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Subject: Extract of our suggestions on the final version of RTE Rules sent to you for approval

PART 1 PRELIMINARY - Short Title, Extent and Commencement

Section 2(1): Definitions for 'Free education' and 'Drop-out' need to be added as follows:

(q) '**Free education**' means:

- freedom from payment of any kinds of fees, including annual and examination fees
- provision of free uniforms (at least two sets),
- text-books, note-books, stationery, midday meals, bag, shoes, socks, and other accessories that are needed,
- free transportation to all children in Classes VI to VIII

All above incentives will be given uniformly to all children in government schools without discrimination.

In addition:

- scholarship of Rs. 1,200 per year to every BPL and SC/ST child studying in government school (both boys and girls), or bond of Rs. 10,000 in child's name which matures to Rs. 1 lakh when child turns 14 years, to be issued on condition that the child attends school.

(Explanation: Above incentives are necessary so that there are no financial barriers for parents to send their children to school and to prevent drop-outs. The criterion for deciding BPL families should be based on a reasonable income criterion and other social, locational and occupational vulnerabilities as in Delhi.)

(r) 'Drop-out' means a child who has unexcused absence from school for 3 days / a week.

*(Explanation: It is necessary to define a drop-out in the Rules in this manner as current definition is 'a child absent from school for 90 days or more' which is against the constitutional right of a child to continuous education. In this period the child becomes a child labourer which harms the child's physical, mental and social development and also imposes tremendous social costs on society. This also makes it necessary to have bridging schools for rehabilitation which are actually parallel schools which cost additional money while the regular schools set up at great cost face dwindling numbers. **Prevention is cheaper and better than cure and the focus should be on prevention and not on cure.**)*

(s) Definition of "child belonging to disadvantaged group":

"Child belonging to disadvantaged group" as "a male, female or transgender child of the age of six to fourteen years belonging to Scheduled Caste,

Scheduled Tribe, families engaged in traditional means of livelihood like fishing, coir making, clay pottery, cane and bamboo work and weaving and other eligible communities as defined by the state government and children who are orphans, HIV affected and children with disability as defined in Section 2 (i) of Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and will include children with autism, mental retardation, multiple disabilities and children with learning disabilities and children above fourteen years who are late enrollments.

“Child belonging to weaker section” means a child whose parents or guardian belong to BPL category in the State of Karnataka.”

(Explanation: Definition adapted from Kerala RTE Rules)

PART II – RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION

3(1) Remove 'SDMC' from duty to ensure F&CE.

(Explanation: The Central Act clearly puts the onus for ensuring the right to F&CE on the state and local authority and nowhere does it say that the SDMC shall be responsible for it.)

3.1(c) add: government and assistive devices and provision of teachers trained in special inclusive education to children with disabilities.

3(2) (a) (2). (a) Local Authority shall ensure that all schools in its jurisdiction function conforming to quality elementary education as per following prescribed norms and standards. (in addition to those specified in the Act)

- Provision of schools with at least a teacher per class in lower and upper primary schools, a teacher per 30 students, a classroom per teacher;
- the norms for pupil:teacher ratio from Classes 1 to VIII shall be based on the number of children attending the government school + those still out-of-school in the neighbourhood;
- each classroom to providesq.ft. space for child, be well-ventilated, with leak-proof roof and impermeable floor
- adequate desks and benches in the classroom, mats for seating children and resting plates for midday meals;
- provision of toilets with soap for washing hands(1 per certain number of students; separate toilets for boys and girls in upper primary schools; running water in all toilets) and electricity in schools
- recurring costs for drinking water and electricity connections to be paid for by the school
- free transportation facility to schools beyond 1 km
- **One cleaner and one attender / watchman for every school**

(Explanation: The norms in the Act are very minimalist. Our children deserve better.

- *The Act says two teachers for classes one to five of up to sixty children. This is not viable or manageable. It should be considered whether it is better to have a fully equipped quality school from Classes 1 to 8 at cluster level with one teacher per class even in the lower primary sections and provide free transportation to children rather than have poorly-equipped single- and two-teacher lower primary schools*

- *In places where it is difficult to provide transportation due to difficult terrain, it should be considered whether residential schools should not be preferred.*
- ***However, the norms for pupil:teacher ratio from Classes 1 to VIII should be based on the number of children attending the government school + those still out-of-school in the neighbourhood as the drop-outs are also expected to re-join school within a time-frame.***
- *The Act says 'separate toilets for girls and boys' but does not specify the number of toilets according to the number of children. There should be one toilet for every twenty children at least with running water.*
- *All schools should have electricity (to run computers) and/or solar power. Recurring costs for water and electricity should be borne by the state.*
- *The Act does not specify a 'cleaner' for any school. This is the reason why our government schools are dilapidated, toilets unusable and roofs are not cleaned and start leaking in no time.*
- *The Act does not specify a 'watchman' for every school. This is the reason even taps and other facilities in the school are robbed and the facilities become dysfunctional very soon, even when provided. Children walk in and out of the government school as they please due to lack of a watchman. Schools often become spaces for illegal activities and encroachments.)*

The CRP / BRP of the cluster / block (and not SDMC) shall be designated as 'attendance authority', who shall ensure that every child is enrolled in the neighbourhood school and gets quality education. He/she shall also see to it that there are no future drop-outs and out-of-school children as per following 'preventive protocol'. CRP/BRP shall follow protocol to ensure that the drop-out child comes back to school within a time-frame of one month:

- HM and SDMC to initially visit and persuade parents of non-enrolled child of six years or drop-out within three days of child's unexcused absence.
- If child still does not come, HM to notify CRP/BRP within next 3 days of unexcused absence of the child
- CRP/BRP to conduct enquiry with parents within next 3 days for reason for absence.
- If child does not come within next 3 days, CRP/BRP to give complaint to Standing Committee on Education in urban local body or Civic Amenities Committee/Social Justice Committee of GP or Child Rights Task Force at GP/ward level within next 3 days.
- Standing committee / Task force to conduct enquiries with parents within one week of complaint.
- A rights-based protocol detailing an "enabling framework where solutions to physical, social, cultural and economic barriers against Free & Compulsory Education" are detailed should be provided for the Standing committee/Task Force to follow.
- The protocol has to provide for an institutional mechanism to bring in convergence of services of various departments, Education, W&CD, labour, social welfare, RD&PR, GPs/municipalities if this has to happen. This could be the Standing Committee itself or a Child Rights Task Force at GP/Ward level with officials of all these departments with whom the CRP/BRP could liaison.
- Despite above barriers being removed within time-frames (such as scholarship high enough to enable poor parents to send child to school, provision of child-care facility to free older sibling, etc.), if child still does not come within three days, standing committee to recommend enrolling child in nearest free government hostel.

- CRP/BRP to take charge of child and enrol it in free government hostel within next 3 days. Hostels to be instructed to take in such children on priority basis.
- Difficult cases to be brought in the second instance before the Child Welfare Committee at district level and at third instance before the KCPCR.

(Explanation: Is there any evidence that SDMCs can fulfil the task of ensuring F&CE across the state in each and every habitation for each and every child? The onus should be on a salaried government official designated as 'attendance authority', such as the CRP or BRP and not on the SDMC, which is a body mainly with volunteer parents. The SDMC can take up initial enquiry and persuasion of parents. It would be an abdication of government responsibility to put the onus of F&CPE on a volunteer body which receives no salary. Teachers and HM also cannot be made accountable for this as their task is to teach. They should merely report non-enrolled and drop-out children to the CRP/BRP who should do the actual follow-up with the help of local juvenile police unit, if necessary.

- *There is need for a more detailed "enabling framework where solutions to physical, social, cultural and economic barriers against Free & Compulsory Education are provided".*
- *Detailed suggested 'preventive protocol' has been submitted separately also.*

(b) The school shall facilitate special training for currently out-of-school and drop-out children, child labourers and children with special needs in the form of bridge courses for a minimum period of:

- three months for children aged 7-8 years,
- six months for children aged 9-11 years and
- 18 months for children aged 12-14
- *(Kerala Rules say, "the said training shall be provided by teachers working in the school, or by Instructors of Multi-Grade Learning Centres appointed for the purpose by the local authority for which the local authority shall maintain a panel of retired teachers, Instructors of MGLCs or other qualified and service-minded persons of the locality".)*

- *Explanation: A more detailed "bridging protocol" needs to be given here which shall also lay down the manner in which the OOSC and child labourers shall be identified and rescued, how convergence between the various departments will be brought about to rescue them and assign them to bridge courses, the role of standing committees of local government, CWCs, how the bridge courses will be run, the infrastructure, personnel, the curriculum, qualifications of teachers, duration of courses for various age-groups, services to be rendered to the child, assistance to parents, mechanism for monitoring the centres, manner of mainstreaming the children, etc. **Most of the procedures suggested 'Preventive protocol' can apply equally to the OOSC and child labourers.***

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- (c) **Ban on employment of children** No person shall employ a child in a manner which shall prevent the child from attending an approved full-time school.

- (d) The standing committee of the local government shall initially hold awareness programmes in the area for all employers employing children of

compulsory schooling age and persuade them to release the child and pay compensation to the family and penalty to the state to be used for the education of the child.

- (e) Employers failing to release child labourers of school-going age shall be sent notices by CRP/BRP of the area to appear before designated authority who shall impose penalties on them.

PART III DUTIES OF GOVERNMENT AND LOCAL AUTHORITY

Duties of State Government and Local Authority

4(1) Wherever there is difficulty due to terrain or other natural barriers, a school may be established or upgraded wherever necessary or residential facilities created to enable the child to get eight years of uninterrupted schooling. Add: or residential facilities created

Free transportation should be provided for lower primary schools beyond 1 Km and to all upper primary schools, even those within neighbourhood (3 Km).

*(Explanation: Even the three Km norm for upper primary school is often not traversable by children, both girls and boys. There will be highways, jungles, rivers, etc. to be crossed which become deterrents to continuation of schooling, especially for girls. Free transportation to upper primary schools should be mandatorily provided even **within** neighbourhood limits by running school buses, cycle rickshaws or any other means, or by giving free passes where public bus facility is available. Cycles may be given in lieu of transportation on condition that the child attends school.)*

(3) If there is no Anganawadi centre in the neighbourhood of the school, SDMC may make necessary arrangement for providing free pre-school centre for the children of the neighbourhood. (Remove)

(How will the SDMC do this? Will the necessary funds for this be given to it by the government? The Act clearly says that the state government is responsible for providing pre-primary classes. The SDMC should be a 'monitoring body' only and cannot be converted into a 'service delivery' body. Service delivery is a responsibility of the State government and local authority. The W&CD Dept. is supposed to provide an anganwadi for every 300 population, on priority basis in slums and SC/ST colonies as per SC judgement. The education and W&CD department must work out provision of anganwadi centre on school premises or nearby in such cases.)

(4) The state may facilitate schooling in the villages >known for migration of labour on a seasonal basis< (remove), where the children stay back when parents migrate.....

(Explanation: This should apply to all villages, even where one parent migrates, and not just for 'villages known for migration of labour' which is an ambiguous term subject to interpretation.)

5. (1).(a) It shall be the duty of Local Authority to ensure that all children studying in the schools under its jurisdiction shall get facilities provided by the state, such as scholarships, uniforms, textbooks, school bags, shoes and socks (within one week of begin of the academic year) midday meals (on all days except Sundays), writing materials (as and when required), and any other entitlements given from time to time. Entitlements must be adequate for the entire year.

(Explanation: What the minimum entitlements are, how much, how many, at what time and what frequency need to be specified in the Rules and not left to vagaries)

Maintenance of records of children

(f) Class in which the child is studying and if education is discontinued, the cause of such discontinuance, (add) if a child labourer, the employer employing the child and action taken by concerned authority to bring back the child to school and penalise employer.

(h) Details of special facilities given, in case the child is a disabled or specially enabled child (add) and details of teacher training given.

(4) The Local Authority shall ensure that the names of all children enrolled, along with non-enrolled, drop-out, out-of-school children in the schools and child labourers under its jurisdiction and details of action taken and micro-plan for each child are publicly displayed in each school.

(Explanation: Without report of action taken, the mere recording of data has no meaning.)

PART IV - RESPONSIBILITIES OF SCHOOLS AND TEACHERS

Provisions on quality of education: The excellent provisions with regard to ensuring quality education, which were there in the earlier draft prepared by retired officials of the education department and which have been removed in the final version need to be put back.

(Explanation: Unless the quality of government schools is good, children, especially poor children, cannot be retained. There will also be a bigger and bigger scramble to get admission in private schools, emptying government schools. This should not be allowed.)

Admission of children belonging to weaker section and disadvantaged group

How will this 25% children be selected if there are more children belonging to weaker and disadvantaged sections in the neighbourhood than this 25% and all of them wish to go to the private school? By lottery? The government should decide which children are to be allotted to which school and the decision should not be left to the private schools. But the criteria for deciding which children belong to disadvantaged and weaker sections need to be spelt out. The income

criterion should be a reasonable figure and other social, occupational and locational vulnerabilities of parents should be taken into account and specified in the Rules. (Definition used by Kerala given under 'Definitions'.)

If all poor children get seats in private schools in the area, which is likely in urban areas, who will attend the government school? Will the government schools close down and all education get privatized in urban areas? This should not be allowed.

Documents as age proof of child

(c) Oral Declaration (add) or through an affidavit of the age of the child by the parent or guardian

Recognition of Schools

(7) Schools which do not conform to the norms, standards and conditions mentioned in sub-rule 1, after three years from the day, these Rules come into force, shall cease to function.

(Three years is too long to set right deficiencies. What should happen to the children studying there in these three years?)

(9) Add: The BEO shall inspect all schools established, owned or controlled by the State Government or local authority within his jurisdiction within one year of the commencement of these Act and Rules and give an inspection report to the DDPI. The DDPI shall undertake all measures to ensure that all government schools conform to the norms and standards and conditions mentioned in Sub-rule (1) within a time-frame of two years, failing which action will be taken on the concerned government officials.

(Explanation: Since 85% children go to Government schools, it is important that these conform to the norms as quickly as possible. Also, the government will have no moral authority to ask private schools to conform to norms and standards if its own schools are worse off than the private schools.)

PART V - SCHOOL DEVELOPMENT AND MONITORING COMMITTEE (SDMC)

Composition and functions of the School Development and Monitoring Committee (SDMC)

(b) The SDMC shall have 50 per cent of its members from amongst women (add) and at least one member from among the parent members shall be from SCs/STs and one member from minorities and weaker sections.

Preparation of School Development Plan

Add: The State Government and the local authority shall mandatorily release the funds for the implementation of the School Development Plan, submitted by the School Management Committee.

(Explanation: The government has to release the money to the SDMC for all that it has planned, as it relates to a fundamental right and the government cannot plead lack of resources for fulfilling a fundamental right.

Kerala Rules say: "The State Government and the local authority shall provide adequate funds as grants for the implementation of the School Development Plan, submitted by the School Management Committee as prescribed under sub-clause (2) of Section 22 of the Act."

Grievance Redressal mechanism for teachers

Maintaining Pupil-Teacher Ratio in each school

18(1) the norms for pupil:teacher ratio from Classes 1 to VIII shall be based on the number of children attending the government school + those still out-of-school in the neighbourhood;

(It should be "deployment of additional teachers where required". Why is it being assumed that only "redeployment of excess teachers" will be required?)

Part VIII-PROTECTION OF RIGHTS OF CHILDREN

(Section 31 of the Act says the State Commission for Protection of Child Rights shall look into grievances when a complaint is given by any person regarding violations of the Act and Rules. But when the fundamental right of a child is being violated, the state has to take suo motu action and not wait for a complaint to be filed. The onus for taking the suo motu action has to rest with a specified government official.)

Add:

(3) The first level of grievance redressal /protection of child rights shall be the local authority (ward committee/standing committee on education/ civic amenities committee at GP level as per Section 32 of the Act.

(4) The KCPCR may delegate its powers to the Child Welfare Committees under the JJ Act at district level to look into violations of child rights as a second level of appeal at district level.

(5) The state-level KCPCR shall be the third level of appeal at State level.

**Part IX- Miscellaneous
Prescribed Authorities and Procedure for taking action for Violation of
the Provisions of the Act:**

(The BEO, DDPI and CEO, ZP, should not be authorised to send notices to the SDMC as the SDMC is a voluntary body not receiving salaries or sitting fees, etc. Also, if there are drop-outs, school is dysfunctional or does not fulfil the norms, the BEO, DDPI and the CEO are themselves responsible for the state of affairs.)

Add:

(5) **Penalties on officials for out-of-school children (OOSC):** Authorities and procedure for taking action for violation of Sections 3, 4, 5, and 6 of the Act on the right to free and compulsory education of the child need to be specified in the Rules. Without this, the whole purpose of the Act is defeated. The penalising authority should be someone outside the Education Department such as a District Grievance Redressal Officer for Fundamental Rights.

(6) **Penalties on employers:** Employers employing children under 14 years so as to prevent them from attending full-time formal school shall pay Rs. 10,000 fine at the first instance and up to Rs. 20,000 and imprisonment up to three months at second instance. The authorities authorised to impose these penalties need to be specified in the rules.

(7) Employers/contractors employing migrant labour shall be penalised Rs..... for failing to arrange hostel facilities at the source of migration for compulsory school-age children of the migrant workers and for taking them along to the place of migration.

(8) Penalties need to be specified on officials for abuse, corporal punishment and sexual abuse.

Miscellaneous

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- Inclusive education needs to be specified , children infected and affected with HIV/AIDS and children with disability to be free from discrimination
- Child protection police mandatory; their name and designation to be displayed on notice boards.
- Bills/acts and other Government orders (GO) such as those on corporal punishment, physical and sexual abuse need to be mentioned in the rules
- All schools to have Child Rights Clubs
- Best practices from state's experiences to be adopted in the rules
- **Alternative schools & home schools:** Alternative schools and open schools should be recognised accompanied with necessary regulation.

Resources for RTE

- A financial memorandum should accompany the Rules.
- The state should allocate 6% of its GSDP for education and apportion the full required amount for UEE from it.
- In addition to the money for salaries, incentives, etc., projections have to be made and money mandatorily provided for the following:
 - social mobilisation activities;
 - capacity building and training;
 - participatory school-mapping ;
 - building child-tracking and monitoring systems (MIS)
 - enforcement activities
 - opening of more free government hostels
 - higher levels of scholarships, loans, or lump-sum amounts at the end of 8-year compulsory education
 - monitoring and evaluation;
 - documentation and research.