

Legislative Brief

The Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017

The Bill was introduced in Lok Sabha on August 11, 2017, and referred to the Standing Committee on Human Resource Development on August 22, 2017. The Committee is expected to submit its report by February 21, 2018.

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Highlights of the Bill

- ◆ The Right to Education Act, 2009 prohibits detention of children till they complete elementary education i.e., class 8. The Bill amends this provision to state that a regular examination will be held in class 5 and class 8 at the end of every academic year. If a child fails the exam, he will be given additional instruction, and take a re-examination.
- ◆ If he fails in the re-examination, the relevant central or state government may decide to allow schools to detain the child.

Key Issues and Analysis

- ◆ There are differing views on whether children should be detained for failing examinations in elementary school. Some argue that automatic promotion reduces incentive for children to learn and for teachers to teach. Others argue that detaining a child leads to drop outs and does not focus on the systemic factors that affect learning such as quality of teachers, schools, and assessment.
- ◆ Provisions of the Bill regarding assessment and detention are at variance with what most states have demanded. In this context, the question is whether these decisions should be taken by Parliament or left to state legislatures.
- ◆ It is unclear as to who will conduct the examination (which may lead to detention): centre, state, or the school.

PART A: HIGHLIGHTS OF THE BILL

Context

Under the Right of Children to Free and Compulsory Education (RTE) Act, 2009, all children between the ages of six and 14 years have the right to elementary education (class 1-8) in a neighbourhood school.¹ Among other provisions, the RTE Act states that a child cannot be detained in any class till the completion of elementary education. This automatic promotion to the next class is to ensure that detention would not lead to them dropping out of school.² Before the enactment of RTE, states had the flexibility of practising a no-detention policy. For example, Goa did not detain children till class 3, Tamil Nadu till class 5, and Assam till class 7.³

In recent years, two expert committees reviewed the no-detention provision in the RTE Act and recommended it be removed or be discontinued in a phased manner.^{3,4} The RTE (Second Amendment) Bill, 2017 was introduced in Lok Sabha on August 11, 2017 to amend the RTE Act to remove the provision related to no-detention in the Act.

Key Features

- Under the Act, no child may be detained till he completes class 8. The Bill amends this provision to state that a regular examination will be held in class 5 and class 8 at the end of every academic year. If a child fails the examination, he will be given additional instruction, and the opportunity for a re-examination within two months from the declaration of the result.

- If the child fails in the re-examination, the relevant central or state government may allow schools to hold back the child. Further, the central or state government will decide the manner and the conditions in which a child may be held back.

PART B: KEY ISSUES AND ANALYSIS

Rationale behind detaining children

There are differing views on whether children in elementary school should be detained for failing examinations.

Advantages and disadvantages of detention

It has been argued that automatically promoting all children to the next class reduces the incentive for children to learn and for teachers to teach.⁴ The Central Advisory Board on Education (CABE, 2014), National Achievement Survey (2012), and the Economic Survey (2016-17) observed declining learning levels in elementary education even after the implementation of the RTE Act (see Annexure).^{3,5,6} In 2016, 58% of children in class 3 were unable to read a class 1 level text. At the national level, 73% of children in class 3 were unable to do basic arithmetic.⁶ The CABE sub-committee (2014) recommended that an assessment of learning outcomes is required to determine promotion to the next class. This would also improve accountability of schools and teachers to deliver quality education. Further, many states requested changes in the RTE Act to allow detention of children with poor learning outcomes.⁷

Others argue that detaining a child could be counter productive as it is de-motivating and leads to them dropping out of school.⁶ Experts have highlighted that repeating a class on failing an exam presumes that the child is at fault and does not acknowledge the role of other factors that affect learning outcomes of children.^{8,9} Poor learning outcomes could be due to lack of professionally qualified teachers, teacher absenteeism, limited infrastructure, and inadequate roll out of the Continuous and Comprehensive Evaluation method of teaching and assessment.^{3,4} Note that the RTE (Amendment) Act, 2017 was passed in August 2017 to extend the deadline for teachers to acquire the minimum qualifications prescribed under the RTE Act by four years. This extension was given as states have not completed the training of in-service untrained teachers.¹⁰

Systemic factors that affect quality of learning outcomes

It could be argued that there are other factors that affect the implementation of RTE and consequently have a bearing on low quality of learning outcomes. Various expert bodies like the CABE sub-committee (2014), Committee for Evolution of the New Education Policy (2016), Comptroller and Auditor General of India (2017), among others have highlighted that the current education system is not equipped adequately to fully implement the RTE.^{3,4,11} These include issues related to teachers, school accountability, nature of assessment, and age appropriate training.^{3,4,11,12}

- **Teachers:** Experts have identified various issues with regard to the role of teachers to address the challenges confronting elementary education. These include: (i) low teacher accountability and appraisal, (ii) poor quality of the content of teacher-education and changes required in the curriculum of B. Ed and D. Ed courses, (iii) need for continuous in-service teacher training and upgradation of skill set, (iv) inadequate pupil teacher ratio and deployment of teachers for non-educational purposes, and (v) teacher vacancies.^{4,11,12}
- **School accountability:** CABE (2014) has recommended introducing a performance management system for all teachers, school leaders, and department officials, with performance measures linked with student learning outcomes. Such measures of school accountability exist internationally. For example, in the United States, under the No Child Left Behind Act, schools are required to do annual assessment of learning outcomes in reading and mathematics for students from classes 3 to 8. If the school fails to achieve minimum test scores then the consequences include removal from service of teachers or the headmaster, school restructuring or closure, and an option for students to transfer to another school.¹³
- **Nature of assessment:** Under the RTE Act, the Continuous and Comprehensive Evaluation (CCE) is the evaluation mechanism for elementary education. CCE (e.g., paper-pencil test, drawing and reading pictures, and expressing orally) does not mean absence of evaluation, but it means an evaluation of a different kind from the traditional system of examinations. It has been noted that CCE has not been adequately implemented or monitored.³ Further, it has been recommended that proper design of assessment and using this information can help improve the quality and innovation in terms of teaching and learning.¹⁴
- **Age appropriate training:** Under the RTE Act, children are enrolled in the class that corresponds to their age, irrespective of their learning levels. This results in a situation where in the same class, depending on when they are enrolled in school, children may have different learning requirements. It has been

Act:
Section 16
Bill:
Clause 16

recommended that special training be organised and is of flexible duration to enable the child to be at par with other children and ensure his integration with the class.¹²

Flexibility for states to determine examinations and detention

Act:
Section 16
Bill:
Clause 16

The Bill amends the RTE Act, 2009 to require assessment of learning levels through examinations in class 5 and class 8. The Bill allows states to determine whether to detain children upon failing in these examinations. While several states have requested for a modification of the no-detention provision in the RTE Act, the provisions of the Bill are at variance with the views of several states with regard to assessing learning outcomes and detention.⁷ For example, with regard to conducting examinations, (i) Himachal Pradesh suggested internal examinations in class 3 and third party examination in classes 5 and 8, and (ii) Punjab and Odisha suggested that examinations should be conducted in every class from class 1 to class 8. With regard to detention: (i) Andhra Pradesh and Himachal Pradesh suggested detention in class 3 as well, (ii) Delhi suggested detention from class 4 onwards, and (iii) Maharashtra and Telangana suggested continuing with the current no-detention provision under the RTE Act.⁷

Education is a concurrent subject under the Constitution, and the central law will override the state law. This raises the question whether the central law should specify details such as which classes should be subject to examination and detention or whether such decisions should be left to state legislatures to make based on their local context and needs.

Lack of clarity on who administers the examination

Act:
Section 16, 29, 30
Bill:
Clause 16

The Bill amends the RTE Act to require a regular examination to be conducted in class 5 and class 8 at the end of the academic year in all schools. However, the Bill does not specify who will administer the exam i.e., whether the exam will be conducted by the centre, or states, or the school. Note that the provision in the Act that forbids a Board examination in elementary education has not been changed.

Annexure

The National Achievement Survey (NAS) is carried out by National Council of Educational Research and Training every three years to ascertain the learning achievement of students during elementary education in government and government-aided schools. Key results of the NAS (class 5) in 2012 and 2015 are as follows¹⁵:

- Overall, Class 5 (2015) students in 34 states/UTs were able to correctly answer 45% of reading comprehension items, and 46% of the mathematics items. It has been noted that performance of students, on an average has gone down in 2015 as compared to 2012.
- For reading comprehension (see Figure 1), in 2015, scores of 19 states are significantly below the scores in 2012. Only in Andaman & Nicobar Islands and Puducherry, the average achievement scores in 2015 were significantly above than those of 2012.
- For mathematics (see Figure 2), in 2015, scores of 20 states are significantly below the scores in 2012. Only in 3 states, the average achievement scores in 2015 were significantly above those of 2012.

Figure 1: Performance of states in 'reading comprehension (class 5)' in 2012 and 2015

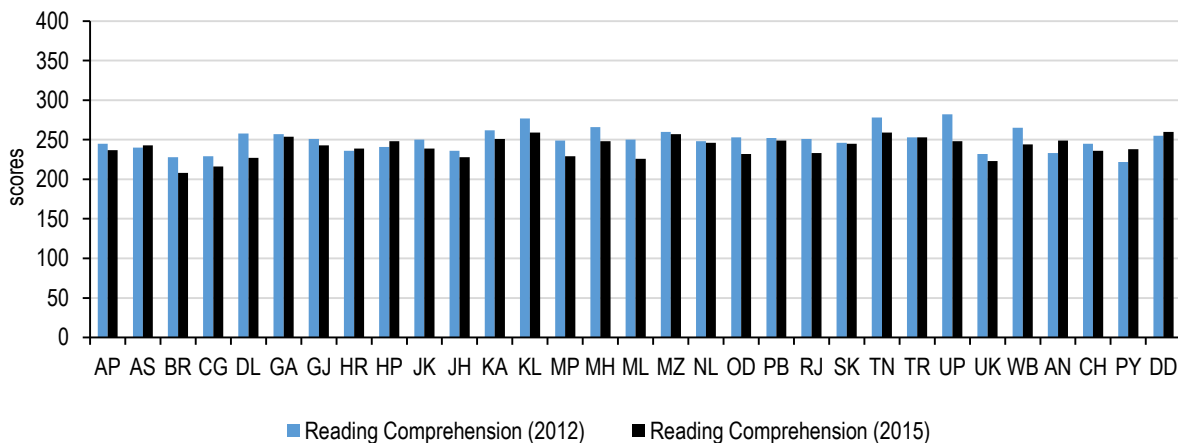
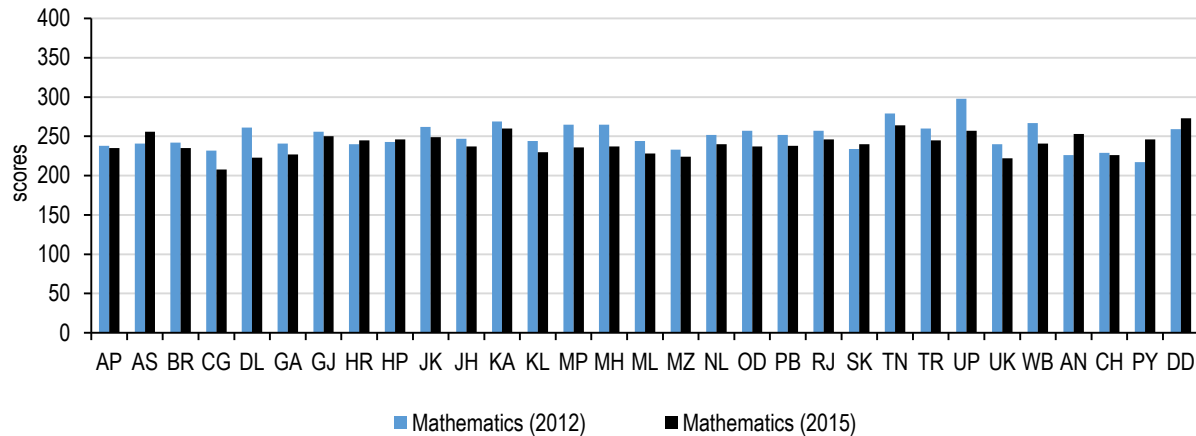


Figure 2: Performance of states in 'mathematics (class 5)' in 2012 and 2015

Sources: National Achievement Survey, 2012 and 2015, National Council of Educational Research and Training; PRS.

Note: 1. Arunachal Pradesh, Manipur, Telangana, Lakshadweep, and Dadra & Nagar Haveli did not participate in NAS, 2012.

2. The scores range between 0 and 400. They are scaled for consistency and comparability across states by adjusting for the tests' difficulty level and the student ability level.

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2. Statement of Objects and Reasons, RTE (Second Amendment) Bill, 2017.
3. "Report of CABE Sub Committee on Assessment on implementation of CCE and no detention provision", 2014, Ministry of Human Resource Development, http://mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/AssmntCCE.pdf.
4. "Report of the Committee for Evolution of the New Education Policy", Ministry of Human Resource Development, April 30, 2016, <http://www.nuepa.org/New/download/NEP2016/ReportNEP.pdf>.
5. "A summary of India's National Achievement Survey, Class VIII", 2012, National Council of Educational Research and Training, http://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/11-March-National-Summary-Report-NAS-Class-VIII.pdf.
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