

**These Papers have been prepared
By
individual members/experts
for
discussion in the NAC and do not, in
all cases, reflect settled conclusions
of the NAC**

Recommendations in the context of the NCMP commitments on education and the Fundamental Right to Education.

Fundamental Right to Education:

Free and compulsory education for children up to the age of 14 was to be realized within ten years of adopting the Constitution of India. It took nearly forty five years and a Supreme Court judgment to move the Government of India to draft the first Bill to amend the Constitution to make education a fundamental right. Ever since the Bill was drafted till the amendment was passed in 2002 under a different government, many questioned the need for the Constitutional amendment at all. There was fear that 'compulsory' may mean harassment of poor and illiterate parents by officials. Eventually, during the debate in the Parliament, there was a consensus that the 'compulsion' was on the State to provide education and the amendment was necessary to make the right justiciable.

The amended Article 21(A) reads: “ Right to Education- The State shall provide free and compulsory education to all children of the age group of 6-14 years in such maner as the State may, by law, determine.”

Today, there is no central law that makes this right justiciable. While about nineteen states and two union territories have compulsory education laws, these are not being implemented in many cases. Generally speaking, these laws define compulsion in terms of placing the onus on the parent/guardian to ensure that his child is in school and to that extent the responsibility of the state is not in the spirit of the 86th amendment of the Constitution.

In the absence of a clear legal framework defining the fundamental right to education, the Indian child continues to be cheated out of her right that should have been her grandmother's in 1960 and different levels of government are still not 'compelled' to provide education which is defined in quantity and quality. The tendency is to do "what we can" and not do "what we must".

NCMP Commitment- 6% of GDP for education:

Another issue that has been hanging fire for decades is the matter of spending on education in general. The need for increased expenditure on education has been talked

NAC recommendations on right to education etc.

about since the late sixties with 6% of GDP being the most frequently quoted number. The NCMP too says in no uncertain terms that the current expenditure on education will be raised to 6% level in a phased manner. To be sure, there is a clear and massive increase in allocations and expenditure on Sarva Shiksha Abhiyan, mid-day meals, and ICDS over the last eighteen months. However, while the central expenditure has been increasing, the Reserve Bank of India figures indicate that the states' expenditure on education has been declining. The total 2004-05 expenditure on education stood at 3.52% of GDP (Rs. 99,937 cr) with 1.78% GDP (Rs. 50,518 cr) on elementary education.

Unless there is a clear road map on how and by when the government(s) can make amounts close to 6% GDP available to the entire education sector, planning for education will be most difficult.

It is well known that education is a continuum that begins with the prenatal care of the mother, and continues through early childhood care and education onward to the elementary, secondary, and tertiary phases into continuing education. At this juncture as we aim at 10% growth rate, it is important that the nation has a coherent plan that does not deny opportunities but creates avenues that children and youth can access as they grow up.

As time goes by, the demand for more, better, and varied education grows. In 1950, when the founding fathers created the Constitution, the logic of limiting the age of compulsory schooling to 14 was most probably based on the prevalent system when 'matriculation' was not considered necessary. Today, 55 years later, at a time when we talk of 8-10% growth rates, we are still struggling with provision of basic education of the minimum quality only up to std VIII. Whether from a social equity and justice point of view, or with a view to create trained human resource to power the economy, there is an urgent need to ensure universal elementary education and go beyond to cover the age – group of 14-18 including secondary, vocational and other skills education. Large numbers of children will not have access to the secondary phase of education unless we plan and provide for this demand as the success of SSA raises aspirations, expectations, and demands. The vocational and skills training sector, which should be a component of secondary education, is not geared to the changing market demands and

is fragmented among different authorities. In spite of massive real estate assets, it is one of the most poorly performing education sectors. The higher secondary and tertiary education phase is the one in which young people are ready to take challenges and yet the education remains singularly unchallenging and removed from reality whether in arts, sciences, or engineering barring in a few institutions.

At the other end of the education spectrum early childhood education is also a crying need to ensure better quality of elementary education. Currently the universal ICDS program, which is also a major NCMP commitment, is expected to take care of pre-primary education but is extremely weak in this area. This needs to be strengthened.

There is a need to revisit the National Education Policy twenty years later as a part of the 11th plan exercise and address the issues in education in a new paradigm of vigorous economic growth, greater challenges in manufacturing, agriculture, business-services, health, and education. A forward-looking vision of education in India as it plays a major role in the global economy is needed. **The NAC intends to take up this visioning exercise in collaboration with the Knowledge Commission and the various ministries in the near future.**

At this juncture, we would like to make a few core suggestions that need to be implemented urgently.

1. From Budget 2006-07, Prarambhik Shiksha Kosh should be shown as a separate line item under the allocations for the Ministry of HRD, clearly indicating the allocations from other budgetary sources and from PSK for SSA, MDM, and other schemes separately. The opening balance of the Kosh should be the total amount of Education Cess accrued since its imposition till the date of establishment of the Kosh, and this balance should be utilised by the Ministry only after exhausting other budgetary resources. Since it has already been agreed by Cabinet that elementary education would, as a matter of principle, be assured of annual allocations to the extent of requirement, other budgetary resources should be of a sufficient magnitude to cover the gap between projected requirements and balances available under the Kosh. There should be complete clarity on the additionality of budgetary provisions over and above the

NAC recommendations on right to education etc.

- funds accrued in the Prarambhik Shiksha Kosh since the education cess was instituted. The MHRD (Department of EE&L) should be given direct controls of utilization of the Prarambhik Shiksha Kosh funds without bureaucratic delays from other Ministries or departments.
2. The Sarva Shiksha Abhiyan Mission should, starting academic year 2006-07, clearly state measurable goals of learning quality which need to be attained by district, municipal, and state governments over the next years just as clear goals related to enrolment and retention have been laid down so that performance of states and districts can be measured.
 3. Performance measurement in education has to go a step higher by linking measurable quantitative and qualitative goals against per-child expenditure in schools and expenditure on various academic support and administrative structures. There is a need to initiate a serious analysis of expenditure on education, which could be taken up by the Planning Commission. Currently expenditure break up in education is available with only great difficulty. Accounting for per child expenditure at different levels should become a norm of accounting as a constant reminder that money has to be spent for the child and not just in the name of the child.
 4. The Government of India should, within the next three months, come up with a roadmap to increasing expenditure on education to at least 6% of GDP over the next plan period.
 - The NCMP commitment in this regard says among other things that “at least 50% of this amount will be spent on elementary and secondary sector”. This ought to be modified to say at least 50% of this amount or 3% GDP will be spent on the “elementary education” phase.
 5. The 86th amendment requires the State to determine by law the manner in which the Right to Free and Compulsory Education shall be provided to the children. A broad, guiding Union legislation, which provides a basic non-negotiable framework should be enacted without delays. This legislation, among other things, could address the following:
 - Broad measurable outcomes of education in terms of skills of reading, writing, arithmetic, comprehension, analysis, etc.
 - Regular performance measurement of different levels of the education system based on outcomes against expenditure.

NAC recommendations on right to education etc.

- ❑ Per-child expenditure on different components of education at the school level should become the cornerstone of budgeting, accounting and performance measurement. Union and state government should clearly spell out their per-child norms annually for budgeting purposes. Expenditure on education should be the first charge on state resources.
 - ❑ Decentralization and delegation of powers of autonomous management through school management committees (comprising parents, PRI representatives, and other stakeholders) including finance and accounting at the school level based on per-child grants.
 - ❑ Autonomous grant-in-aid functioning of academic support structures such as SCERTs, DIETS and their extensions.
 - ❑ Adequate training and capacity-building of personnel including teachers should be provided for. This should be linked to outcomes and goals to be achieved.
 - ❑ Registration of all schools rather than 'recognition' but all schools to be monitored for curriculum delivery.
 - ❑ Setting up of National Testing Standards, which can be used to assess children at different levels. Independent testing agencies to be set up at the national and state levels.
 - ❑ The Union and the state governments should mandatorily bring out an annual status of education report at the beginning of every academic year. This activity could be outsourced to an independent agency based on agreed terms of reference.
6. Laws related to children, especially child labor and children at risk/ in conflict with law should be modified to conform to the fundamental right to education.
 7. The ICDS program should be strengthened to make effective the pre-school education component already included in it with specific measurable outcomes defined for children in the 3-5 age group.
 8. The government should begin the process of widening the fundamental right to education so that on fulfilment of basic SSA goals in 2010 the Right to Education can be expanded by 2015. The right needs to be extended on the one hand to include the 0 to 6 age group currently covered by the modified article 45 and also the 14-18 age group, which needs to be provided education in broad social and economic interests of the society.

NAC recommendations on right to education etc.