ***Compulsory (Common) Public Examination with Uniform Question Paper from Std V to IX***

By Deciding to conduct common examinations for over 42 lakh students who go to Tamil Nadu's Government and aided schools between classes V and IX, the policy – makers have sought to correct malaises such as low pass percentages and failing educational standards. In doing so, the Government could well be scripting

a wrong answer to the serious questions that confront the State's education system. The crux of the problem lies in the inability of the present teaching methods to shape the growing child's mind by utilising its natural instinct for curiosity. Rather than correct the deeper malaise, the present move could result in an avoidable phobia over examinations that will ill – prepare the young mind to face up to the larger challenges that will lie ahead in life. It is also indicative of a throwback to an era where passing examinations by memorising, rather than understanding, was the sole measure of success in schooling. This will also mark a move away from the present trend of adopting innovative methods that aim at tapping the child's inherent talents and thereby sharpening the mind to develop a more rounded and balanced personality. Rather than correct the approach of the instructors, the new system will place an added burden on the already – strained child.

The resultant examination-phobia is likely to cause long-term damage, especially to slow-learners. This could also serve as an aggravation of the existing craze for private tuition's, thereby linking the child to a form of external crutch. The shadow of Macaulay has for long loomed over India's approach towards education, which was primarily aimed at ensuring success at competitive public examinations later in life for a secure Government job. Now that the employment landscape is likely to go through a change in the years ahead, the value – addition to school education should have come in adapting the system to enable the child to perform better in a system that will lay emphasis on individual industry rather than learning by rote.

In a way, the section of schools selected for this mode of common examination is also reflective of the inequities that prevail between state and private education streams. Rather than narrow the inequities in terms of libraries, audio-video teaching – aids, playgrounds and modern facilities that further open up the growing mind, the system of common examinations could result in a reinforcement of the status quo. The way out of the present malaise will have to include an evaluation of the system in place and an appraisal of the methods of instruction. There is also an urgent need to provide teachers with better facilities that will enable them to upgrade their professional attributes on a continual basis. While there is no ignoring the problems that the Tamil Nadu Government hopes to correct through the introduction of common examinations, the answer lies not in marking an accentuation of the present negative features, but in correcting the fundamentals.

The Campaign Against Child Labour (CACL-T.N.) condemned the Governments decisions in this regard for the following reasons:

1. Examinations without ensuring quality education and joyful learning would discourage children from attending schools – will push them out and would aggravate the child labour problem in State which shows no sign of decreasing.
2. Rote – learning and memorising would kill the child's abundant creative potential, as the time for child's play and leisure activities will be severely curtailed.
3. Marks given after an examination will only lead to labeling a child as a achiever or failure and does not communicate anything for the child to improve or correct his / her mistakes in studies.
4. Examination is not the only indicator of educational standards. It is just one of the many tools.
5. Examination is not an end in itself. It has a dual purpose.

- a) to enable the student to know his / her strengths and weaknesses and take necessary action.
  - b) to enable the teacher to assess his/her effectiveness and take remedial action.
6. Several Commissions – Secondary Education Commission (Dr. A.L. Mudaliar), Kothari Commission, Yashpal Committee and National Policy on Education 1962, 1986, 1992 have all stressed the need for continuous assessment of the student right through the year and have said that a student should not be judged by one single examination at the end of the year.
  7. Oral and written tests, compositions, practical or project work, periodical test, etc., form part of continuous assessment. With regard to languages, the reading, speaking and listening skills are as important if not more, as writing skills. Mental sums, quiz, etc., help the student to develop agility and accuracy.
  8. Over emphasis of exams will lead to a coaching system with the educational goal of overall development of intellectual, physical, social and cultural aspects thrown overboard.
  9. To produce results, teachers will concentrate on just 40 – 50% of topics. Classroom teaching will become exam oriented and not child friendly.
  10. Cramming will be promoted. Students with less memory power will be handicapped.
  11. Tuition mongering will increase by leaps and bounds in the earlier classes. Students from deprived homes will have to depend on classroom teaching alone.
  12. The blossoming period of a child differs from child to child. Late bloomers will be shunted out of the system as non-performers. There are any number of cases where children of less than average performance in their early career have become outstanding students when they grow up.
  13. Retention, not detention, shall be the policy. Sarva Siksha Abiyan has laid out that children complete 8 years of education in 8 years. Detention will lead to drop outs / push outs. The human and material inputs into the system are inadequate and uneven. For system failure children should not be punished.
  14. The annual examination should help to identify system deficiencies and should not be the only criterion for judging a student for promotion.
  15. It is the function of the Inspectorate to maintain standards and take such action as is necessary.
  16. Even now common examinations periodical as well as annual are conducted at district level or in cluster of schools.
  17. The DIET'S should make in-depth studies of low performers and suggest measures to improve performance.
  18. WHATS REQUIRED IS A WHOLISTIC APPROACH TO EVALUATION NOT PIECEMEAL RANDOM SOLUTIONS.

Under fire from academics, the State Government beat a hasty retreat from its controversial move to conduct common public examinations from Standard V to IX and XI in all government and aided schools from this academic year.

The Government said it would improve infrastructure in schools and prepare students and parents throughout next year, and then 'consider' implementing the examination scheme from 2003-2004, an official release said here. Since, the Centre had released Rs. 80 crores under the Sarvasiksha Abiyan scheme hence, the Government decided to put off the common examination plans till the vacancies of teaching staff were filled up and infrastructure in all schools upgraded.

The Government statement said that as many as 2.5 lakhs of the total 12 lakh students who sit for the public examinations is standard X and Plus Two fail and in the rural areas, 50 per cent of those who pass, score only average marks. Mainly because a major portion of syllabi is left uncovered from class V to IX, in the absence of pressure on the teachers to prepare the students for examinations, say officials.

The All India Primary School Teachers Federation (AIPSTF), in a release today flayed the government's policy of holding common entrance examination from Std V onwards when there was nothing common among the schools in terms of educational facilities and syllabus. The current system gave the teachers the liberty to set the question papers in accordance with the prevailing circumstances and this helped many a student to pass. They also pointed out that due to reasons like lack of infrastructure and proper training, the number of dropouts was increasing. The government should first frame a scheme to provide education to all children before taking such steps, the AIP – STF members felt.

- ***Plan to Merge Adi-Dravidar Schools with Regular Schools***

The State government has decided to integrate Adi Dravidar Welfare and Government Tribal Residential schools with the regular government schools. Highly placed sources said the government had already taken a policy decision in this regard and the modalities were being worked out. The government's initiative comes in view of the recommendation of the National Commission for Scheduled Castes and Scheduled Tribes to this effect in its report published in 1998.

Following the National Commission's report, the State Planning Commission held deliberations with officials from the State School Education and Adi Dravidar and Tribal Welfare Department and recommended to the State Government last year to integrate the special schools with the regular ones. The School Education Department had claimed that the standard of education could be improved and the Adi Dravidar and Tribal Welfare Department could concentrate on other issues once the integration was effected.

The Expert Committee on Education for Adi Dravidar and Tribal Welfare Department too has made a similar recommendation. One of the expert committee members, P. Radhakrishnan of Madras Institute of Development Studies said, "Integration in principles is welcome if it is carried out with care to avoid any stigma of untouchability. Right now, students from special schools find it difficult to mingle with others during higher studies even in metropolitan cities. The very concept of special schools dated back to the British colonial period. They started these schools when caste Hindus refused to accommodate Scheduled Caste and Scheduled Tribe students in regular schools. But since it is against the basic tenets of secularism, Kerala and several other states have closed them down." He added that such a practice was a blot on the society. "However, the government will have to ensure that Adi Dravidar and Tribal Children do not have to put up with discrimination after integration. As of now 70 per cent of the budget for the Adi Dravidar and Tribal Welfare Department is spent for education alone," he noted.

However, there are conflicting views within the government itself on the integration move. Those who oppose it say that after integration, all benefits enjoyed by SCs and STs would come to an end. As of now, the Adi Dravidar and Tribal Welfare Department are the only department, which follows the reservation policy in letter and spirit. No other department has implemented the reservation policy so well. The merger will abruptly stop all new appointments based on the reservation norms, they fear. Besides, the priority presently accorded for the upgradation accorded for the upgradation of special schools mostly functioning in areas thickly populated by SCs and STs might go, after the integration, he feared.

### ***SC/ST teachers against merger of special schools***

Adi Dravidar and Tribal Welfare Teachers and Wardens Association Joint Action Council (ATWA-JAC) feel that this move would harm both the students and teachers of the scheduled communities.

The association presidents setting aside their personal differences have joined hands to fight against the merger. They told media persons here that there were about 3.25 lakh students, about 80 per cent of them belonging to scheduled communities, going to classes from I to XII at about 1300 special schools in the districts.

The scheduled community students have the privilege of getting free uniforms and text books till Class Twelve in these schools. They also receive special guides for public examinations. They can continue to study till Plus 2 even if they fail many times in between and get the minimum qualification required for joining the police or the army. ATWAJAC believes that the merger will endanger the employment opportunities of the scheduled communities.

“Even if there is a government order that 18 per cent reservation should be given to scheduled class students, literally no government or aided schools follow this order,” says K.S. Anthonysamy, a President of ATWAJAC. So the SC students never get a chance to study in the first or second groups in normal schools that refuse to admit those who fail in SSLC, he adds. The fact that the state has not opened even a single school in Adi Dravidar colonies since independence is a pointer to the government’s attitude towards educating the scheduled castes, says K. Subramani, president, SC HSS Head Masters Association. The merger would also affect the students at the 245 schools with hostels, exclusively set up for tribals in their habitat.

“There are about 1,075 SC/ST hostels. Now, the government is contemplating letting voluntary organisations to run these hostels,” says A Chakrapani, President of the Tribal Schools. This was done on an experimental basis in about 25 SC hostels and it proved to be a total failure. So the state reverted back to the Adi Dravidar Department control.

The teachers would also be affected, the association leaders said. These special schools situated mostly in Adi Dravidar colonies have about 8,000 teachers belonging to the scheduled communities only. “We are dedicated about the upbringing of our children. But we can’t expect other community people to do the same,” says E.T. Sekhar, President of the SC/ ST PG Teachers Association. Other community people might also prefer not to work in the slums, he adds. Similarly, the cooks and watchmen numbering around 3,000, with the ability to read and

write Tamil as the only qualification would also lose their jobs. If the merger happens, the Adi Dravidar colonies would have to pay Rs. 1 lakh to start a high school and Rs. 2 lakh to begin a higher secondary school. That is not the case at present, the representatives said. They point out that the Kallar Recreation Schools and schools runs by Minorities have not been included in the merger move.

They plan to go on protest from January 28 with all teachers, students and parents and stage agitations in front of the respective district collectorates.

## **8. Illegal Actions by School Managements Preventing Students from Writing Std X Public Exam through the School**

Atleast over the last 5 years in Tamil Nadu a new trend especially in Private Matriculation Schools and State Government aided schools (State Board and Anglo India Board) has developed which is illegal and gross violation of children's rights. Many schools have now adopted a patently illegal practice. Just prior to the last date for filing the examination form from the school, students whom the school believe are potential failures are given their Transfer Certificate (T.C). Students and parents are compelled to accept the T.C. and apply for writing the examination through the open school system. This practice is violative of children's rights and supreme directives and must be stopped in all schools. The Department of Education is well aware of this practice and has taken no action, to our knowledge, till date.

## **9. Increasing Violence against Children in Schools**

Torture, sexual abuse and various forms of corporal punishment are being employed by the Management and Teachers in Schools in an increasing manner. In Tamil Nadu from evidence in the media news, approximately 100 children have been inflicted torture or are victims of sexual abuse in the last 2 years. The Peoples Public Hearing on all forms of Torture, Degrading Treatment and Sexual Abuse of Children in Tamil Nadu, listed three important cases with regard to this matter for deposition.

In the case of P. Jegadeesan (aged 16 years) of Karur district who was caned by his teacher made to kneel down in the corridor and walk four rounds on his knees led him to commit suicide by hanging the same day in his grand parents' house due to the shame that he had been put to. The second was the case of S. Mohan (aged 15 years) of Tiruvarur district, who was charged with stealing Rs.320/- taken into toilet and battered. Subsequently the watchman of the school and another poured kerosene on him and set him fire. Mohan died due to severe fire injuries after 22 days of treatment. The third is the case of C.Ramesh (aged 17 years) of Ariyalur district, a hostel student who witnessed the sexual activities of his warden with the school Head Master. He was found hanging in the class room with bruises on his face. Thus these three cases are ample evidence to the brutal corporal punishment the thousands of students undergo day in and day out in the various schools of Tamil Nadu largely unrecorded.

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**Enforcing the Fundamental Right to Education**  
***A Tripartite Consultation for Advocating Final Amendments***  
***to Tamil Nadu Compulsory Elementary Education Act (1994)***  
***and Rules (1997), The Tamil Nadu Education Rules and***  
***Related Government Orders and Schemes.***  
*6<sup>th</sup> September 2002, Chennai*

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## **A Discussion Paper**

*by Dr.S.S. Rajagopalan*

I am in general agreement with most of the contents contained in the working paper. I wish to make a few comments so as to enable the implementation of the Right to Education in word and spirit.

### **A. FOR IMMEDIATE ACTION**

The Compulsory Elementary Education Act 1994 / 1997 and the Rules framed thereunder should be withdrawn and a new Act should be brought about. Mere amendments will not do.

The existing Act is faulty, sketchy and lifeless for it does not reflect even slightly the aspirations and hopes of those involved in making Education a Fundamental Right. What should be part of the Act have been left to the whims and fancies of the Rule – making authority, eg. School age. It is also silent on several basic issues. It is weaker than the Elementary Education Act 1920, enacted during the British Regime.

***The components of the newly proposed Tamil Nadu Compulsory School Education Act should among others cover the following aspects:***

1. Definition: School age, types of schools, formal and non-formal schools, agencies, V.E.C, etc. (These are not defined in the present Act and the Rules have diluted the specifics eg. School age, upto V Std or 14 years.

2. Rules regarding Enrolment / Admission, working days, attendance, punishments (or prohibition of?) Teacher – Pupil Ratio, Qualifications of Teachers, infrastructural facilities, etc.
3. Attendance should be in formal schools and wherever not possible in non-formal schools. Exemption from attending schools should be only on health grounds.
4. Functions and Duties of the Departmental officer, Village Education Committees, Parent – Teacher Association.
5. Minimum standards of Education – Teacher orientation, Accountability of different agencies / stakeholders.
6. Tamil Nadu Education Rules (T.N.E.R.) to form part of the Rules under the Act.

## B. FOR SUBSEQUENT ACTION

The governance of education in Tamil Nadu is now based on the following:

1. ***Elementary Education Act, 1920*** as amended from time to time and the Rules framed thereunder. Though a comprehensive legislation, it has to be brought up-to-date, in tune with the changes like Education as a Fundamental Right, Governments responsibility to provide for it, financing of education.
2. ***Tamil Nadu Education Rules*** or specifically called Madras Educational Rules or M.E.R. for short, which is the bible for school management. This is also a British era product and has to be completely revamped. Since M.E.R covers all types of schools, its revision is of paramount importance. Since MER is non-statutory, most often courts refuse to take action for violation of rules.
3. ***Grant-in-Aid Code, which*** prescribes the minimum infra-structural standards, conditions for grants etc.
4. ***The Inspection Code*** which delineates the duties, responsibilities, functions of the inspecting officers and the modalities of inspection.
5. ***The Tamil Nadu Private Schools Regulation Act, 1975*** and the Rules framed thereunder. This applies only to Government aided schools and self-financing schools affiliated to SSLC Board. All other types of schools – mainly self-financing, primary and matriculation schools do not come under its purview.
6. ***Nursery and Primary Schools Regulations*** A loose, non-statutory provision with neither the eyes for inspection nor teeth to take action on defaulters.

7. **Matriculation School Regulations:** These concern only self –financing, English – Medium Matriculation Schools. There are lots of holes. There are more cases of violation than conformation to rules. A committee under the Chairmanship of Mr. S.V. Chittibabu has been constituted to make the regulations clear and practical.
8. **Compulsory Elementary Education Act 1994/97** The Consultation will be focussing on the loopholes in the Act.
9. **Parent, Teachers' Association Rules:-** These are non-statutory and have no regular role to play in making Education a Fundamental Right.
10. **G.O.'s and Proceedings of the Directorate:-** Over the last 50 years, a host of G.O's have been issued with regard to several aspects of schooling and school management. Similarly, a good number of proceedings have been issued from time to time by the Directorates of Public Instruction, School Education, Elementary Education et al, some in the form of clarifications of G.O's, but most in the form of instructions to schools for adoption. Some have become obsolete, some redundant, some mutually contradictory, some unnecessary. Since they are not codified, any issue taken up is dependent on the memory of the officer or in reality, the office superintendent. Sometimes, two different mutually contradictory orders are issued on the same issue.

## **C. COMPREHENSIVE EDUCATION ACT**

It is high time that the various Acts, Rules, Regulations, G.O.'s and proceedings are reviewed, updated and given a statutory backing. A Comprehensive Education Act on the lines of Kerala Education Act, encompassing all phases of Education from Pre-Primary to Higher Secondary classes and dealing with all issues related to Education and School Governance is what is needed to be enacted. The provisions in the aforesaid Acts, Regulations, etc., are to be analysed and revised and made part and parcel of the Act. The role of the community in school governance and quality education to all shall be well defined. The Act should also empower local bodies to raise funds for education through taxes, cess, bonds, etc. This will alone ensure proper functioning of the school system so that the dream of Right to Education is turned into a reality.

# **National Curriculum Framework for School Education**

## **A Critique**

- *Dr.S.S.Rajagopalan*

The present National Curriculum Framework has been prepared by N.C.E.R.T, an 'autonomous' Institution. This is the third National Curriculum, but it has raised a never-before-seen controversy. Though most of the contents remain unchanged, the few changes that have been made are looked with suspicion. The N.D.A. Government is neither National nor Democratic nor an alliance of like-minded persons, but a hotch-potch get-together of self-centered parties with their own personal agenda. The Minister for Human Resources Development is the Chairman of N.C.E.R.T. and is a virulent exponent of Hindutva ideology. Though a Professor of Physics, his outlook and his approach are totally unscientific, and imbedded in out-dated obscurantism. This makes most people look at the document with suspicion to trace out the hidden agenda of the curriculum.

The first National Curriculum was issued in 1975 and was based on the National Policy on Education, 1968 which itself was the consequence of the Kothari Commission Report. It laid stress on the need for modernity of outlook, study of sciences and mathematics and work experience. It spelt out a Ten-Year School Curriculum. The values to be promoted were listed as democracy, secularism and socialism. The post-emergency Janata Government made some changes with the objective of making education accessible to all (by reducing burden of syllabus and books) and socially useful productive work (SUPW) was an important component of the modified curriculum.

The Second National Curriculum was presented to the Nation in 1985. It was based on the National Policy on Education, 1986 which itself was a sequel to the debate on the document, 'The challenge of education' published in 1985. It spelt out a common core curriculum, minimum levels of learning, educational technology, environmental approach and value education. The emphasis was on secularism, unity of the nation and adherence to Fundamental Duties.

Why did not these two National Curriculums evoke much criticism! They were based on a basic document, prepared by educational experts and widely discussed throughout the nation. Teachers at all levels from all over the country and educationists were closely involved. CBSE approved them unanimously. National Policies on Education were drafted on the basis of the debates and were adopted by the Parliament. Therefore, they were truly 'National' in character and spirit, without giving much room for the personal whims and fancies of individuals or groups.

This procedure was not adopted this time. There is no basic document prepared objectively. There was no national debate. The Parliament has not been taken into confidence. Even the C.B.S.E. consisting of all State Ministers of Education and eminent personalities has not been convened for a discussion. It has therefore been more a document of the Hindutva Minister and his 'planted' minions in N.C.E.R.T. and other academic bodies. It is the totally politicised slant that has been responsible for all the doubts and apprehensions. The fears about the intentions of the Government have all the more sharpened because of the outright refusal of the Minister of H.R.D to place the document before the C.B.S.E. for its adoption and approval. While the Minister proclaims that it contains nothing more than what is contained in the earlier curriculum, the interpretation of their contents is biased. For example, the new definition for 'secularism' is the one propagated by the Hindutva Elements.

While I do not want to go into detail with the non-controversial parts of the document, I would like to confine myself to highlight some of the dangerous concepts contained therein.

In the name of patriotism and pride in our “hoary past” the document stresses on the development of an “indigenous curriculum”, India’s contribution to mathematics, sciences (which funnily includes astrology) etc. The document has said that Sanskrit has a special claim on the national system of education because it, among other reasons,

- a) has been consistently used in India for thousands of years and is still inextricably linked with the life, rituals, ceremonies and festivals of vast Indian masses.
- b) has the universal appeal all over the country.
- c) has very close structural, lexical and semantic relationship with Hindi and most other regional languages of India, which makes the learning of these languages easier and better (you can learn Tamil through Sanskrit!!! what about Tribals? !!!)
- d) has been internationally accepted as the most scientifically structural language and is being increasingly acknowledged as the best suited language for computer use (how many programmes in Sanskrit are there?).

Because of these factors, the document says it is extremely important to provide for and encourage the study of Sanskrit.

This over-emphasis on Sanskrit clearly reveals the mask of the Government to “Brahminise” the whole system of education from primary schools. In short education of Brahmins, by Brahmins and for Brahmins. Truly, a democratic system!.

The document rejects the definition of secularism as non-religious and wants that education about religions should be given prominent place. Already, students are taught about religions and their founders in the History Class. So they want schools to become theological centers!. It is the business of parents and religious leaders to provide knowledge of scriptures and religious precepts and rituals, not that of a teacher in a classroom.

In the study of History, the document finds fault with over-emphasis on Ancient History (diametrically opposite to their stress on indigenous curriculum) and wants only anecdotal explanation of historical events in the place of chronological history. The intention, it is rightly perceived, is to remove certain periods like Moghul period. The new syllabus for STD I to XII published by N.C.E.R.T and implemented by CBSE do not contain the word “Dravidian” anywhere. There are at least three Dravidian political parties in Tamilnadu, in addition to DK two of whom are NDA partners! Further, the Hindutva’s doctrine that Aryans migrated from India and spread out elsewhere not immigrants from Europe.

Another strange inclusion in the curriculum is the three Q’s—Intelligent Quotient, Emotional Quotient and Spiritual Quotient. The myth of I.Q. was conclusively exploded in the former U.S.S.R and has come increasingly under strong academic disapproval even in U.S.A. While even I.Q. is not measured in our country, except by researchers on small samples, the E.Q. and the S.Q. are not only non-measurable, but ridiculous. This is another way to shut a good cross section of the deprived classes away from schooling.

These are only my remarks on a few concepts / approaches in the new curriculum. Page by page analysis will show the true intentions of the Hindutva dominated academics to keep education as a privilege and private possession of a small minority.

The good features are only those contained in the earlier documents, which are non-controversial and have been successfully implemented.

All these call for not just a national debate, but sustained movement to keep education out of reach from religious fundamentalists and bigots and provide a truly secular, modern, humanistic education to all.